

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Melanie A. Kenderdine
Cabinet Secretary

Ben Shelton
Deputy Secretary

Erin Taylor
Deputy Secretary

Mike Thompson
Acting Director
Mining and Minerals Division



June 25, 2025

Mr. Tyler Johnson
Environmental Services
Freeport McMoRan Chino Mines Company
P.O. Box 10
Bayard, NM 88023

RE: Agency Review Comments and Request for Additional Information, Chino Main Entrance Project Grant County, New Mexico, Provisional Permit No. GR096EM

Dear Mr. Johnson,

The New Mexico Mining and Minerals Division (“MMD”) has reviewed the Permit Application Package (“PAP”) submitted by Freeport-McMoRan Chino Mines Company (“FMI”) for a new Minimal Impact Exploration Project named the Chino Main Entrance Project, located in Grant County, New Mexico. In accordance with 19.10.3.302.G NMAC, MMD requested comments on the PAP from cooperating state and federal agencies. Enclosed with this letter are the reviewing agency comment letters submitted by the following state agencies: the New Mexico Environment Department (“NMED”), the New Mexico Department of Game and Fish (“NMDG&F”), the New Mexico Forestry Division (“Forestry”), and the New Mexico Department of Cultural Affairs - Historic Preservation Division (“NMDCA/HPD”). Additionally, please find general comments from MMD based on review of this application.

General Comments:

MMD has reviewed the PAP and has found it to be *technically incomplete* pending receipt of acceptable supplemental information identified in this letter. **Please respond no later than 30 days from receipt of this letter to the information requested.** MMD has conducted a review of the PAP and has the following comments to be addressed in writing:

- The estimated disturbance for this project is listed in the PAP as approximately 1.1 acres, but FMI has chosen to provide financial assurance for 5 acres to allow flexibility in the final alignment of access roads and drill pads. To allow this kind of flexibility, MMD requires that there is a limited project area where disturbance may occur, which is assumed to be the approximately 30-acre “Proposed Exploration Project Boundary” shown on Figure 2 of the PAP (“Project Area”). However, this limited project area must be fully surveyed for biological and cultural resources to allow MMD and consulting agencies adequate knowledge of the area that may be disturbed in their review of the proposed activities. Based on the materials submitted in the PAP and separately to NMDCA/HPD, it is not clear that the “Proposed Exploration Project Boundary” is adequately surveyed. Instead, survey boundaries vary from a stated 19-acre area in the *Exploratory Drilling Biological Evaluation* prepared by Westland Engineering & Environmental

Page 2 of 2

Services (“Westland”) to a 9.92-acre area in *A Cultural Resources Inventory of Three Drill Pad Locations West of Chino Mine, Grant County, New Mexico* prepared by Westland and submitted to NMDCA/HPD (“Cultural Resource Report”). MMD requests that FMI provide additional documentation showing that the 30-acre Project Area has been adequately surveyed or select a different limited project area that is within the 9.92-acre area surveyed in the Cultural Resource Report. If a different limited project area is selected, FMI should provide sufficient maps and documentation of the extent of the area.

NMED Mining Environmental Compliance Section, Ground Water Quality Bureau Comments (“MECS”)

Please review the comment letter received from NMED MECS Ground Water Quality and respond to any concerns.

NMED Surface Water Quality Bureau Comments:

Please review the comment letter received from NMED Surface Water Quality Bureau and respond to any concerns.

NMED Air Quality Bureau Comments:

Please review the comment letter received from NMED Air Quality Bureau and respond to any concerns.

NMDG&F Comments:

Please review the comment letter received from NMDG&F and respond to any concerns.

Forestry Comments:

Please review the comment letter received from NMOSE and respond to any concerns.

NMDCA/HPD Comments:

Please review the comment letter received from NMDCA/HPD and respond to any concerns.

If you have any questions, please contact me at (505) 470-5354, or via email at kevin.barnes@emnrd.nm.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kevin Barnes', with a long horizontal flourish extending to the right.

Kevin Barnes, Permit Lead
Mining Act Reclamation Program (“MARF”)

Enclosures: Agency Letters

Cc w/o enclosures: David “DJ” Ennis, Program Manager, MARF/MMD
Mariana Lafon, FMI
Mine File (GR096EM)



Electronic Transmission

MEMORANDUM

Date: May 22, 2025

To: David Ennis, Program Manager, Mining Act Reclamation Program

Through: Amber Rheubottom, Mining Act Team Leader, Mining Environmental Compliance Section (MECS)

From: Eliza Martinez & Alan Klatt, Surface Water Quality Bureau (SWQB)
Sufi Mustafa, Air Quality Bureau (AQB)
Jordan Anderson (MECS)

Subject: **New Mexico Environment Department (NMED) Comments, Chino Mine, Entrance Exploration, Grant County, New Mexico, Mining Act Permit No. GR097EM**

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on April 29, 2025, requesting that NMED review and provide comments on the above-referenced MMD permitting action. Pursuant to the Mining Act, the operation is an exploration project. MMD requested comments on the application within 20 days of receipt of the request for comments.

