



Tyrone Operations
P.O. Box 571
Tyrone, NM 88065

January 21, 2025

Via Electronic Mail

Mr. Clint Chisler
Energy, Minerals and Natural Resources Department
Mining and Minerals Division
Mining Act Reclamation Program
1220 South St. Francis Drive
Santa Fe, NM 87505

Dear Mr. Chisler:

**Re: Response to Comments, Emma Project,
Regular (Part 4) Exploration Permit Application, Permit No. GR095ER**

Freeport-McMoRan Tyrone Inc. (Tyrone) applied for a regular impact (Part 4) exploration project, also known as the Emma Project, on July 31, 2024. On November 27, 2024, Tyrone received comments on the application from the New Mexico Mining and Mineral Division, various state agencies, Tribes, and the public. This letter provides responses to these combined comments. Tyrone has also attached an updated permit application to address some of the agency and public comments and so the project information is contained in one updated location for future reference. The scope of the project remains the same as previously submitted.

Below are the agency comments in italics followed by Tyrone's responses.

State Agencies

New Mexico Mining and Minerals Division (MMD)

- 1. As a general comment, any attachments or additional information referenced in an exploration application should be included in that specific application package and not referenced to other permits or applications that the operator may have with the MMD. Please provide such information in this application.*

Attached to the updated application, are the documents MMD is referring to, except the archeological survey report that was sent to MMD and the State Historic Preservation Office (SHPO) on June 22, 2021. Tyrone requests that the archeological information remains confidential and will transmit a copy to MMD through the shared Microsoft Teams channel.

2. *In the 2nd paragraph of the introduction to the project, it is mentioned that 0.3 acres of disturbance has been removed from the FA calculation because these roads were previously constructed. If these roads were constructed during any phase of the Emma B Exploration project, they should be included in this application as disturbance and covered by FA under this permit.*

Tyrone notes that roads have existed (and were maintained) on this site for ranch operations and ground water monitoring prior to any exploration permitting activities. Some of these roads have existed for decades and may even predate the Mining Act. Tyrone also notes that this entire area is included in a permit application for a new mining operation that was submitted over three years ago and that it is the preference of Tyrone, the owner of the surface of this private property, to maintain these roads permanently for future study and for the future mining operations. As provided by 19.10.4.403.J NMAC, "Roads to remain permanent must be approved by the surface owner and must be stabilized to control erosion" In order to facilitate the processing of this exploration permit, Tyrone will incorporate the 0.3 acres in the FA calculation. Tyrone looks forward to discussing this issue with MMD in the future.

3. *Additionally in the 2nd paragraph of the introduction it states that disturbance from new roads and pads will total 8 acres in the first phase. Because the existing roads being used in this project are from the previous Emma B Minimal Impact Exploration Project, these existing roads should also be included as disturbance for Phase 1 of this project. Please provide the length and width of all existing roads from the Emma B Project that will be used for Phase 1 of this project.*

Please see the response to Comment 2 above. Roads that were exclusively constructed for activities conducted during the Emma-B project were added to the application. Any roads that existed prior to Emma-B, or were constructed exclusively for groundwater monitoring, were not included. Almost every road that was constructed during the Emma-B project was reclaimed after each phase of exploration. Due to this fact, almost all of that disturbance was already accounted for in this application as "new roads". A disturbance breakdown has been included in Section 2.Q of the updated application. This is an example of why roads within an

area for which an application for a new mining operation should not be required. It is highly likely that the same roads will be utilized again in the future for further study and/or the permitted mining operation.

4. *Provide separate acreage disturbances for the following three categories: drill pads, newly constructed roads, previously constructed roads to be used from the Emma-B Minimal Impact Project.*

Tyrone has included the Emma-B Road disturbance values in Section 2.Q of the updated application.

5. *The 2nd and 3rd paragraphs of the introduction to the project describe how 8 acres of the 60 total acres are included in the first phase and that the remaining 52 acres of disturbance under the permit would include any subsequent phases, reclamation, and field fitting of roads and pads. MMD accepts the submitted maps regarding the first phase, however per §19.10.4.402 D.(5) NMAC, maps and details from any subsequent disturbance from future phases must be submitted to MMD as a modification to the permit or at the time of renewal for approval.*

Acknowledged

6. *MMD understands that 60 acres of FA is being proposed for the project due to subsequent phases, reclamation, and field fitting of roads and pads, however, additional incidental disturbance amounts in the categories of reclamation and field fitting are limited to the current approved phase.*

