

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Melanie A. Kenderdine
Cabinet Secretary

Benjamin Shelton
Deputy Secretary

Erin Taylor
Deputy Secretary

Erin McCullough, Director
Mining and Minerals Division



October 28, 2025

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

**RE: Agency Review Comments and Request for Additional Information, Revision 24-2,
2024 CCP Update, Chino Mine, Grant County, New Mexico, Permit No.
GR009RE**

Dear Ms. Burt-Kested:

The New Mexico Mining and Minerals Division (“MMD”) has reviewed the 2024 Closure/Closeout Plan Update application (“Application”) submitted on November 1, 2024, by Freeport-McMoRan Chino Mines Co. (“FMI”) for the Chino Mine in Grant County, New Mexico. The Application has been assigned as Revision 24-2 to Permit No. GR009RE. In accordance with 19.10.5.506.E NMAC, MMD has requested comments on the Application from cooperating state and federal agencies.

Reviewing agency comment letters were submitted by the following state agencies: the New Mexico Environment Department (“NMED”), the New Mexico Department of Game and Fish (“NMDG&F”), and the New Mexico Energy, Minerals, and Natural Resources Department – Forestry Division (“NMFD”), as well as a comment letter from the White Mountain Apache Tribe, and are enclosed with this letter. MMD has additionally enclosed technical comments on the application.

MMD Technical Comments:

MMD has reviewed the Application and found it to be *technically incomplete*. Please review the attached technical comments on the Application to be addressed in writing within 60 days of receipt of this letter.

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Chino Mine, Grant County, New Mexico, Permit No. GR009RE
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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.

NMFD Comments:

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

White Mountain Apache Tribe Comments:

Please review the comment letter from the White Mountain Apache Tribe and respond to any concerns.

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

A handwritten signature in blue ink, appearing to read 'Kevin T. Barnes', with a long horizontal flourish extending to the right.

Kevin T. Barnes
Permit Lead
Mining Act Reclamation Program (MARF)

enc: MMD Technical Comments
Agency and Tribal Comments

cc: David “DJ” Ennis, MARP Program Manager
Brad Reid, NMED
Mine File (GR009RE)

MMD Technical Comments
Chino Mine, Permit No. GR009RE
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FMI GR009RE Permit Modification Requests (Section 11.0, Main Summary)
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1. Design limit change driven by Kessel Stockpile and Rubio Peak RCM Stockpile

Kessel Stockpile:

- Given that the final build-out of the Kessel Stockpile overlaps both the Main and Southwest Lampbright stockpiles, please provide the separate acreages of the Kessel Stockpile at maximum height that will be subject to Existing Unit standards under 19.10.5.507 NMAC and subject to New Unit standards under 19.10.5.508 NMAC and a map that illustrates these areas.
- Please provide technical details of the five-year (EOY 2030) and maximum height closure plans.

Rubio Peak RCM Stockpile:

- Please confirm if the extent of the Rubio Peak Reclamation Cover Material borrow area is still as shown on Figure 2 of 2020 Lampbright Rubio Peak Test Plot (As-Built Report) with a total area of 192 acres. If the planned borrow extent has changed, please provide the new acreage, a map showing the extent, and clarify if any portions of the borrow area extend beyond the planned extent of the Kessel Stockpile or the proposed Design Limit expansion shown on Figure 13.
- Please provide the volumetric calculations supporting the available cover material volume shown in Table 2 of Appendix E of 4,901,076 cubic yards. Please provide the base elevation of the stockpile after excavation of cover material in the stated 49-acre stockpile extent and maximum constructed height.
- Based on the proximity of the Continental and Hanover Mountain Mine's (Permit No. GR002RE), there are aspects of the GR002RE closure plan that may require RCM from Chino to reclaim. Please clarify if FMI has plans to utilize RCM stockpiled at Chino (Rubio Peak, STS2, etc.) for closure at Continental and Hanover Mountain. If this is true, please demonstrate that there is enough RCM volume available.

