

State of New Mexico  
Energy, Minerals and Natural Resources Department

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**Susana Martinez**  
Governor

**Ken McQueen**  
Cabinet Secretary

**Matthias Sayer**  
Deputy Cabinet Secretary

**Fernando Martinez, Director**  
Mining and Minerals Division



March 20, 2018

Thomas L. Shelley  
Freeport-McMoRan Chino Mines Company  
P.O. Box 10  
Bayard, NM 88023

**RE: Scope of Work for Third-Party Review of Closure-Closeout Plan Cost Estimate,  
Permit No. GR002RE, Revision 15-2 - Continental Mine and Mill  
Grant County, New Mexico**

Dear Mr. Shelley:

The Mining and Minerals Division ("MMD") is responding to your March 7, 2018, letter addressing the Scope of Work ("SOW") for a Third-Party Review ("3PR") of the Continental Mine financial assurance cost estimate. Your March 7<sup>th</sup> letter was followed by a phone meeting on March 12, 2018, between MMD and Freeport-McMoRan ("FMI" or "Chino") to discuss the SOW. These ongoing discussions are pursuant to §19.10.12.1201.D NMAC of the New Mexico Mining Act Rules ("Rules") regarding cost estimates and financial assurance proposals being submitted to MMD by applicants or permittees. This subsection of the Rules allows MMD to require a review of a proposed cost estimate by a third-party contractor.

MMD sent Chino a draft of the anticipated SOW for the third-party cost estimate review in a letter dated November 7, 2018. Chino responded that it had a number of questions regarding this draft, as detailed in their March 7, 2018, letter and also during the discussion on March 12, 2018. Attached to FMI's March 7<sup>th</sup> letter was a contract template that FMI proposed to detail the SOW for the third-party consultant to follow in order to review the FMI Continental Mine cost estimate.

The language within the contract template as well as the SOW are equally important and MMD disagrees with a number of contentions and assertions made by Chino in the March 7, 2018, letter. Among those and most importantly, MMD maintains that it will direct the third-party consultant, whereas FMI's role would be to provide additional input and elaboration on the Closure Closeout Plan ("CCP") on an as-needed basis as determined by MMD. The CCP will have been determined to be technically complete and approvable prior to MMD authorizing the 3PR and thus, the CCP should contain the information to facilitate a third-party consultant to evaluate the cost estimate.

MMD also maintains that it will make the final selection of the appropriate consultant for completing the 3PR, although MMD is willing to consider feedback from FMI during the selection process.

MMD has completed FMI's "Request for Cost Estimating Services" contract template and a draft of the document is enclosed with this letter. MMD believes this version to be essentially complete, but would be willing to consider comments from Chino toward soliciting proposals from appropriate vendors. As a reminder, it was agreed upon during prior discussions with Chino that this SOW must be finalized prior to MMD's approval of the CCP being processed under Revision 15-2 of Permit No. GR002RE. The third-party review work will subsequently take place following approval of Revision 15-2. The requirements for the third-party review will be written as a permit condition of Revision 15-2.

Please contact me at (505) 476-3437 with any questions you may have with the enclosed SOW or this letter. You may also contact James Hollen of my staff at (505) 476-3436 or via e-mail at: [james.hollen@state.nm.us](mailto:james.hollen@state.nm.us).

Sincerely

Handwritten signature of Michael W. Tompson in blue ink, followed by the word "for" in a smaller, simpler font.

Holland Shepherd, Program Manager,  
Mining Act Reclamation Program

Enclosure: DRAFT "Request for Cost Estimating Services" contract template

cc: Fernando Martinez, Director, MMD  
Gabriel Wade, Assistant General Counsel, EMNRD  
Michael Tompson, P.E., MMD  
Kurt Vollbrecht, Program Manager, NMED GWQB-MECS  
James Hollen, MMD Permit Lead - Permit GR002RE  
Mine File GR002RE Rev. 15-2