

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

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Deputy Secretary

Erin Taylor
Deputy Secretary

Mike Tompson, Acting Director
Mining and Minerals Division



August 13, 2025

Ms. Sherry Burt-Kested, Manager
Freeport-McMoRan Chino Mines Company
Environmental Services
P.O. Box 10
Bayard, NM 88023

RE: Technical Comments on the Southwest Lampbright Waste Rock Stockpile Buttress, Permit No. GR009RE, Modification 24-1, Chino Mine, Grant County, New Mexico

Dear Ms. Burt-Kested,

The New Mexico Mining and Minerals Division ("MMD") has reviewed the Permit Application Package ("PAP") submitted by Chino Mines Company ("Chino") for a permit modification to Permit No. GR009RE for the Chino Mine located in Grant County, New Mexico, to allow for the construction of the Southwest Lampbright Waste Rock Stockpile Buttress ("Buttress"). In accordance with 19.10.5.505.B(3) 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 ("NMFD"), the New Mexico Department of Cultural Affairs - Historic Preservation Division ("NMDCA/HPD").

General Comments:

MMD has reviewed the PAP and has found it to be *technically complete* contingent on the Permittee's response to the following comments by reviewing agencies. In addition, MMD has the following comment on the PAP:

- Any changes to the financial assurance for the overall Chino mine caused by the construction of the Buttress should be included in the overall financial assurance estimation for the 2024 Update to the Chino Closure/Closeout Plan, Revision 24-2.

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.

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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.

NMFD Comments:

Please review the comment letter received from NMFD 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
File (GR009RE)



Electronic Transmission

MEMORANDUM

Date: October 15, 2024

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

Through: Amber Rheubottom, Acting Mining Act Coordinator, Mining Environmental Compliance Section (MECS)

From: Davena Crosley, Surface Water Quality Bureau (SWQB)
Sufi Mustafa, Air Quality Bureau (aqb)
Jordan Anderson (MECS)

Subject: **New Mexico Environment Department (NMED) Comments, Chino Mine, Modification 24-1, Grant County, New Mexico, Mining Act Permit No. GR020RE**

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on August 8, 2024, requesting that NMED review and provide comments on the above-referenced MMD permitting action. Pursuant to the Mining Act, there is a regular existing mine project. MMD requested comments on the application within 60 days of receipt of the request for comments. NMED requested an extension to that timeline.

Background

Chino requested a modification to construct a buttress between Southwest Lampbright Waste Rock Stockpile and the Lampbright Leach Stockpile. Total disturbance to the site will be unchanged.

Air Quality Bureau

The AQB comments are attached.

Surface Water Quality Bureau

The SWQB does not have any comments.

Mr. David Ennis
Chino Mine
October 15, 2024
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Mining Environmental Compliance Section

MECS is currently processing a technical review of the updated plans and specifications for the buttress and infill dated February 26, 2024. MMD will be copied on all correspondence related to the review and approval of the updated plans and specifications.

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
Shelly Lemon, Bureau Chief, NMED-SWQB
Cindy Hollenberg , Acting Bureau Chief, NMED-AQB
Kevin Barnes, EMNRD-MARP



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

MEMORANDUM

DATE: October 11, 2024

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

FROM: Davena Crosley, Watershed Protection Section, Surface Water Quality Bureau, New Mexico Environment Department

SUBJECT: **Request for Comments on Modification 24-1 to Chino – Southwest Lampbright Waste Rock Stockpile Buttress, New Mexico Mining Act Permit No. GR009RE, Freeport-McMoRan Chino Mines Company (Chino), Grant County, NM.**

The New Mexico Environment Department (NMED) Surface Water Quality Bureau (SWQB) received the subject request for comments on August 30, 2024. The application for permit modification 24-1 to GR009RE submitted by Freeport-McMoRan Chino Mines Company (Chino or Applicant) proposes to construct a buttress on the north side of the Southwest Lampbright Waste Rock Stockpile to stabilize the stockpile where a toe heave has been observed.