Acknowledged

7. *The 4th paragraph of the introduction to the project mentions that reclamation will not take place until the entire project has been completed and it is determined that no additional boreholes are required. Furthermore it states that the project area may also be left un-reclaimed because the area is to be mined in accordance with Revision 21-1 to Permit No. GR010RE. Per §19.10.4.403 A. NMAC this approach will be possible, however, MMD will evaluate Revision 21-1 to the GR010RE mine permit and the reclamation status of exploration permit GR095ER at the time of renewal each year to determine whether or not reclamation needs to be initiated or not. Furthermore, all areas left un-reclaimed must be stabilized and protected with the appropriate BMP's to minimize erosion, especially off-site of the disturbed areas.*

Given the provision in 19.10.4.A NMAC, "Reclamation of the disturbed area shall be initiated and completed within the permit term, unless the area is included within

a complete permit application for a new mining operation.”, and Tyrone’s planned stabilization of the disturbed areas, it is unclear why MMD would need to evaluate this aspect each year. As MMD is aware, Tyrone submitted a complete permit application for a new mining operation that includes this entire area in 2021. Please provide further clarity of the concerns so Tyrone may address them accordingly. Tyrone has been continuously reclaiming and re-disturbing this area since the completed Emma Expansion Project application was submitted in 2021. Continuing to reclaim roads that will be re-disturbed in the future is a waste of resources as this is a proven mineral resource and will be mined. Unlike typical exploration projects in New Mexico, these drilling projects are generating data to further define the known mineral body which aids in development of the pit design and Tyrone’s mine plan. See response to Comment 2 above as it relates to 19.10.4.403.J NMAC.

8. *Section 2. Operation Ownership Information C, D and E: Provide the information referenced in these sections.*

Tyrone has included written documentation and copies of these documents in the updated application.

9. *Section 2. Operation Ownership Information H. 7: Provide maps of the previously disturbed areas associated with permits GR079EM and GR083EM. Provide a map showing all monitoring well locations within the permit boundary. Additionally, please confirm whether or not items 1-10 in Section H of Section 2 are within the permit boundary. If any of these items are, then they must be presented in a map in the application.*

Tyrone has included figures and a written confirmation of Items 1-10 in Section H of the updated permit application.

10. *Section 5. Reclamation and Operation Plan G.: Please confirm with OSE and provide the confirmation with MMD as to whether the plugging variance issued to Tyrone on 12/14/2010 is applicable to this exploration project.*

Tyrone and OSE have agreed to not use the 2010 plugging variance and instead, Tyrone has agreed to plug all boreholes per OSE standards outlined in 19.27.4 NMAC and provide plugging records to the OSE to document such work has been done.

11. *Please provide the acreage for the Emma Proposed Permit Boundary indicated on the maps provided.*

This modification has been made to Figures 4 and 4-1 in the updated application.

12. *Because only 10,000 ft. of bonding is being provided for the exploration drill hole portion of the FA, only 10,000 ft. of open boreholes can be left un-plugged at one time. To move past the 10,000 ft. limit, approved OSE borehole plugging reports must be provided to MMD.*

Tyrone's policy is to immediately plug each borehole upon completion of drilling so no more than one borehole (up to 2,500 feet) will be present at any point in time. Tyrone only secures financial assurance (FA) for 10,000 ft of "open" boreholes to prevent drilling standby fees while waiting for the completion of MMD's administrative approval process. This procedure is for FA purposes only under the Mining Act. Tyrone submits the plugging record, along with an affidavit from the driller, to both MMD and OSE which verifies that the holes have been plugged in accordance with OSE standards. Tyrone has confirmed with MMD that this comment is to reiterate the requirement of this procedure.

13. *Attachment A: Please provide the remaining OSE POD's when available. MMD will need these prior to issuance of the permit.*

Tyrone disagrees that the OSE PODs are necessary prior to permit issuance. The regulations for a Part 4 Exploration Permit do not include this requirement. 19.10.4.404 NMAC states: "Enforcement of other state or federal laws, regulations or standards shall be conducted by the agency charged with that responsibility under the applicable state or federal law, regulation or standard.". Additionally, 19.10.13.1303 NMAC provides assurance that the agency will avoid "duplicative and conflicting requirements" and for this situation, "to avoid enforcement of other statutes or regulations to be conducted by the agency charged with that responsibility under the applicable state or federal statute.". Tyrone must obtain permits through the OSE prior to drilling and it is not necessary for MMD to ensure that is completed. This MMD practice requiring OSE permits at the time of MMD application submittal creates multiple issues for operators that Tyrone would like to address.

The OSE POD numbers have been provided on the updated application. However, due to the time restraints in processing this permit, additional newly established requirements by OSE, and modifications to the project such as the depth of holes, Tyrone must renew and modify the OSE permit.

