

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
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Cabinet Secretary

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Deputy Secretary

Jerry Schoeppner, Director
Mining and Minerals Division



Via **ELECTRONIC MAIL**

August 27, 2021

Mr. Thomas L. Shelley, Reclamation Manager
Freeport-McMoRan Tyrone Inc.
P.O. Box 571
Tyrone, NM 88065

RE: Comments on the Application for Modification 20-1 to Little Rock Mine, Permit No. GR007RE, Freeport-McMoRan Tyrone Inc.

Dear Mr. Shelley:

The New Mexico Mining and Minerals Division (“MMD”) received a letter from Freeport-McMoRan Tyrone Inc. (“Tyrone”), dated July 7, 2021, requesting an amendment to the Revision 20-1 application for the Little Rock Mine. The request is for MMD to approve the portion of the proposed Little Rock Mine Updated Closure/Closeout Plan (“Updated CCP”) specifically for the Northern Haul Road that Tyrone intends to construct within the current MMD approved Design Limit at the Little Rock Mine.

MMD has reviewed the request (“Application”) and has determined to process it as Permit Modification 20-1 to Permit No. GR007RE. MMD subsequently received a \$1,000 permit modification application fee in accordance with 19.10.2.201.H NMAC from Tyrone in a letter dated August 11, 2021. MMD has reviewed the Application and has requested comments from the U.S. Bureau of Land Management (“BLM”) and the New Mexico Environment Department (“NMED”).

MMD has the following comments on the Application and is attaching the comments received from NMED. MMD received a copy of a letter from the BLM dated June 30, 2021, approving the Northern Haul Road under the Little Rock Mine Plan of Operations NMNM-091644, that was also provided by Tyrone in Attachment 3 of the Application. Please review the following comments and respond within 30-days of receipt of this letter.

MMD Comments

1. MMD reviewed the Little Rock Mine Reclamation Cost Estimate dated February 12, 2021, that was submitted as a supplement to the Little Rock Mine Updated CCP and provided comments to Tyrone on it in an email dated May 6, 2021. Tyrone responded

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to the MMD comments on the cost estimate in an email dated June 8, 2021. MMD concurs with the changes to the Little Rock Mine Updated CCP Cost Estimate that Tyrone committed to in the June 8, 2021 email that are used in the Northern Haul Road Reclamation Cost Estimate. However, MMD is concerned that the fuel cost of \$1.90 per gallon used both the Northern Haul Road Reclamation Cost Estimate and the Little Rock Mine Updated CCP Cost Estimate may need to be updated. Please provide the current fuel cost and revise both cost estimates or justify why the \$1.90 per gallon fuel cost should be used.

2. Figures 1 and 2 of the Application are plan-view drawings depicting the *Northern Haul Road Area Post Mining, and Northern Haul Road Area Post Reclamation*, respectively. The Northern Haul Road Area shown in these drawings correlates to portions of Sheet Number 6 and 7, *Deadman Diversion East In-Pit Waste Closure Plan, Plan Views and Sectional Views, Appendix A, Reclamation Design Drawings* of the Updated CCP. The Application should have referred to Sheet Numbers 6 and 7 of the Updated CCP as they provide greater detail than Figures 1 and 2, especially regarding the re-establishment of the Deadman Canyon Drainage.
3. *Description of Portions of the Revision Requested for Partial Approval*, pages 1 and 2 of the Application provides information regarding the construction of the Northern Haul Road and states that the fill placed during the construction of the haul road will be removed at mine closure to build the Deadman Canyon Diversion and to re-establish the Deadman Canyon drainage. Reference is made to Appendix A and C of the Little Rock Mine Updated CCP dated June 11, 2020. Please confirm that the reclamation information provided in the Little Rock Mine Updated CCP pertaining to the reclamation of the Northern Haul Road, including *Section 4.3, Haul Roads and Access Roads; Section 8.0 Reclamation Schedule; Table 3-2: Summary of Key Design Criteria for Facilities to be Closed; Table 6-1: Proposed Interim Seed Mix and Rates for the Little Rock Mine Reclamation Sites; and Table 8-1: Reclamation Schedule for the Little Rock Mine*; and others, if applicable, are included by reference in the Modification 20-1 Application.
4. On August 13, 2021, MMD sent an email to Tyrone with a drawing, *Figure 2-1 EOY 2024 Little Rock Mine Facilities and Permit Boundaries* of the Updated CCP, depicting a Design Limit for the Little Rock Mine that is more constrained than the Design Limit proposed in Tyrone's application for the Little Rock Mine expansion and Updated CCP. MMD would like to discuss this drawing and the proposed Little Rock Mine Design Limit at Tyrone's earliest convenience and as part of MMD's review of the Revision 20-1 application for the mine expansion and the Updated CCP.

NMED Comments

Please see the attached NMED comments.

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Tyrone Response

Please respond to the MMD and NMED comments within 30-days of receipt of this letter.