Background

Freeport-McMoRan (Applicant) is proposing to drill 5 exploration drill holes that are outside of the current permit boundaries.

Air Quality Bureau

The AQB comments are attached.

Surface Water Quality Bureau

The SWQB comments are attached.

Mr. David Ennis
Chino Mine Entrance Exploration
May 22, 2025
Page 2 of 2

Mining Environmental Compliance Section

NMED requests Freeport-McMoRan Chino Mines Company incorporate all applicable groundwater elevation(s) and geologic data obtained from each borehole into the groundwater model required by Condition C109.B of Discharge Permit 376 dated March 12, 2024.

NMED Summary Comment

NMED has determined the proposed activities will be protective of the environment if done in accordance with the approved permits and pollution controls as presented.

If you have any questions, please contact Amber Rheubottom at (505) 660-2379.

cc: Joseph Fox, Program Manager, NMED-MECS
Brad Reid, Team Leader, NMED-MECS
Jordan Anderson, NMED-MECS
Shelly Lemon, Bureau Chief, NMED-SWQB
Cindy Hollenberg, Bureau Chief, NMED-AQB
Kevin Barnes, EMNRD-MARP



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

MEMORANDUM

DATE: May 22, 2025

TO: Amber Rheubottom, Mining Act Team Leader, Mining Environmental Compliance Section, NMED

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

Request for Review and Comment, Freeport McMoRan Chino Mines Company, Main Entrance Project, Grant County, New Mexico Mining Act Permit No. GR096EM

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.

Details

Freeport-McMoRan Chino Mines Company ("FMI") has requested for a minimal impact exploration permit outside the current permit boundary of the Chino Mine (Permit No. GR009RE). All activities associated with this project will take place on Chino property. The project will consist of five drill holes from a total of three drill pads. The total new disturbance will not exceed five acres.

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

Request for Review and Comment, Freeport McMoRan Chino Mines Company, Main Entrance Project, Grant County, New Mexico Mining Act Permit No. GR096EM

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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."

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

Request for Review and Comment, Freeport McMoRan Chino Mines Company, Main Entrance Project, Grant County, New Mexico Mining Act Permit No. GR096EM

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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:

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 Air Quality Bureau does not have any objection to this permit 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 505 629 6186.



MEMORANDUM

DATE: May 16, 2025

TO: Amber Rheubottom, Mining Environmental Compliance Section, Ground Water Quality Bureau, New Mexico Environment Department

FROM: Eliza Martinez, Watershed Protection Section, Surface Water Quality Bureau, New Mexico Environment Department

SUBJECT: **Request for Comments on Freeport McMoRan Chino Mines Company, Main Entrance Project, New Minimal Impact Exploration Project, Grant County, New Mexico Mining Act Permit No. GR096EM**

The New Mexico Environment Department (NMED) Surface Water Quality Bureau (SWQB) received the subject request for comments on April 29, 2025. The application for a new minimal impact exploration project submitted by Freeport-McMoRan Chino Mines Company (Chino). The exploration area is in Grant County, New Mexico. The proposed total disturbance is 1.101 acres. The project proposes constructing three roads and three drill pads.

The proposed project area is located within the 12-digit Hydrologic Unit Code 130302020303 named "Headwaters Whitewater Creek". Hanover Creek is approximately 500 feet to the north of the project area and Whitewater Creek is located approximately 400 feet to the south of the project area. Both intermittent waters are subject to New Mexico surface water quality standards at 20.6.4.98 New Mexico Administrative Code (NMAC) which include designated uses for livestock watering, wildlife habitat, marginal warmwater aquatic life and primary contact. Use-specific numeric criteria for water quality standard attainment are specified in 20.6.4.98 NMAC.