OSE permits are only valid for one year and are typically issued within two months of the application date. Since MMD permitting timeframes may be much longer than OSE, operators are at risk of having to reapply or renew OSE permits months before MMD permits expire. Additionally, MMD requires OSE permits at the time of application and prior to the agency field inspections. Often after the inspections, the

agencies request that pad locations be moved for various reasons, and this triggers an amendment of the already permitted OSE POD locations.

For these reasons, and because the regulations for a Part 4 exploration permit do not require the prior issuance of OSE permits, Tyrone is requesting that for this and all future exploration projects, MMD instead should modify permit language to acknowledge the operator will obtain OSE permits prior to conducting any drilling which is required by the OSE. Or MMD may eliminate redundant language and rely on the statements already in regulation and permits that remind operators to meet other regulatory requirements.

14. *Provide evidence of biological and cultural clearance for the referenced Emma Pit Revision 21-1 Permit Area that is being applied to this application.*

This project area was cleared through prior exploration projects and the Emma Expansion Project application, Revision 21-1 to GR010RE. The following documents may be used to verify the clearance.

As confirmed by the Department of Cultural Affairs Historic Preservation Division's letter dated November 18, 2024, in response to this permit application, the prior confidential survey results showed no cultural resources as listed, or eligible for listing, in the National Register of Historical Places within the Emma project area.

The rare plant survey and biological evaluation for this area can be found here on MMD's website:

https://www.emnrd.nm.gov/mmd/wp-content/uploads/sites/5/21476949-004-APP-Rev1-MMD_Permi_GR010RE_Modification_Application-22OCT2021.pdf.

The New Mexico Department of Game and Fish (NMDGF)'s comment letter dated November 12, 2024, in response to this application, provided mitigation recommendations but did not communicate any concerns since the biological evaluation found that no special-status species are known to be present nor is there any critical habitat in this project area. The NMDGF has also inspected this area numerous times and has not communicated any concerns to Tyrone regarding special-status species.

Tyrone has provided MMD with additional copies of the Emma Oak Grove Biological Evaluation and the Emma Rare Plant Survey in the shared Teams channel. Also attached to the updated application is a letter from the Forest Division, Botany Program Coordinator, confirming no anticipated impacts to the state listed endangered plants from activities in the Emma project area.

15. *Section 8 B.: MMD recommends the use of berms and embankments on drill pads that will be left un-reclaimed for more than 6 months to help minimize erosion.*

Tyrone acknowledges this recommendation and may use a variety of best management practices for controlling erosion, as stated in section 8.B of the permit application.

Surface Water Quality Bureau (SWQB), New Mexico Environment Department

Tyrone acknowledges the comment made by the SWQB regarding best management practices (BMPs). The BMPs mentioned in the comments, and a variety of additional practices, will be implemented through Tyrone's Environmental Management System policies and procedures.

1. *Freeport-McMoRan Tyrone Inc., the operator, currently has National Pollutant Discharge Elimination System (NPDES) Multisector General Permit (MSGP) coverage under facility ID NMR053073. The operator should update the SWPPP for the facility to include exploration project area indicating any applicable changes in sector, stormwater monitoring, stormwater controls or BMPs as required by the NPDES permit.*

The waters identified within the Emma Project by NMED in the memorandum dated 11/12/2024, includes Oak Grove Creek and associated drainages and constructed earthen ponds, which all drain to the San Vicente Arroyo, a tributary to the Mimbres River closed basin. On March 31, 2022, the Army Corp of Engineers, Albuquerque District, issued to Tyrone an Approved Jurisdictional Delineation (SPA-2021-00130-LCO) for the Emma Analysis Area, which includes the area within the Emma Project. It was determined that the Emma Analysis Area contains only isolated waters with no nexus to interstate commerce, and therefore are not regulated under Section 404 of the Clean Water Act. Because flows moving through the Emma Project report to a non-discharging basin rather than receiving waters, stormwater discharges within the Emma Project are not subject to the 2021 Multisector General Permit (MSGP) per National Pollutant Discharge Elimination System Phase I rule preamble, 55 FR 47966, November 16, 1990.

Although earth-disturbing activities associated with mining activities, such as the Emma Project, are typically covered under the 2021 MSGP, because stormwater discharges within the Emma Project are not subject to the MSGP, all requirements in Parts 1-9 of the 2021 MSGP that relate to earth-disturbing activities are not applicable and therefore not required, and do not trigger any modifications to Tyrone's Stormwater Pollution Prevention Plan (SWPPP). Nevertheless, Tyrone will install

erosion and drainage controls downgradient of all disturbance activities and perform inspections and maintenance on these controls as a Best Management Practice (BMP).