If you have any questions, please contact me at (505) 216-8945 or at
David.Ohori@state.nm.us.

Sincerely,



David Ohori, Permit Lead
Mining Act Reclamation Program ("MARP")
Mining and Minerals Division

Enclosures

cc: Mandy Lilla, Senior Engineer, Tyrone Mine
Holland Shepherd, MARP Program Manager
Brad Reid, Mining Environmental Compliance Section (MECS), NMED GWQB
Anne Maurer, MECS, NMED GWQB
Joseph Navarro, USDI BLM, Las Cruces District Office
Beth Ihle, District Ranger, USDA FS, Gila National Forest
Allyson Siwik, Executive Director, Gila Resources Information Project
Mine File (GR007RE)



Electronic Transmission

MEMORANDUM

Date: August 24, 2021

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

Through: Anne Maurer, Mining Act Team Leader, Mining Environmental Compliance Section (MECS)

From: Brad Reid, MECS
John Moeny, Surface Water Quality Bureau (SWQB)
Sufi Mustafa, Air Quality Bureau (AQB)

Subject: **New Mexico Environment Department (NMED) Comments, Freeport-McMoRan Tyrone Operations, Little Rock Mine, Regular Existing Mine Amendment to Revision 20-1 Application, Grant County, New Mexico, New Mexico Mining Act Permit No. GR007RE**

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on July 19, 2021 requesting that NMED review and provide comments on the above-referenced MMD permitting action. Pursuant to the Mining Act, this is a regular existing mine. MMD requested comments on the application within 30 days of receipt of the request for comments. NMED has the following comments.

Background

The Amendment to the Revision 20-1 Application includes the following:

1. A request to construct the North Haul Road at the Little Rock Mine independently from the mine expansion proposed in the application for Revision 20-1.
2. A reclamation cost estimate for the North Haul Road.

Mr. Holland Shepherd
Little Rock Mine, Modification 20-1
August 24, 2021

MMD is processing the Amendment Application to construct and reclaim the North Haul Road at the Little Rock Mine under Modification 20-1.

Air Quality Bureau

The Air Quality Bureau comments are attached.

Surface Water Quality Bureau

The Surface Water Quality Bureau comments are attached.

Mining Environmental Compliance Section

MECS has the following comments:

1. Based on a review of the unit cost tab in the *210706_LittleRock_N_HaulRoad_RCE.xlsx* spreadsheet, it is unclear if the fuel costs are based on current (i.e., 2021 fuel costs). Please clarify if current costs were included in the estimate.
2. Discharge Permit Amendment 16-02, DP-1236 was issued on July 23, 2021 to Freeport-McMoRan Tyrone Operations for expansion of the footprint of the existing Little Rock Haul Road, construction of the East In-Pit and NRW Waste Rock Stockpiles, and expansion of the footprint of the existing North In-Pit and West In-Pit Waste Rock Stockpiles. The expanded footprint of the Little Rock Haul Road is referred to as the Northern Haul Road in DP-1236 Permit Amendment. As stated in the DP-1236 Amendment, the North Haul Road shall be constructed in a manner described in the Amendment request and the approved Waste Rock Characterization and Handling Plan dated June 6, 2016.

NMED Summary Comment

NMED finds that construction of the North Haul Road as proposed in the application will be protective of the environment if done in accordance with the approved permits, pollution controls, and the comments above.

If you have any questions, please contact Anne Maurer at (505) 660-8878.

cc: David Otori, Permit Lead, EMNRD-MMD
Kurt Vollbrecht, Program Manager, NMED-MECS
Shelly Lemon, Bureau Chief, NMED-SWQB
Elizabeth Bisbey-Kuehn, Bureau Chief, NMED-AQB



Michelle Lujan Grisham
Governor

Howie C. Morales
Lt. Governor

**NEW MEXICO
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James C. Kenney
Cabinet Secretary

Stephanie Stringer
Deputy Secretary

MEMORANDUM

DATE: August 24, 2021

TO: Kurt Vollbrecht, Program Manager, Mining Environmental Compliance Section

FROM: Sufi Mustafa, Staff Manager, Air Dispersion Modeling and Emission Inventory Section, Air Quality Bureau

RE: Request for Review and Comment, Amendment to Revision 20-1 (Modification 20-1), Little Rock Mine, Freeport-McMoRan Tyrone Operations, Grant County, New Mexico Mining Act Permit No. GR007RE

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 provides the following comments.

Air Quality Permitting History

The facility has an air quality permit: PSD 2448M5

Details

Freeport-McMoRan Tyrone Inc. is requesting a partial approval of their existing mining application. This request addresses the approval of the CCP for the Northern Haul Road.

Air Quality Requirements

The New Mexico Mining Act of 1993 states that "Nothing in the New Mexico Mining Act shall supersede current or future requirements and standards of any other applicable federal or state law." Thus, the applicant is expected to comply with all requirements of federal and state laws pertaining to air quality.