2. Reservoir 9 expansion within permitted 9 stockpile footprint

Please clarify if the expansion of Reservoir 9 as a process water and stormwater holding facility fulfills requirements under the standards for impoundments in 19.10.5.508.B(6) NMAC. Also clarify if the expanded Reservoir 9 will be retained at closure or reclaimed in accordance with 19.10.5.508.B(6)(b) NMAC.

3. Southwest Lampbright Waste Rock Stockpile Buttress per recent modification

- The Southwest Lampbright Waste Rock Stockpile Buttress will be added to Permit No. GR009RE under permit Modification 24-1 and any changes to financial assurance included in the final reclamation cost estimate for Revision 24-2.

4. Additional PMLU of Water Management

- For MMD to approve a new PMLU, it must be first stated what activities will be included under the new PMLU. It is MMD's understanding that the following activities will be included as 'Water Management'. Please provide details on any additional activities that will be included under this PMLU designation if not included below:
 - o Operation of a Water Treatment Plant in the vicinity of the Ivanhoe Concentrator
 - o In-pit spray evaporation systems staged on flat areas
 - o In-pit sumps for collection of runoff and impacted water

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- In-pit roads for access to water management areas
- Selected surface impoundments for management of runoff and impacted water
- Tailing Pond 7 Interceptor system
- Tailings pipeline and pipeline corridor
- Storage of salt and sludge produced from evaporation and water treatment facilities on top of a portion of the West Stockpile

West Stockpile:

- Please detail how salt and sludge will be stored on top of the West Stockpile (e.g. construction of landfill cells, a stockpile, evaporation ponds, etc.)
 - The area on top of the West Stockpile dedicated to the salt/sludge storage is depicted inconsistently throughout the PAP, with varying extents described on Sheet 18, Figure 11, and Appendix G Figure 2. Please provide a new map detailing the extent of the West Stockpile that will be given the PMLU of Water Management compared to that which will be reclaimed as Wildlife Habitat or any other use.
 - Please clarify how the top of the West Stockpile will be graded, how cover will be placed, and how drainage pathways will be designed keeping in mind that transport of stored salt and sludge to either the Santa Rita Pit or the other outcrops should be minimized.
5. **Pit safety: rely on the Water Management PMLU for the pit and utilize existing berms, active monitoring, and restricted/controlled access**
- Please clarify if this plan for Pit Safety would diverge from what is listed in Revision 18-1 Section 9.H.2 and clarify what is meant by ‘rely on the Water Management PMLU for the pit’.
6. **Rubio Peak materials changed from a conditional to an approved RCM**
- Based on the positive results from the Rubio Peak test plots, MMD supports the approval of Rubio Peak materials as an RCM for Chino.
7. **OPSDA and AOPHC updates pending groundwater model update/completion in 2025**
- MMD has no comment.
8. **Pit Waiver modified to accommodate Water Management PMLU and encompass all highwalls and stockpiles slopes within the OPSDA**
- MMD does not recommend the modification of the Pit Waiver to include the PMLU of Water Management within the Pit Perimeter. MMD considers language similar to Revision 18-1 Section 9.H and an associated water management plan (e.g. Appendix G) to be sufficient to cover any in-pit water management activities.
 - For the top surface areas of Waste Units mentioned in the original Pit Waiver to be reclaimed as Wildlife Habitat that are outside the Pit Perimeter, this language can be adjusted to include the Water Management PMLU. However, FMI will need to specifically delineate what portions of these top surfaces will be used for water management.
 - MMD does not support the inclusion of all highwalls and stockpile outcrops within the OPSDA as part of the Waiver area exempted from a PMLU or establishment of an SSE, except those already waived in the 2003 Conditional Approval of Waiver Request. To be considered for a Pit or Waste Unit Waiver, 19.10.5.507.B NMAC states in part:

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“The Operator must show that achieving a post-mining land use or self-sustaining ecosystem is not technically or economically feasible or is environmentally unsound.”

A portion of a stockpile or waste unit, outslope or otherwise, being located within the OPSDA is not by itself a demonstration that reclamation of this area is not technically or economically feasible or environmentally unsound. A demonstration of these three factors will be required for any Waste Unit or portion thereof outside the Pit Perimeter where FMI desires to waive PMLU or SSE requirements.