Relevant State and Federal Water Quality Regulations

The proposed new roads and drill pads have the potential to affect two intermittent streams which are Surface Waters of the State (SWOTS). Operations must ensure compliance with General Criteria at 20.6.4.13 NMAC. *"General criteria are established to sustain and protect existing or attainable uses of surface waters of the State. These general criteria apply to all surface waters of the state at all times. Surface waters of the State shall be free of any water contaminant in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or unreasonably interfere with the public welfare or the use of property."* (20.6.4.13 NMAC)

The Applicant is required to report all unpermitted discharges and spills immediately after learning of such a discharge, and no more than 24 hours after the unpermitted discharge or spill, to the NMED as required by the New Mexico Water Quality Control Commission regulations (20.6.2.1203 NMAC). The minimum information required to be reported can be found at 20.6.2.1203.A.(1) NMAC. For non-emergencies during normal business hours, call 505- 428-2500. For non-emergencies after hours, call 866-428-6535 or 505-428-6535 (voice mail, twenty-four hours a day). For emergencies only, call 505-827-9329 twenty-four hours a day (NM Dept of Public Safety). For spills that reach a SWOTS, including ephemeral streams, also report via email at SWQ.reporting@env.nm.gov.

In addition to the above regulatory standards, SWQB requires the following practices to avoid contamination and to protect surface water quality:

- Utilize a secondary containment system for fuel, oil, hydraulic fluid, lubricants, and other petrochemicals to prevent spills.
- Always keep appropriate spill clean-up materials such as absorbent pads on-site during road construction, site preparations, drilling and reclamation to address potential spills.
- All mobile equipment used in the project area must be pressure washed and/or steam cleaned off-site before the start of the project to facilitate noxious weed management and inspected daily for leaks to ensure surface waters are protected from contaminants. Keep a written log of inspections and maintenance activities.
- Implement Best Management Practices (BMPs) to prevent or mitigate direct impacts to watercourses, including springs, wetlands, and arroyos. For temporary surface disturbances during exploration and reclamation activities, implement erosion control measures that are designed, constructed and maintained professionally recognized standards (e.g., Natural Resource Conservation Service Standards or the Bureau of Land Management “Gold Book”¹). Install and maintain best management practices (BMPs) both during and after construction to prevent pollutants in stormwater runoff from entering SWOTS.
- Comply with the guidelines described in the Bureau of Land Management “Gold Book”¹ for the use of overland travel and site selection, design, and construction of well pads, reserve pits, and roads. Suspend construction, maintenance activities, or off-road travel during periods when the soil is too wet to adequately support heavy equipment without causing surface disturbance.
- Ensure that stormwater entering the project area (“run-on”) is diverted from soil storage piles and place piles uphill of excavation when possible.
- Design and construct containment systems that are capable of retaining stormwater runoff from the mining area during precipitation events. The containment system should be sufficient in size to contain stormwater generated within its catchment area from a 100-year, 3-day storm event.

For questions related to these comments, please contact Eliza Martinez, SWQB, at eliza.martinez@env.nm.gov or (505) 819-8099.

¹ <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/operations-and-production/the-gold-book>



DIRECTOR AND SECRETARY
TO THE COMMISSION
Michael B. Sloane

STATE OF NEW MEXICO DEPARTMENT OF GAME & FISH

One Wildlife Way, Santa Fe, NM 87507
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For information call: (888) 248-6866

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Silver City

20 May 2025

Kevin Barnes, Permit Lead
Mining Act Reclamation Program
Mining and Minerals Division (MMD)
1220 South St. Francis Drive
Santa Fe, NM 87505

RE: Minimal Impact Exploration Permit Application, Chino Main Entrance Project, Chino Mine, Permit No. GR096EM; NMDGF No. NMERT-4527.

Dear Mr. Barnes,

The New Mexico Department of Game and Fish (Department) has reviewed the exploration project referenced above. Freeport-McMoRan Chino Mines Company (Freeport) is proposing to drill 5 exploration bore holes, that will range in depth from approximately 1,500 feet to 4,000 feet, from a total of 3 drill pad sites. The project area is in Grant County, Township 17S, Range 12W, Section 32. The proposed drilling project is anticipated to disturb a total area of approximately 1.1 acres. Staff from the Department were unable to attend the MMD agency site inspection that occurred on 15 May 2025.

In Section C. Wildlife Protection/Noxious Weed Prevention, the permit application states that Freeport will use metal panels as perimeter fencing and to cover the mud pits. It also states that "stakes will be used to secure tarps". The Department would like clarification regarding how the mud pits will be covered. The Department would prefer the use of metal panels, instead of tarps, to more effectively prevent wildlife from accessing mud pits. This preference assumes that there would be no gaps left between the metal panels and the ground surface that would allow smaller animals to access the mud pits and become entrapped. The Department continues to recommend the use of 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.

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 should be visually inspected prior to use to verify that wild animals are not inside.

