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BUTCH TONGATE  
Acting Cabinet Secretary

J.C. BORREGO  
Acting Deputy Secretary

MEMORANDUM

DATE: August 17, 2016

TO: Holland Shepherd, Program Manager, Mining Act Reclamation Program

THROUGH: Jeff Lewellin, Mining Act Team Leader

FROM: Brad Reid, Mining Environmental Compliance Section  
Alan Klatt, Surface Water Quality Bureau  
Neal Butt, Air Quality Bureau

RE: **NMED Comments, Freeport-McMoRan Chino Mines Company, Financial Assurance Adequacy Adjustment, Grant County, New Mexico, MMD Permit No. GR009RE, Modification 16-4**

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The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on July 28, 2016 requesting NMED review and provide comments on the above referenced MMD permitting action. The modification is associated with restructuring of financial assurance instruments at the above referenced mine. MMD requested comments within 20 days of receipt in accordance with Section 19.10.5.505.B.(3) NMAC. NMED has the following comments.

**Mining Environmental Compliance Section**

The Mining Environmental Compliances Section (MECS) has reviewed the proposed restructuring of financial assurance instruments for the Chino Mine to increase the "cash contribution" specified in the permit to \$121,000,000 and to reduce the amount covered by the Third Party Guarantee to \$45,336,545, for a total of \$166,336,545, the current required amount of financial assurance. MECS is in agreement with the proposed modification.

NMED maintains Discharge Permit 1340 (DP-1340) associated with the Freeport-McMoRan Chino Mine (permittee). This permit requires that the permittee maintain any existing joint financial assurance with NMED and MMD to cover costs associated with closure and post-closure activities approved in accordance with 20.6.2.3107 and 19.10.12.1 NMAC. Following approval of Modification 16-4 of Mining Act Permit No. GR009RE, DP-1340 will be required to be amended to reflect the restructuring of financial assurance instruments. DP-1340 currently contains conditions that require an emergency fund to cover immediate water management costs in the event of forfeiture. Pursuant to the Copper Mine Rule, the permittee is required to provide

an interim emergency fluid management plan (20.6.7.30.K NMAC) and a process solution reduction plan (20.6.7.33.G NMAC) as components of DP-1340 renewal. In addition to the proposed plans, the permittee will be required to provide financial assurance cost estimates to implement the plans, and appropriate financial assurance mechanisms to provide immediate funding to implement the plans in the event of a forfeiture.

**Air Quality Bureau**

The Air Quality Bureau comments are attached under separate letterhead.

**Surface Water Quality Bureau**

The Surface Water Quality Bureau comments are attached under separate letterhead.

**NMED Summary Comment**

NMED will continue to cooperate with MMD related to future financial assurance restructuring. NMED has no objection to current financial assurance restructure associated with Modification 16-4 at this time.

If you have any questions, please contact Jeff Lewellin at (505) 827-1049.

cc: Bruce Yurdin, Division Director, NMED-WPD  
Shelly Lemon, Acting Bureau Chief, SWQB  
Richard Goodyear, Bureau Chief, AQB  
Fernando Martinez, Division Director, EMNRD-MMD  
DJ Ennis, Lead Staff, EMNRD-MMD  
Kurt Vollbrecht, Program Manager, MECS



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**Ryan Flynn**  
Cabinet Secretary

**Butch Tongate**  
Deputy Secretary

**MEMORANDUM**

**DATE:** August 10, 2016

**TO:** Jeff Lewellin, Mining Act Team Leader  
Mining Environmental Compliance Section, Ground Water Quality Bureau

**FROM:** Neal Butt, Environmental Analyst  
Air Quality Bureau

**RE:** Request for Comments, Financial Assurance Adequacy Adjustment  
Freeport-McMoRan Chino Mines Company, Grant County  
MMD Permit No. GR009RE, Modification 16-4

The New Mexico Air Quality Bureau (AQB) has completed its review of the above mentioned mining project. Pursuant to the New Mexico Mining Act Rules, the AQB has the following comments:

**Air Quality Permitting History**

Freeport-McMoRan Chino Mines Company (Chino) holds a Title V Operating Permit #P066R2 and a revised NSR Permit # 0298-M8 that was issued on July 12, 2016. To ensure compliance with state and federal air regulations, the permit includes conditions that limit the emissions, hours of operation, production rate, and conditions that will require record keeping and reporting to the Department.

**Details**

The AQB received correspondence from the Mining Environmental Compliance Section (MECS) on August 1, 2016 requesting that AQB review and provide comments on Modification 16-4 to Permit No. GR009RE regarding the financial assurance adequacy adjustment for Chino. This permit modification intends to address a notice of failure to maintain financial soundness issued by the New Mexico Mining and Minerals Division (MMD) dated March 18, 2016 regarding Third Party Guarantees for the Chino, Tyrone and Continental Mine Permit Nos.

GR009RE, GR010RE, and GR002RE, respectively. MMD will be evaluating whether Freeport-McMoRan Inc. (FCX) meets the Alternative I financial soundness test specified in 19.10.12.1208.G.(8) NMAC.

There are no implications for air quality, and so the AQB has no objection to the current request. The AQB defers to the Director of MMD pursuant to 19.10.12 NMAC to determine the financial soundness of FCX.

If you have any questions, please contact me at (505) 476-4317.



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RYAN FLYNN  
Cabinet Secretary  
BUTCH TONGATE  
Deputy Secretary

### MEMORANDUM

DATE: August 4, 2016

TO: Jeff Lewellin, Mining Act Team Leader  
Mining Environmental Compliance Section  
Ground Water Quality Bureau

FROM: Alan Klatt, Environmental Scientist & Specialist  
Watershed Protection Section  
Surface Water Quality Bureau

RE: **Requested Comments,  
Financial Assurance Adequacy Adjustment,  
Freeport-McMoRan Chino Mines Company, Grant County,  
MMD Permit No. GR009RE, Modification 16-4**

The Surface Water Quality Bureau (SWQB) received correspondence from the Mining Environmental Compliance Section (MECS) on August 1, 2016 requesting SWQB review and provide comments on Modification 16-4 to Permit No. GR009RE regarding the financial assurance adequacy adjustment for Freeport-McMoRan Chino Mines Company (Chino). This permit modification intends to address a notice of failure to maintain financial soundness issued by the New Mexico Mining and Minerals Division (MMD) dated March 18, 2016 regarding Third Party Guarantees for the Chino, Tyrone and Continental Mine Permit Nos. GR009RE, GR010RE, and GR002RE, respectively. MMD will be evaluating whether Freeport-McMoRan Inc (FCX) meets the Alternative I financial soundness test specified in NMAC 19.10.12.1208(G)(8).

- SWQB will defer to the Director of MMD pursuant to NMAC 19.10.12 to determine the financial soundness of FCX.

If you have any other questions, please contact me at (505) 827-0388.