Appendix E: Material Handling Plan 2024 Update (“MHP”)

1. **FMI: In the CCP update, Chino proposes utilizing flat areas in the pit for long-term water management in a proposed water management post-mining land use (PMLU). These flat areas are ideal for staging equipment and providing a safe operating area for the evaporation systems.**

- MMD:

As above, MMD does not recommend the modification of the Pit Waiver to include the PMLU of Water Management within the Pit Perimeter. MMD considers language similar to Revision 18-1 Section 9.H and an associated water management plan (e.g. Appendix G) to be sufficient to cover any in-pit water management activities.

2. **Chino request that the definition of reclamation cover material (RCM) in GR009RE be modified as follows:**

“For the North Mine Area, RCM is defined as “pre-mining salvaged soils, overburden from un-mineralized Tertiary volcanic rocks and igneous rock, Paleozoic sedimentary rocks (E.g. Colorado Formation), and intrusive dikes and sills sourced from native materials, or temporary stockpiles, and directly placed or stored in the Upper South Stockpile, STS2, or Rubio Peak stockpile. When placed, RCM will meet the water holding capacity defined in 10.6.7.33.F(2) NMAC, and have a particle size distribution as shown in Table 5 (Textural Guidelines – Chino NMA) of Chinos’s Material Handling Plan.

For the South Mine Area, RCM is defined as “in-situ material sourced from the Gila Group/Formation/Conglomerate, piedmont alluvial materials, and Datil Group materials as depicted in *Figure 3-9: Geologic Map of the South Mine Area* of the CCP Update dated February 14, 2018. “

- Based on the proposed approval of Rubio Peak materials as an accepted RCM, MMD has no opposition to this modification of the RCM definition.

3. **The CCP update shows a new RCM stockpile to store Rubio Peak RCM, which Chino will salvage as it constructs the Kessel Stockpile**

- Please provide details for the following questions:

- o What is the anticipated volume of material that will be stored in the Rubio Peak RCM stockpile?
- o What stockpiles are proposed to be covered with Rubio Peak RCM at closure?
- o Is the Rubio Peak stockpiled volume sufficient to reclaim those stockpiles or will additional excavation of in-situ Rubio Peak material be needed?

- The RCM requirements of the Kessel Stockpile are not contemplated in the 2021 MHP. Please detail the amount of RCM required to reclaim both the 5-year build-out and the ultimate build-

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out of the Kessel and where this material will be sourced from. Also, provide an overall calculation of the total RCM needs to reclaim the Chino North Mine Area.

4. **Chino's primary rationalization for reducing the frequency of confirmation samples is based on the strong correlation showing that samples with percent sulfur below 0.15% consistently have pH above 5.**

Chino's second rationalization is displayed by Figure 1, which provides a comparison of three sample populations for percent sulfur less than or equal to 0.15%:

- **The points on the graph represent the non-parametric cumulative distribution function for:**
 - **Data: original percent sulfur data with values less than or equal to 0.15%**
 - **10% Randomly sampling 10% of the original sulfur data with values less than or equal to 0.15%**
 - **25%: Randomly sampling 25% of the original sulfur data with values less than or equal to 0.15%**

Also shown in Figure 1 are comparisons between parametric statistics assuming a normal distribution. Both the 10% and 25% sampling reproduce parametric statistics close to the data's parametric statistics. Also, there is very little difference in the parametric statistics between the 10% and 25% random sampling populations. Thus, reducing the sampling frequency from 1-in-4 to 1-in-10 will have little effect on testing to verify that the relationship between pH and percent sulfur holds.