To minimize the likelihood of adverse impacts to migratory birds, nests, eggs, or nestlings, the Department recommends that ground disturbance and vegetation removal activities be conducted outside of the primary migratory bird breeding season. This season runs from 15

April - 1 September for upland songbirds, willow flycatcher (*Empidonax traillii*), yellow-billed cuckoo (*Coccyzus americanus*), and other riparian songbirds; 1 March - 1 September for most raptors; 1 January - 15 July for golden eagle (*Aquila chysaetos canadensis*) and great horned owl (*Bubo virginianus*); and 1 March - 15 September for low-elevation deserts. 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. For active nests, establish adequate buffer zones to minimize disturbance to nesting birds. Buffer distances should be at least 100 feet from songbird and raven nests; 0.25 miles from most raptor nests; and 0.5 miles for ferruginous hawk (*Buteo regalis*), golden eagle, peregrine falcon (*Falco peregrinus*), and prairie falcon (*Falco mexicanus*) nests. Active nest sites in trees or shrubs that must be removed should be mitigated by qualified biologists or wildlife rehabilitators. Department biologists are available to consult on nest site mitigation and can facilitate contact with qualified personnel.

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

The Department concurs with the proposed seed mix. The Department also recommends that only certified weed-free seeds be used to avoid inadvertently introducing non-native species to the reclamation site. Any alternate plant species, used to substitute for primary plant species that are unavailable at the time of reclamation, should also be native. When possible, the Department recommends using seeds that are sourced from the same region and habitat type as the reclamation site and suggests including seeds from a region that represents potential future climatic conditions at the site.

Thank you for the opportunity to review and comment on the proposed exploration project. If you have any questions, please contact Ron Kellermueller, Mining and Energy Habitat Specialist, at (505) 270-6612 or ronald.kellermueller@dgf.nm.gov.

Sincerely,

Virginia Seamster, Ph.D.
Assistant Chief, Ecological and Environmental Planning Section

cc: USFWS NMES Field Office

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Melanie A. Kenderdine
Cabinet Secretary

Benjamin Shelton
Deputy Cabinet Secretary

Erin Taylor
Deputy Cabinet Secretary

Laura McCarthy, State Forester
Forestry Division



May 16, 2025

Kevin Barnes
Reclamation Specialist; Permit Lead
Mining Act Reclamation Program
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 470-5354

**RE: Request for Comments on Minimal Impact Exploration Permit Application, Chino
Main Entrance Project, Grant County, New Mexico, Permit No. GR096EM**

Thank you for the opportunity to comment on the proposed exploratory project. Based on the application materials provided, I do not anticipate any impacts to New Mexico State or Federally listed plants as a result of this project.

If any state-listed endangered plants are found within the project site, an incidental take permit will be required if plants are likely to be destroyed or harmed. Alternatively, mitigation measures should be developed to minimize disturbance. Additional information on permits and state-endangered plant species can be accessed at: <https://www.emnrd.nm.gov/sfd/rare-plants/request-a-collection-permit/>

Sincerely,

Erika Rowe

A handwritten signature in blue ink, appearing to read "Erika Rowe", is written over a light blue horizontal line.

State Botanist - Endangered Plant Program Coordinator
EMNRD-Forestry Division
1220 S. St. Francis Dr.
Santa Fe, NM 87505
erika.rowe@emnrd.nm.gov / (505)699-6371



New Mexico Historic Preservation Division

407 Galisteo Street, Suite 236
Santa Fe, NM 87501
Telephone: (505) 827.6320
Email: nm.shpo@dca.nm.gov

May 28, 2025

Kevin Barnes
Reclamation Specialist
Mining and Minerals Division
Mining Act Reclamation Program
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505
Kevin.Barnes@emnrd.nm.gov

Via Email Only

RE: HPD Log #125321 Request for Comments on Minimal Impact Exploration Permit
Application, Chino Main Entrance Project, Grant County, New Mexico, Permit No.
GR096EM

Dear Mr. Barnes:

Thank you for submitting your request for comments on the application from Freeport-McMoRan Chino Mines Company ("FMI") for a minimal impact exploration project outside the current permit boundary of the Chino Mine (Permit No. GR009RE) to the New Mexico State Historic Preservation Office (SHPO) for review and comment. Your request was received by our office on April 29, 2025, via email. We requested additional information, this was received on May 28, 2025.

The request was reviewed under 19.10.3.302.D(2) NMAC. No historic properties were identified during the survey conducted under NMCRIS 157878. No known burial grounds or cemeteries are within the proposed permit boundary.

If you have any questions or concerns, please contact me at cortney.wands@dca.nm.gov.

Sincerely,

A handwritten signature in blue ink that reads "Cortney Wands".

Cortney Wands
Archaeological Reviewer