

State of New Mexico
Energy, Minerals and Natural Resources Department

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Via ELECTRONIC MAIL

April 8, 2022

Erich J. Bower, President, and General Manager
Freeport-McMoRan Tyrone Inc.
P.O. Box 571
Tyrone, NM 88065

RE: MMD Comments on the Application and Closeout Plan, Tyrone Mine Emma Expansion Project, Revision 21-1, Permit No. GR010RE

Dear Mr. Bower,

The New Mexico Mining and Minerals Division (“MMD”) received a submittal from Freeport-McMoRan Tyrone Operations (“Tyrone”) titled, *Permit GR010RE – Tyrone Mine Existing Mining Operation, Permit Revision Application for EMMA Expansion Project at the Tyrone Mine*, dated October 22, 2021 (“Application”). MMD has assigned Revision 21-1 to process the Application. In addition, MMD received a submittal, dated November 12, 2021, titled, *Emma Project Closure/Closeout Plan (“CCP”)* that supplements the Revision 21-1 Application.

MMD has reviewed the Application and CCP and provides the following comments on the Application. MMD will provide comments on the CCP by separate letter to Tyrone on or before April 15, 2022. MMD has also received comments from the state agencies on the Application and CCP pursuant to §19.10.5.506.E NMAC. The agency comments are attached. Please respond to both the MMD comments on the Application and state agency comments with 45-days of receipt.

Application Comments

1. Tyrone Response to requirements of 19.10.5.502.D(2) NMAC, Attachment 1, page 2 of 5, and Figure 1, Owners of Surface and Mineral Estates within the Proposed Emma Area. Tyrone notes that a certain portion of the Emma Project surface area is owned by the LT Ranch LLC and is currently under contract of sale to Tyrone, as shown in Figure 1 (Owners of Surface and Mineral Estates Within the Emma Area). Please inform MMD as soon as Tyrone is the surface landowner of this property.

2. Tyrone Response to requirements of 19.10.5.502.D(4) NMAC, Attachment 1, page 2 of 5 – The Tyrone response refers to Attachment 3, Tyrone Mine Emma Expansion Project Site Assessment Summary. MMD will comment on Attachment 3 separately in this letter. Comment 13 below addresses community impacts from the Emma Expansion. Comment 14 below addresses wildlife impacts.
3. Tyrone Response to requirements of 19.10.5.502.D(7) NMAC, Attachment 1, Evidence that other state and federal permits to be obtained either have been or will be issued before the activities subject to those permits begin, page 4 of 5 refers to Table 3, Summary of Emma Expansion Project Related Permits. Tyrone states that a full description of the applicable state and federal under which the Tyrone Mine operates will be included in Section 2.4 of the Emma CCP. However, Section 2.4, Permits and Discharge Plans, page 13 of the CCP does not appear to provide a full description of the applicable state and federal permits and refers to Table 2-2, of the CCP that presents the same information as Table 3 of the Application. Please provide detailed information including the description and the status of each permit. Also, see Comment 4. below.
4. Table 3, Summary of Emma Expansion Project Related Permits. Comments received by MMD from the New Mexico Environment Department (“NMED”) Surface Water Quality Bureau (“SWQB”), dated March 3, 2022, indicate that excavation or construction in areas outside the jurisdictional determinations by the U.S. Army Corps of Engineers (“USACE”) may be subject to Clean Water Act Section 404 permitting and that Tyrone should contact the USACE in Albuquerque, NM to ensure that mining activity for the Emma Project will not require Section 404 permit authorization.
5. Attachment 2, Fulfillment of Permit Revision Application Requirements, Section 19.10.5.508.A NMAC, page 1 of 19 states that the Emma operations will be conducted in accordance with the Emma Material Characterization and Handling Plan (LCG 2021). Please provide MMD with a copy of the Emma Material Characterization and Handling Plan.
6. Attachment 2, Fulfillment of Permit Revision Application Requirements, Section 19.10.5.508.B(2)(a), page 4 of 19 states that the Emma Expansion area will be reclaimed for a post-mining land use (PMLU) of wildlife habitat. Will the Emma pit sump be reclaimed to a wildlife PMLU? If not, please state the PMLU for the Emma pit sump.
7. Attachment 2, Fulfillment of Permit Revision Application Requirements, Section 19.10.5.508.B(4), Hydrologic Balance, page 5 of 19. How will stormwater run-on into the Emma Expansion area be diverted or controlled?
8. Attachment 2, Fulfillment of Permit Revision Application Requirements, Section 19.10.5.508.B(4)(b), Hydrologic Balance, page 8 of 19. See attached NMED Surface Water Quality Bureau comments regarding the proposed EMW Waste stockpile and Oak Grove Wash.
9. Attachment 2, Fulfillment of Permit Revision Application Requirements, Section 19.10.5.508.B(11), Explosives, page 12 of 19. MMD has been

contacted by the New Mexico State Land Office regarding restricting public access to state trust land adjacent to the Emma Expansion area and indicated that Tyrone has been contacted regarding this issue. Please advise MMD of the status of this issue.