- **MMD does not necessarily oppose the reduction in paste pH sampling for in-pit RCM. However, the provided Figure 1 does not sufficiently demonstrate that a reduction in sampling will allow Chino to continue to adequately characterize in-pit RCM with pH <5.0.**
 - **Please provide a demonstration of the "strong correlation showing that samples with percent sulfur below 0.15% consistently have pH above 5". Such demonstration should include the original lab data the analysis is based upon.**
 - **Please provide additional analysis similar to Figure 1 comparing limited sampling populations that is based on the original paste pH sampling data connected to the percentage sulfur populations shown in Figure 1 (or a separate sampling data set) and provide the original sampling data.**
5. **Chino welcomes a discussion on this topic. Figure 5 in the MHP describes a step "staking and release of material" that denotes to where Chino will haul blasted materials. For the rhyolite that has an inconsistently large fraction, Chino's geologists will stake this material for releases to riprap or waste rock stockpiles rather than RCM stockpiles. This step eliminates the need for accounting for excessively large quantities of boulders in the RCM.**
- **MMD supports the segregation of oversize rock fractions from in-pit RCM to be placed in riprap or waste rock stockpiles. Please state what size materials will be segregated if differing from the mentioned ">3 feet diameter".**
6. **Chino's understanding of the 2022 MMD Soil Guidelines is that they are "*not meant to be interpreted as requirements or rules, but guidelines that will give the operator an option to incorporate best management practices into soil management and evaluate soil conditions if vegetative requirements are not being met.*" Chino and the MMD initiated a rigorous process for testing and approving potential RCM, all of which use the maximum percent large particles (i.e. minimum percentage of sand, silts and clays) described in the MHP. To date, all approved RCM at Chino produce and sustain vegetation and are projected to meet the requirements of a self-sustaining ecosystem upon closure.**

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- While MMD did not promulgate the 2022 MMD Soil Guidelines as strict rules for operators to follow, it still contains MMD preferred characteristics for potential RCM. MMD maintains that any new material proposed for use as RCM at Chino that deviates from the recommended guidelines in the 2022 Soil Guidelines shall be required to follow a similarly rigorous characterization and testing process, whether or not it meets the textural guidelines listed in Figure 5 or Figure 6 in the 2021 MHP.

Additional comments on MHP:

1. MMD is aware that the Upper South stockpile contains both RCM and unsuitable waste rock material. Please clarify if the RCM balance shown in Table 2 accounts for the portion of Upper South that could be unsuitable as RCM and provide an updated reasonable estimate of available Upper South RCM material. MMD requests that FMI provide a dedicated material handling plan for all RCM stockpiles at the Mine in addition to in-pit materials.
2. Provide an estimate of the percentage of unsuitable RCM in each stockpile and demonstrate how the estimates of RCM balances in table 2 were calculated.
3. Please provide an updated MHP that incorporates these comments and requests for additional information and considers any additional units not included in the 2021 MHP.

MMD General Comments

1. MMD requests that the Legend section for each Figure or Sheet in Appendix C or elsewhere include explanations of all symbols present, even if the symbol is described on another Figure or Sheet.
2. Sheet 3 of Appendix C depicts the Northeast Stockpile within the Pit boundary area. MMD does not concur that the Northeast Stockpile is within the Pit Perimeter. Please revise the depiction of the Pit Perimeter in Sheet 3 and any other applicable figures in the Application or provide a justification for this determination.
3. MMD notes that the 2003 Conditional Approval of Waiver Request (“Waiver”) bases the boundaries of the waste unit waiver areas on the Open Pit Capture Zone (OPCZ), a conceptual boundary that has since fallen out of use by the State of New Mexico. In closeout plans approved since the approval of the Waiver, the OPCZ has been supplanted by the Open Pit Surface Drainage Area (OPSDA) to determine the boundaries of waste unit waiver areas on the South, West, and Northeast stockpiles. MMD recommends amending the Waiver to formalize the use of the OPSDA boundary for determining what outcrops are reclaimed on the South, West, and Northeast stockpiles.
4. MMD requests that FMI begin providing separate annual updates of the pit waiver area as it expands due to mining operations.



Electronic Transmission

MEMORANDUM

Date: February 28, 2025

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

Through: Amber Rheubottom, Mining Act Team Leader, 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, Grant County, New Mexico, Mining Act Permit No. GR009RE**

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on January 3, 2025, requesting that NMED review and provide comments on the above-referenced MMD permitting action. Pursuant to the Mining Act, the operation is a regular existing project. MMD requested comments on the application within 60 days of receipt of the request for comments.

Background

Freeport McMoRan Chino Mines Company (Applicant) is requesting to update their reclamation plan. The changes are updating the 2018 approved reclamation plan.

