



State of New Mexico
ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT
and the
ENVIRONMENT DEPARTMENT

Michelle Lujan Grisham
Governor

Howie Morales
Lieutenant Governor

Sarah Cottrell Propst
Cabinet Secretary, EMNRD

James C. Kenney
Cabinet Secretary, NMED

March 11, 2020

Allyson Siwik, Executive Director
Gila Resources Information Project
305A N. Cooper St.
Silver City, NM 88061

Re: Joint Agency Response to Information Requests from GRIP

Dear Ms. Siwik,

The Energy, Minerals and Natural Resources Department (EMNRD), Mining and Minerals Division (MMD) and the New Mexico Environment Department (NMED) have reviewed the Gila Resources Information Project (GRIP) request for information in its February 20, 2020 letter related to Financial Assurance (FA) instruments.

GRIP requested updates on the collateral appraisals associated with Freeport McMoRan Incorporated (FMI) FA instruments. FMI is currently in the process of updating the appraisals. MMD and NMED will update GRIP in May 2020, after we have received the updated appraisals for Continental and Tyrone mine sites.

Attachments to this letter include:

- 1) The latest FA soundness test related to GRIP's request about the Third Party Guarantee (3PG). Routinely, the State requests and reviews FMI's submittals related to financial soundness test. Some information included in the FA soundness test is subject to a claim of confidentiality by FMI, and has been withheld from disclosure. If GRIP believes that withholding this information from disclosure is not justified, and as indicated in a January 28, 2020 MMD letter to GRIP, MMD will notify FMI of GRIP's position to provide an opportunity to substantiate the claim that public disclosure of the information could harm FMI's competitive position. See § 69-36-10 NMSA 1978. Only if the Director determines that claim is not substantiated would the information be released. GRIP is welcome contact FMI directly and request access to the

confidential information. For the upcoming changes in the face value of the 3PG, FMI will submit financial soundness tests in 2020.

- 2) Trust Fund investment holdings details for the Chino, Tyrone and Continental Trusts with the caveat that investments change relatively rapidly in some cases with a managed fund. Bonds and treasuries may have maturity dates on the order of years, when compared to other investments that may be held for a very short time. Please note the Chino trust fund is a managed account under Wells Fargo Asset Management (WFAM), and Tyrone and Cobre trusts are invested in WFAM's Montgomery 3c7 Core Fixed Income fund.
- 3) Summary balance information of the trust funds is provided. FMI is required by permit condition to submit this information.
- 4) A joint Agency letter dated February 19, 2020, establishes the current trust fund floor adjustment of 96% of the total recent balance of the trust fund. This amount considers that historical, infrequent declines of less than 2.5 percent have occurred. In 2016, the agencies swept 100% of the trust fund balance as the required amount, and the result left no room for a brief fluctuation in performance of the trust fund. So, rather than repeat the 2016 scenario, 4% has been estimated as a reasonable amount while noting past performance is no guarantee of future performance.

We look forward to working with you and other stakeholders through the process of making FA updates more routine and frequent than during the previous years of litigation. Please contact us with any questions regarding the process for establishing the final approved NPV amounts and FA instruments for the Continental Mine and other FMI Mine sites.

Sincerely,



Kurt Vollbrecht
Program Manager
Mining Environmental Compliance Section
Ground Water Quality Bureau - NMED



Holland Shepherd
Program Manager
Mining Act Reclamation Program
Mining and Minerals Division-EMNRD

cc: Anne Maurer, MECS (anne.maurer@state.nm.us)
Kevin Myers, EMNRD-MMD (kevin.myers@state.nm.us)

Enclosures attached file:

FMI letter dated November 27, 2019 – Third Party Guarantees for Chino Mines Company and Tyrone Inc....Financial Soundness Tests and Notice with Confidential Information removed.
MMD/NMED Joint Agency Letter Dated February 18, 2020, for RCE Continental Mine Holdings reports for Chino, Tyrone and Cobre trust funds.
Recent balances for Chino, Tyrone and Cobre trust funds.