10. Attachment 2, Fulfillment of Permit Revision Application Requirements, Section 19.10.5.508.C(2), Site Stabilization and Surface Configuration, page 13 of 19. Permit No. GR010RE, Revision 09-1, Section 9.C, Construction Quality Assurance Plan requires a final design and Construction Quality Assurance (CQA) plan at least 180 days prior to commencement of reclamation activities. Pursuant to Section 9.C.2 of Revision 09-1, the CQA shall be supplemented with a CQA final report within 180 days after reclamation construction, not a Final Design as stated in the Application.
11. Attachment 2, Fulfillment of Permit Revision Application Requirements, Section 19.10.5.508.C(3), Site Stabilization and Surface Configuration, page 14 of 19. This section states that a one-foot-thick layer of soil material from the Soil Stockpile will be placed over backfilled and graded area surfaces to enhance the seedbed at the surface and then the area will be revegetated. MMD will provide comments on the Appendix D, Characterization of Suitable Soils and Overburden and Soil Salvage Plan for the Emma Expansion Project of the CCP regarding the proposed vegetative cover material plan.
12. Tyrone Mine Emma Expansion Project Site Assessment Summary, (4) Description of waste stockpiles and their impact on the hydrologic balance, drainages, and air quality, page 2 of 4, states that Tyrone is testing the physical and chemical soil suitability characteristics of the waste rock materials to confirm that the materials meet suitability criteria for reclamation cover. MMD will provide comments on the Appendix D, Characterization of Suitable Soils and Overburden and Soil Salvage Plan for the Emma Expansion Project of the CCP regarding the proposed vegetative cover material plan.
13. Attachment 3, Appendix A, Economic Impacts Assessment. Tyrone provides a summary of economic impacts of the Tyrone Mine to the local community that includes New Mexico Community Investment in Education and STEM Support, Economic Development and the Economic Impact to Grant County and New Mexico. An assessment of any negative economic impacts of the proposed Emma Expansion Project was not included. Please indicate any negative economic impacts of the proposed Emma Expansion Project or explain why they were not included in the assessment.
14. Attachment 3, Appendix B, Emma Project Wildlife and Habitat Impact Assessment. MMD has received comments on this assessment and on the CCP from the New Mexico Department of Game and Fish (“NMDG&F”). Please see the attached NMDG&F comments.
15. Attachment 3, Appendix C, Emma-Oak Grove Rare Plant Survey. MMD has received comments on this survey and the CCP from the New Mexico State Forestry Division (“NMSFD”). Please see the attached NMSFD comments.

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16. Attachment 4, Emma Blasting Plan. See comment 9 above. Section 1.0, Plan to Prevent Injury to Persons, page 2, states that the blast area limits for personnel will be 1,500 feet. Appendix B, Emma Overview Google Earth Image shows the proposed Emma Blasting Area. Parts of the proposed Emma Blasting Area may be within 1,500 feet of state trust land. Please specify the safety procedures that may be implemented to prevent injury to persons present on the state trust land during blasting.
17. Attachment 5, Northern and Southern Emma Haul Road Preliminary Design, Section 4.0, Steps for Assuring Facility is Non-Discharging, page 2. Tyrone states that it will open a repository for the excavated potentially acid generating material ("PAG") on the top surface of the reclaimed 7A stockpile to the east of the cut area for the north portion of the North Emma Haul Road. Please show the proposed location of the PAG repository on a drawing or map of the reclaimed 7A stockpile and provide approximate dimensions and possible amounts of PAG material that may be deposited there. How will the PAG material be stored to avoid acidic stormwater runoff from affecting the reclaimed 7A stockpile area? Also, Tyrone proposes to store up to two feet of the existing cover excavated from the north portion of the Northern Emma Haul Road for later use as cover material. Please provide an approximate location on a map or drawing of the reclaimed 7A stockpile where the excavated cover material will be stored, and provide an approximate volume for this excavated material.

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

Sincerely,



David Ohori, Permit Lead
Mining Act Reclamation Program (MARP)

Enclosures

cc: Holland Shepherd, Program Manager, MARP
Anne Maurer, Mining Act Team Leader, Mining Environmental Compliance Section (MECS), New Mexico Environment Department (NMED), Ground Water Quality Bureau
Brad Reid, MECS, NMED
Tom Shelley, Environmental Manager, Tyrone Mine
Mandy Lilla, Senior Engineer, Tyrone Mine
Allyson Siwik, Executive Director, Gila Resources Information Project Mine File (GR010RE)