Tyrone has BMPs that are implemented and routinely reviewed by senior management and environmental professionals that pertain to all of the bullet points listed in the November 12, 2024 memorandum. Particular care is taken with respect to pollution prevention to safeguard against potential spills or releases within the Emma Project area, and spill kits are available on-site at all times to address potential spills.

Air Quality Bureau (AQB)

Tyrone acknowledges the AQB's comments regarding relevant air quality regulations. Tyrone is not an owner or operator of pumice, mica, or perlite processing equipment and the requirements in 20.2.15 NMAC do not apply, Tyrone will comply with any applicable federal and state air regulations and requirements per 20.2 NMAC. Tyrone will also implement dust control measures, as appropriate, to minimize the impacts of fugitive dust.

New Mexico State Historic Preservation Office

Tyrone appreciates the agency review of this project and confirmation that the project area does not contain any listed cultural resources or those eligible for listing.

New Mexico Department of Game and Fish

- 1. ... The mud pits should also be adequately fenced to prevent larger animals from walking onto the tarps and potentially becoming entrapped. To exclude mule deer (Odocoileus hemionus) and other large animals, the above-ground fence height should be a minimum of eight feet. The Department continues to recommend that Tyrone use a closed loop drilling system. Closed loop systems eliminate the need to build fences or install netting or similar materials to exclude wildlife from mud pits, reduce the amount of surface disturbance associated with the drill pad site, and consume significantly less water.*

Tyrone appreciates the review and comments provided by the NM Department of Game and Fish. We have considered this recommendation along with our extensive experience with drilling in this area of the desert southwest and have determined that taller fencing is unnecessary. We have not encountered entrapped animals in active drilling mud pits when following the procedures described in our application. Plastic tarps placed over the mud during the short time before the pit is covered with soil is a standard accepted practice that has been implemented effectively.

2. *During drilling operations, it is also important to prevent wildlife from entering and becoming trapped in stockpiled drill pipes. Capping piping is the most effective way to prevent wildlife entry. At a minimum, the Department recommends that each section of pipe be visually inspected prior to use to verify that wild animals are not inside.*

Tyrone will require the drill pipes to be inspected prior to use.

3. *To minimize the likelihood of adverse impacts to migratory bird nests, eggs, or nestlings during implementation of proposed road and drill pad construction activities, the Department recommends that ground disturbance and vegetation removal activities be conducted outside of the primary breeding season. This season runs from 15 April - 1 September for upland songbirds; 1 March - 1 September for most raptors; and 1 January - 15 July for golden eagle (*Aquila chysaetos canadensis*) and great horned owl (*Bubo virginianus*). If ground disturbing and clearing activities must be conducted during the breeding season, the area should be surveyed for active nest sites (with birds or eggs present in the nesting territory) and avoid disturbing active nests until young have fledged.*

Tyrone will continue to conduct nesting surveys from 1 March to 1 September if vegetation must be disturbed during the primary breeding season. As noted in the biological evaluation, it is unlikely for the golden eagle to nest in this area due to lack of suitable habitat. Due to the timing of the permitting process, it is also unlikely that any clearing of vegetation will take place from 1 January to 1 March. If any nests of the great horned owl are present, they will be captured in the nesting surveys performed during the primary breeding season.

4. *The Department recommends that, to the maximum extent feasible, large mature trees are left undisturbed by road and drill pad construction activities. Tree species that should be left undisturbed include alligator juniper (*Juniperus deppeana*), piñon pine (*Pinus edulis*), and all species of oak (*Quercus spp.*).*

Tyrone agrees with the agency and prefers to leave large mature trees undisturbed if possible. With MMD's flexibility of the pad locations and disturbance contingencies built into this application, this aspect is more achievable given the agency's approval to field fit pads and roads.

New Mexico Office of the State Engineer (OSE)

Tyrone acknowledges the OSE's comments and will comply with all applicable regulations regarding 19.27 NMAC. Tyrone plans to submit the new directional

requirements and other project amendments on the updated WR-07 application form in Q1 of 2025 to better align with MMD's timing of permit issuance.

Public

Art Ratcliffe, Christina Hess, & Glenn Griffin

Tyrone's response. Tyrone values the public's engagement in the permitting process, including their comments and the time dedicated to reviewing applications. Although most of the comments received were not germane to the Emma exploration project permit, Tyrone would like to address the concerns expressed.

