

September 8, 2025

Certified Mail # 70221670000184288998

Mr. Kevin Barnes
Energy, Minerals and Natural Resources Department
Mining and Minerals Division (MMD)
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Dear Mr. Barnes:

Re: Freeport-McMoRan Chino Mines Company- Response to Agencies' Comments and Technically Approvable Determination on the Southwest Lampbright Waste Rock Stockpile Buttress, Permit No. GR009RE

Freeport-McMoRan Chino Mines Company (Chino) submitted a permit application package for modification to Permit. No GR009RE to allow construction of the Southwest Lampbright Waste Rock Stockpile Buttress (Buttress). On a letter dated September 27, 2024, MMD gave Chino permission to proceed with the construction of the Buttress. On a letter dated August 13, 2025, Chino received an agency comment letter and the determination that the application is technically complete. Below are the agencies' comments, followed by Chino's response.

Mining and Minerals Division Comments:

1. *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.*

Chino's Response: Chino appreciates your comment and will ensure any changes to the financial assurance caused by the construction of the Buttress will be included in the RCE for the Chino CCP.

New Mexico Environmental Department Mining Environmental Compliance Section Comments:

1. *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.*

Chino's Response: Chino appreciates the review.

2. *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.*

Chino's Response: Chino appreciates the review.

New Mexico Environmental Department Surface Water Quality Bureau Comments:

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 premining hydrologic processes.

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.

Chino's Response: The Southwest Lampbright Waste Rock Stockpile Buttress project, located upstream of Dam 8 and its associated interceptor systems, is designed to ensure complete control of surface and subsurface water during and after construction. Engineered systems eliminate any opportunity for discharge. Chino has implemented surface water containment measures and best management practices throughout all phases of construction, in accordance with established policies and procedures. The project area lies entirely within a closed basin, and therefore does not contain any WOTUS). Chino appreciates the information provided.

New Mexico Air Quality Bureau Comments:

1. *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." 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: 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.*

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

Department of Game and Fish Comments:

1. *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.*

Chino's Response: Chino appreciates the review.

New Mexico Forestry Division Comments:

1. *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").*

Chino's Response: Chino appreciates the review.

New Mexico State Historic Preservation Office Comments:

1. *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.*

Chino's Response: Chino appreciates the review

If you have any questions or concerns, please contact me at 575- 694-0013 or Mariana Lafon at 575-912-5234.

Sincerely,



Tyler R. Johnson, Chief Engineer
NMO Environmental Services

TRJ:ml
Enclosures
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ec: David Ennis, MMD