The Chino Mine is located within the 12-digit Hydrologic Unit Code 130302020401 named "Headwaters Lampbright Draw." Surface Waters of the State (SWOTS) include Lampbright Draw, Rustler Canyon, and several ephemeral drainages. These SWOTS support designated uses specified in 20.6.4.808 NMAC including warmwater aquatic life, livestock watering, wildlife habitat, and primary contact. Use-specific numeric criteria for water quality standard attainment are summarized in 20.6.4.900 NMAC.

Summary of Proposed Action

Chino applied for Modification 24-1 to permit GR009RE to construct a buttress between the Southwest Lampbright Waste Rockpile on the south and the Lampbright Leach Stockpile on the north with the entire area of the buttress and infill contained within the current Design Limits of the existing Lampbright stockpiles. The proposed action will reduce sloped acres by 28 acres while increasing low grade acres by 28 acres.

Relevant State and Federal Water Quality Regulations

The proposed buttress and infill of the Southwest Lampbright Waste Rock Stockpile may affect two ephemeral unnamed tributaries of Lampbright Draw, which is also an ephemeral Surface Water of the State (SWOT). Mine activities may affect SWOTS, which include ephemeral streams and all tributaries of such waters within the area of mining operations, as defined in New Mexico's Standards for Interstate and Intrastate Surface Waters (20.6.4.7 NMAC), Ephemeral surface waters are subject to water quality criteria under 20.6.4.808 NMAC. Furthermore, 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.

Chino Mine previously had National Pollutant Discharge Elimination System (NPDES) coverage under the Multi-Sector General Permit #NMR053259. The Lampbright Waste Rock Stockpile buttress and infill project does not require NPDES permitting per a waters of the United States (WOTUS) jurisdictional determination from the US Army Corps of Engineers on May 27, 2020. The nearest surface waters to the site are defined in 20.6.4.808 NMAC, 20.6.4.97 NMAC, and 20.6.4.98 NMAC.

In addition to the above regulatory standards, SWQB requires the following practices to avoid contamination and to protect surface and groundwater 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.
- Provide a minimum 50' set-back (buffer) distance from existing drainages to staging areas.
- Install and maintain best management practices (BMPs) both during and after construction to prevent pollutants in stormwater runoff from entering SWOTS.
 - From the application Figure 1 – *Authorized DP-376 Leach and Waste Rock Stockpile Footprints*, a sediment staging area (approximately 7 acres) and a stormwater collection area are identified. Develop and implement BMPs that do not negatively impact other BMPs, and that prevent the release of pollutants to SWOTS.
 - There are several existing drainage systems identified and two (2) proposed impacted stormwater diversion channels in the application. Design and implement BMPs based on appropriate site configuration. BMPs should not negatively impact other BMPs and should prevent channel pollutants from flowing toward an existing drainage which could lead to a SWOTS.
- WOTUS jurisdictional determinations are only valid for five (5) years. Procure an updated WOTUS jurisdictional determination from the United States Army Corps of Engineers or the United States Environmental Protection Agency for all future permit modifications and revisions.
- Final reclamation designs for facilities affecting SWOTS should reestablish approximate original contour, to the maximum extent practicable, to maintain or restore natural pre-mining hydrologic processes.



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

Impacts to Surface Water Quality

The SWQB finds that FMI's proposed buttress construction on the north side of the Southwest Lampbright Stockpile is likely to have minimal impacts to surface waters of the state if operated and reclaimed with the approved permits, including relevant stormwater management, BMPs, post-mining cover requirements and revegetation standards specified in "Closure Requirements of Copper Mine Facilities-- NMAC 20.6.7.33.

For questions related to these comments, please contact Davena Crosley, SWQB, at davena.crosley@env.nm.gov or 575-636-3425.



MEMORANDUM

DATE: October 1, 2024

TO: Amber Rheubottom, Acting 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 NMED Comments on Southwest Lampbright Waste-Rock Stockpile Buttress, Modification 24-1, Chino Mine, Grant County, Permit No. GR009RE

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 (Chino) needs to construct a buttress on the north side of the Southwest Lampbright Waste Rock Stockpile to stabilize the stockpile where a toe heave has been observed. The buttress is simply an extension of the existing Southwest Lampbright Waste Rock Stockpile and is being built to stabilize the stockpile. The entire area of the buttress/infill is inside the current Design Limits of the existing Lampbright stockpiles.