Air Quality Bureau

The AQB comments are attached.

Surface Water Quality Bureau

The SWQB comments are attached.

Mining Environmental Compliance Section

MECS is in the process of completing a technical review of the Renewal and Modification Application for Discharge Permit 1340 which includes the updated Closure/Closeout Plan (CCP) for Chino Mine. MECS will likely have additional comments on the CCP based on the technical review of the application and associated operational and monitoring plans pursuant to the Water Quality Act (WQA) and the Water Quality Control Commission (WQCC) Regulations, including the Copper Mine Rule (20.6.7 NMAC). As such, comments will be submitted under separate letterhead directly to the Applicant with a copy to MMD.

NMED Summary Comment

NMED is still evaluating the proposed action and will communicate progress to MMD and the Applicant.

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



MEMORANDUM

DATE: February 27, 2025

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 Review and Comment, Chino Mine, Site Wide Closure/Closeout Plan Update 2024, Grant County, New Mexico Mining Act Permit No. GR009RE, Revision 24-2.**

The New Mexico Environment Department (NMED) Surface Water Quality Bureau (SWQB) received the subject request for comments on January 7, 2025. The application for permit revision 24-2 to GR009RE, submitted by Freeport-McMoRan Chino Mines Company (Chino or Applicant), updates the Closure/Closeout Plan (CCP).

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 Revision 24-2 to permit GR009RE to update the comprehensive reclamation plan for Chino consistent with all applicable federal and state regulatory requirements and permit conditions providing an updated reclamation plan to calculate a financial assurance cost estimate for Chino that will meet the financial assurance requirements of 19.10.12 NMAC. CCP updates are a requirement under permit no. GR009RE and New Mexico Mining Act rules. This plan updates the 2018 CCP.

Relevant State and Federal Water Quality Regulations

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 CCP 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.
- 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.

Impacts to Surface Water Quality

The SWQB finds that FMI's CCP 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.



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

MEMORANDUM

DATE: February 27, 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, Chino Mine, Site Wide Closure/Closeout Plan Update 2024, Grant County, New Mexico Mining Act Permit No. GR009RE, Revision 24-2

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

Chino has submitted the updated Closure-Close out Plan, to revise permit GR009RE by replacing the prior version of the CCP. The updated CCP revised the scope of work for closure-closeout of the Chino Mine facility under the New Mexico Water Quality Act, the Copper Mine Rule and the New Mexico Mining Act.

Recommendation

The Air Quality Bureau does not have any objection to this CCP update.

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

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Silver City

12 March 2025

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

RE: Revision 23-2, Site Wide Closure/Closeout Plan Update 2024, Chino Mine, Grant County, New Mexico, Permit No. GR009RE; NMDGF No. NMERT-4108.

Dear Mr. Barnes,

The New Mexico Department of Game and Fish (Department) has reviewed the above referenced Site Wide Closure/Closeout Plan (CCP). Freeport-McMoRan Chino Mines Company (Chino) submitted to MMD an updated CCP presenting a reclamation plan for the Chino Mine that is consistent with all applicable federal and state regulatory requirements and permit conditions. Staff from the Department, MMD, New Mexico Environment Department, and Chino conducted a site inspection on 5 and 6 March 2025.

The CCP states that Chino will “minimize adverse impacts to waterfowl and other wildlife resulting from ponding or water impounded in the pit areas” but does not specify how this would be achieved and maintained after mine closure.

The Department recommends that all wildlife should be excluded from accessing potentially toxic pit lake water to the greatest extent that is reasonably feasible. Post-closure, the pit lake should be fenced to exclude terrestrial wildlife. The above-ground fence height should be a minimum of eight feet to exclude deer and elk (*Cervus canadensis*) and should include an additional two feet of fence that extends below ground to deter animals from burrowing under, for a total of ten feet. The Department also recommends that the bottom two feet of the above-ground fence include a permanent solid or scored plastic or metal barrier, potentially with a horizontal lip at the top, to exclude smaller animals from accessing the pit lake.