As a member of the International Council on Mining and Metals (ICMM), Tyrone, along with all Freeport sites, is committed to upholding the highest standards of environmental and social responsibility. This commitment is evidenced by numerous certifications, such as The Copper Mark and Wildlife Habitat Council gold medal awards, and recognitions such as being named one of Labrador's Top 10 Most Transparent U.S. Companies, and the Indonesian Ministry of Energy and Mineral Resources' award for exemplary mining practices, including a robust commitment to environmental stewardship.

Additionally, Freeport has established, funded, and maintained numerous conservation, restoration, social, and economic programs that benefit both employees and the community members surrounding its mining operations. For more information and comprehensive annual reports regarding Freeport's sustainability strategy and commitments to environmental and social governance, please visit www.fcx.com. For more information on the local community investment initiatives, a list of local programs, or to apply for support, please visit www.freeportinnewmexico.com or www.freeportinmycommunity.com. Please also see Tyrone's response to Comment #2 from GRIP (below).

One commenter requested information regarding what is being explored for and what types of compounds or drilling fluids will be utilized and whether or not those compounds contain PFAS. Tyrone has been mining for copper in its existing mine operation located adjacent to and north of this exploration project for over 50 years. This drilling project will be further defining the known copper ore deposit in this area which is located on private property. Safety Data Sheets for the drilling fluids will be provided to OSE and to our knowledge, no PFAS are present.

Two commenters expressed concerns about groundwater quality, groundwater supply and potential impacts to neighboring wells and flora/fauna in the area. Tyrone is regulated by multiple agencies through a myriad of laws and regulations and associated permits. This permit is for exploration drilling only on private land owned by Tyrone. The exploration

holes will be plugged and abandoned after the core is removed for geological studies and none will be developed into water supply wells. Therefore, no water will be pumped from the exploration holes. Also, only 10,000 foot of bore hole may be left unplugged at any given time. During the Emma exploration projects, some wells were installed for groundwater monitoring only. Very small amounts of water will be pumped intermittently from monitoring wells as required by the New Mexico Environment Department for the purpose of monitoring groundwater quality. These wells were permitted with the New Mexico Office of the State Engineer who issues permits for water rights. The OSE has a detailed process to evaluate and ensure that neighboring wells are not impaired when issuing permits for any new wells. Concerns regarding water supply should be addressed with the OSE.

Separate applications have been submitted to multiple agencies for the development of mining operations in this same area. Those permits have separate public notice, comment, and hearing requirements.

Gila Resources Information Project (GRIP)

- 1. The total proposed disturbance of 60 acres is a significant increase from the < 5 acres permitted in previous minimum impact exploration applications. This large disturbance could impact adjacent landowners. A public hearing would help community members understand more fully the scope of potential impacts and how they will be mitigated by the operator.*

A public hearing has been scheduled for February of 2025 where Tyrone will provide information regarding mitigation factors to be implemented during the project if they are needed.

- 2. Adjacent property owners have concerns with nuisance noise and lighting that may be associated with exploration activities. The application does not provide any information on how impacts from exploration activities will be mitigated.*

Although Tyrone does not anticipate any impacts from exploration activities because light plants are strategically placed away from residential areas and roads and drilling equipment noise is similar to regular roadway noises, Tyrone encourages the use of the 24/7 grievance hotline available to address any grievances. Neighbors can call the Freeport-McMoRan Community Information and Grievance Line at 877-629-2609 to share grievances, ask questions, or request information at any time.

Grievances are routed to the appropriate department within 24 hours and resolved as quickly as possible. Questions or requests for information are also handled within 24 hours, with responses provided within 72 hours.

3. *The maps provided in the application are not adequate and do not disclose the location of the proposed drill pads relative to adjacent landowners.*

GPS coordinates for each of the drilling locations are provided in the application in addition to the legal description that includes the townships and ranges. Free services such as Google Earth, may be used to evaluate the location of each drill pad in relation to a nearby residence. Tyrone notified "owners of record, as shown by the most recent property tax schedule, of all properties within ½ mile of the project", pursuant to 19.10.9 NMAC. Tyrone has included a generalized regional map in the attached updated application for convenience as well (Figure 2-2).

4. *The application refers to attachments that are not provided as part of the application on the website, such as the permit application for Emma Revision Attachment 1 D (6) and mineral leases and mineral claim information.*

Please see Tyrone's response to MMD Comment #1.

5. *Item 4 in the application is missing.*

Please see Tyrone's response to MMD Comment #1.

Please contact Ms. Raechel Roberts at (575) 956-3290 if you have questions.

Sincerely,



Sherry Burt-Kested
Environmental Manager
New Mexico Operations