According to 19.19.5.505 NMAC, the designed buttress/infill will require a permit modification due to a change in the financial assurance associated with the approved closeout plan.

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 NMED Comments on Southwest Lampbright Waste-Rock Stockpile Buttress, Modification 24-1, Chino Mine, Grant County, Permit No. GR009RE

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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

**Request for NMED Comments on Southwest Lampbright Waste-Rock Stockpile Buttress,
Modification 24-1, Chino Mine, Grant County, Permit No. GR009RE**

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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:

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 project.

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.



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

wildlife.dgf.nm.gov

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Silver City

5 November 2024

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

RE: Southwest Lampbright Waste-Rock Stockpile Buttress, Modification 24-1, Chino Mine, Grant County, Permit No. GR009RE; NMDGF No. NMERT-3723.

Dear Mr. Barnes,

The New Mexico Department of Game and Fish (Department) has reviewed the above referenced mine permit modification. Freeport-McMoRan Chino Mines Company (Chino) is proposing to construct a buttress on the north side of the Southwest Lampbright Waste-Rock Stockpile. The buttress is needed to stabilize the stockpile where a toe heave has been observed.

The entire area of the proposed buttress and infill is within the current Design Limits of the existing Lampbright stockpiles and will occur in an area previously disturbed by mining operations. The Department does not anticipate any significant impacts to wildlife or wildlife habitat by the proposed construction of the Southwest Lampbright Waste-Rock Stockpile Buttress.

Thank you for the opportunity to respond to Chino's proposed permit modification. 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

Digitally signed by
Virginia Seamster
Date: 2024.11.05 15:12:25
-07'00'

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 Designate

Benjamin Shelton
Acting Deputy Cabinet Secretary

Laura McCarthy, State Forester
Forestry Division



September 9, 2024

Kevin Barnes, Permit Lead
Mining Act Reclamation Program ("MARP") Mining and Minerals Division
Energy, Minerals and Natural Resources Department (EMNRD)
1220 S. St. Francis Drive
Santa Fe, NM 87505

**RE: Request for NMED Comments on Southwest Lampbright Waste-Rock Stockpile Buttress,
Modification 24-1, Chino Mine, Grant County, Permit No. GR009RE**

Thank you for the opportunity to comment on the above referenced project. I do not anticipate any impacts to State Endangered or Federally Endangered or Threatened plants as a result of this project, as described in the Modification Request to Permit No. GR009RE – Southwest Lampbright Waste Rock Stockpile Buttress ("Application").

Please let me know if I can be of further help.

Sincerely,

A handwritten signature in blue ink, appearing to read "Erika Rowe".

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



Michelle Lujan Grisham,
Governor

STATE OF NEW MEXICO
DEPARTMENT OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION

BATAAN MEMORIAL BUILDING
407 GALISTEO STREET, SUITE 236
SANTA FE, NEW MEXICO 87501
PHONE (505) 827-6320 NM.SHPO@dca.nm.gov

August 30, 2024

Kevin Barnes
Permit Lead
Mining Act Reclamation Program
kevin.barnes@emnrd.nm.gov

Via Email Only

RE: HPD Log #123128 Request for NMED Comments on Southwest Lampbright Waste-Rock
Stockpile Buttress, Modification 24-1, Chino Mine, Grant County, Permit No. GR009RE

Dear Mr. Barnes:

Thank you for submitting Request for NMED Comments on Southwest Lampbright Waste-Rock
Stockpile Buttress, Modification 24-1, Chino Mine, Grant County, Permit No. GR009RE to the
New Mexico State Historic Preservation Office (SHPO) for review and comment. We received the
information on August 14, 2024, via email.

Based on the information provided, I reviewed the New Mexico State Cultural Resource
Information System (NMCRIS). The area in and around the Southwest Lampbright Waste Rock
Stockpile has been previously surveyed. There are no known cemeteries or burial grounds, nor
are there any cultural resources listed on either the National Register of Historic Places or the
State Register of Cultural Properties.

The project area is also heavily disturbed by prior mining activities, suggesting that intact,
buried, cultural resources are unlikely to be encountered.

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

Sincerely,

Cortney Wands
Archaeological Reviewer