The Department would also like clarification regarding what methods Chino will utilize to exclude birds from accessing the pit lake water after mine closure (e.g., floating bird balls or hexagons, netting, hazing). The Department is available for consultation to help Chino determine the most cost-effective way to prevent or minimize the potential for birds to come in contact with potentially toxic pit lake water.

The Department also recommends that Chino provides some type of alternative, clean water sources that would help attract wildlife away from the pit lake area.

The CCP water management plan states that the pit lake water level will be maintained by pumping pit lake water out onto flat areas within the Santa Rita pit and evaporated. The evaporative salts that accumulate in this process would then be removed and stored as a potential future resource. This technique seems to be the long-term strategy that Chino is proposing to maintain pit lake water levels in perpetuity after mine closure. The Department questions whether this type of pit lake water management can realistically be maintained in perpetuity and suggests that Chino design a more self-sustaining alternative for implementation.

In general, the Department concurs with Chino's proposed reclamation seed mix with the following recommendations:

- Change the common name for *Linium lewisii* from blue flax to Lewis flax. Blue flax (*Linum perenne* L.) is a similar Eurasian plant that has naturalized throughout the United States.
- One of the alternative species, white sweet clover (*Melilotus alba*), is not native to New Mexico. The Department recommends using the native species blanket flower (*Gaillardia pulchella*) or some other appropriate native species.

Thank you for the opportunity to comment on Chino's proposed CCP update. 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 Designate

Benjamin Shelton
Acting Deputy Cabinet Secretary

Laura McCarthy, State Forester
Forestry Division



February 14th, 2025

Kevin Barnes
Reclamation Specialist
Mining and Minerals Division
Energy, Minerals and Natural Resources Department (EMNRD)
1220 S. St. Francis Drive
Santa Fe, NM 87505

RE: Request for Agency Comments, Closure/Closeout Plan Revision Permit Application, Chino Mine Permit Project, Grant County, New Mexico, Permit Tracking No. GR009RE

Thank you for the opportunity to comment on the closeout plan update. Based on the plan provided, it is possible that *Scrophularia macrantha* (Mimbres figwort) could be impacted if the Santa Rita Pit were expanded, or if the SW Lampbright stockpile were breached or modified, as this species was last documented in the mid-1990s in T17S R12W Sections 35 and 36, and in T18S R12 Sections 1 and 2, adjacent to the Santa Rita pit.

This species was also documented in 2023 approximately 14 miles northeast of the project area. Mimbres figwort typically occurs within the lower slopes of steep, rocky, north-facing igneous cliffs, along canyon bottoms, within pinon-juniper woodlands or mixed coniferous forest (6,500-8,200 ft). It is recommended that a botanical survey be conducted prior to any ground disturbance, if necessary. This survey should be performed by a qualified botanist with expertise in identifying state-endangered plants, preferably during periods when the plants are flowering or fruiting.

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/>

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

Sincerely,



Erika Rowe
Endangered Plant Program Coordinator
EMNRD-Forestry Division
1220 S. St. Francis Dr.
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White Mountain Apache Tribe

Office of Historic Preservation

PO Box 1032

Fort Apache, AZ 85926

Ph: (928) 338-3033 Fax: (928) 338-6055

To: Kevin Barnes, Permit Lead Mining and Minerals Division

Date: January 30, 2025

Re: *Chino Mine Closure/Closeout Plan – Permit No. GR009RE Revision 24-2*

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The White Mountain Apache Tribe Historic Preservation Office appreciates receiving information on the project dated; January 08, 2025. In regard to this, please refer to the following statement(s) below;

Thank you for allowing the White Mountain Apache tribe the opportunity to review and respond to the above proposed Chino Mine Closure/Closeout Plan, in an effort to identify potential issues with traditional cultural properties within the mine APE, in Grant County, New Mexico.

Please be advised, we have reviewed the information provided, and we have determined the proposed Closure/Closeout Plans will have a ***“No Adverse Effect”*** to the tribe’s cultural heritage resources. We concur with the proposed Closure project plans.

Thank you for the continued tribal engagement and consultation, and collaborations in protecting and preserving places of cultural and historical importance.

Sincerely,

Mark Altaha

White Mountain Apache Tribe – THPO
Historic Preservation Office