

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

Tony Delfin
Acting Cabinet Secretary

Fernando Martinez,
Director



7012 0470 0000 0880 6696

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

September 16, 2016

Jerry Roose, Director, North American Environmental Operations
Freeport-McMoRan Copper Inc.
333 North Central Avenue
Phoenix, AZ 85004

Attention: Craig Sircy, Acting General Manager
Freeport-McMoRan Chino Mines Company
P.O. Box 10
Bayard, NM 88023

Attention: Erich Bower, General Manager
Freeport-McMoRan Tyrone, Inc.
P.O. Box 571
Tyrone, NM 88065

Attention: Tom Shelley, General Manager
Freeport-McMoRan Cobre Mining Company
P.O. Box 10
Bayard, NM 88023

Re: Notice of Failure to Maintain Financial Soundness, Freeport-McMoRan Inc. Third Party Guarantees for Freeport-McMoRan Chino Mines Company, Freeport-McMoRan Tyrone, Inc., and Freeport-McMoRan Cobre Mining Company; Mining and Minerals Division Permit Nos. GR009RE, GR010RE, and GR002RE

Dear Mr. Roose:

Pursuant to 19.10.12.1207(E)(2) NMAC and Section 5(C) of the December 18, 2008, Third-Party Guarantee, this Notice is to inform you that the Mining and Minerals Division (“MMD”) has determined that you are without financial assurance regarding Freeport-McMoRan Inc.’s (“FCX”) Third Party Guarantees for the Chino, Tyrone and Continental Mine Permit Nos. GR009RE, GR010RE, and GR002RE, respectively.

Re: Notice of Failure to Maintain Financial Soundness, Freeport-McMoRan Inc. Third Party Guarantee for the Mining and Minerals Division Permit Nos. GR009RE, GR010RE, and GR002RE

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MMD and the New Mexico Environment Department (“Agencies”) received a letter from FCX, dated August 15, 2016, indicating that FCX has failed Alternative #1 of the Financial Soundness Test (“FST”), as described in 19.12.1208.G(8) NMAC, for all three mining operations. The results are based on financial information provided by FCX in the 2nd Quarterly Report, Form 10-Q, filed with United States Securities and Exchange Commission on August 5, 2016. The Agencies received correspondence from FCX on March 7, 2016 and May 20, 2016, indicating that FCX no longer complies with the minimum requirements of Alternative #1, based on an earlier 2015 10K, and 1st Quarter 2016 10Q. FCX had also provided earlier correspondence, earlier, on February 2, 2016 and March 1, 2016, indicating that FCX was no longer in compliance with Alternative #2 of the financial soundness test.

Previously, FCX submitted applications to modify the Chino, Tyrone and Continental Mine permits to reduce the amount covered by the Third-Party Guarantees, at these sites, by recognizing the appreciation of other forms of financial assurance, such as the trust funds and the collateral. These modifications are being processed as 16-1 to Permit No. GR010RE, and 16-1 to Permit No. GR002RE, respectively. Permit Modification 16-4 to Permit GR009RE, for the Chino Mine, has already been approved. The modifications for the Tyrone Mine and Continental Mine are still in process. These modification applications were provided to MMD on July 25, 2016. While these modifications cannot remedy the deficiencies described in the August 15, 2016 letter from FCX, MMD will continue to process these applications to reduce the amount covered by the Third Party Guarantees for each mine.

FCX’s financial condition is such that FCX no longer qualifies as the Third-Party Guarantor and therefore the permittees addressed above are deemed to be without adequate financial assurance coverage. FCX is required to replace the FCX Third-Party Guarantees with another form of financial assurance in a period not to exceed 90 days, unless extended pursuant to Section 19.10.12.1208.G(10) NMAC.

Please contact the undersigned with any questions regarding this notice.

Sincerely,



Fernando Martinez
Division Director, Mining & Minerals Division
Energy, Minerals, and Natural Resources Department

Cc: Bill Brancard, General Counsel, New Mexico Energy Minerals and Natural Resources Dept.
Gabriel Wade, Assistant General Counsel, New Mexico Energy Minerals and Natural Resources Dept.
Holland Shepherd, Manager, Mining Act Reclamation Program, MMD
Kurt Vollbrecht, Manager, Mining Environmental Compliance Section, NMED
Lara Katz, Assistant General Counsel, NMED