20.2.15 NMAC, *Pumice, Mica and Perlite Processing*. Including 20.2.15.110 NMAC, *Other Particulate Control*: "The owner or operator of pumice, mica or perlite process equipment shall not permit, cause, suffer or allow any material to be handled, transported, stored or disposed of or a building or road to be used, constructed, altered or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne."

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Paragraph (1) of Subsection A of 20.2.72.200 NMAC, *Application for Construction, Modification, NSPS, and NESHAP - Permits and Revisions*, states that air quality permits must be obtained by:

“Any person constructing a stationary source which has a potential emission rate greater than 10 pounds per hour or 25 tons per year of any regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard. If the specified threshold in this subsection is exceeded for any one regulated air contaminant, all regulated air contaminants with National or New Mexico Ambient Air Quality Standards emitted are subject to permit review.”

Further, Paragraph (3) of this subsection states that air quality permits must be obtained by:

“Any person constructing or modifying any source or installing any equipment which is subject to 20.2.77 NMAC, *New Source Performance Standards*, 20.2.78 NMAC, *Emission Standards for Hazardous Air Pollutants*, or any other New Mexico Air Quality Control Regulation which contains emission limitations for any regulated air contaminant.”

Also, Paragraph (1) of Subsection A of 20.2.73.200 NMAC, *Notice of Intent*, states that:

“Any owner or operator intending to construct a new stationary source which has a potential emission rate greater than 10 tons per year of any regulated air contaminant or 1 ton per year of lead shall file a notice of intent with the department.”

The above is not intended to be an exhaustive list of all requirements that could apply. The applicant should be aware that this evaluation does not supersede the requirements of any current federal or state air quality requirement.

Fugitive Dust

Air emissions from this project should be evaluated to determine if an air quality permit is required pursuant to 20.2.72.200.A NMAC (e.g. 10 lb/hour or 25 TPY). Fugitive dust is a common problem at mining sites and this project will temporarily impact air quality as a result of these emissions. However, with the appropriate dust control measures in place, the increased levels should be minimal. Disturbed surface areas, within and adjacent to the project area, should be reclaimed to avoid long-term problems with erosion and fugitive dust. EPA’s *Compilation of Air Pollutant Emission Factors, AP-42, “Miscellaneous Sources”* lists a variety of control strategies that can be included in a comprehensive facility dust control plan. A few possible control strategies are listed below:

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Paved roads: covering of loads in trucks to eliminate truck spillage, paving of access areas to sites, vacuum sweeping, water flushing, and broom sweeping and flushing.

Material handling: wind speed reduction and wet suppression, including watering and application of surfactants (wet suppression should not confound track out problems).

Bulldozing: wet suppression of materials to "optimum moisture" for compaction.

Scraping: wet suppression of scraper travel routes.

Storage piles: enclosure or covering of piles, application of surfactants.

Miscellaneous fugitive dust sources: watering, application of surfactants or reduction of surface wind speed with windbreaks or source enclosures.

Recommendation

The AQB has no objection to approve this request.

This written evaluation does not supersede the applicability of any forthcoming state or federal regulations.

If you have any questions, please contact me at 505.476.4318.



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

MEMORANDUM

August 19, 2021

To: Anne Maurer, Mining Act Team Leader
Mining Environmental Compliance Section
Groundwater Quality Bureau (GWQB)

From: John Moeny
Watershed Protection Section
Surface Water Quality Bureau

Subject: **Request for Review and Comment, Amendment to Revision 20-1 (Modification 20-1), Little Rock Mine, Freeport-McMoRan Tyrone Operations, Grant County, New Mexico Mining Act Permit No. GR007RE.**

On July 20, 2021, NMED received a request for comments regarding a permit modification for the Little Rock Mine submitted by Freeport-McMoRan Tyrone Operations ("Applicant"). The project is in Grant County approximately 10 air miles southwest of Silver City on a mixture of public and private lands.

Summary of Proposed Action

The Applicant seeks to make adjustments to an existing haul road within the Little Rock Mine as mining has advanced to the current haul road over Deadmans Canyon and an alternate route must be established to continue mine operations. The "Northern Haul Road" will also cross Deadmans Canyon requiring approximately 1 million cubic yards of non-discharging fill within the drainage. At closure, the fill will be removed, and the Deadman Canyon stream channel recreated. This proposed road adjustment was included in the recently updated Closure Closeout Plan for which SWQB submitted comments in September 2020. Since then, the Applicant has received a Jurisdictional Determination (JD) from the US Army Corps of Engineers (USACE) stating that Deadmans Canyon is not subject to Clean Water Act regulations for dredge-and-fill permitting.

With the exception of USACE permitting, comments from the Surface Water Quality Bureau submitted in September 2020 are still relevant to this current permit modification request. It should be noted that JDs are valid for 5 years and should the proposed road realignment not be completed within those five years, the Applicant should seek another JD or 404 permit coverage from the Army Corps of Engineers.

If you have any questions, please phone me at (575) 956-1545.