

State of New Mexico
Energy, Minerals and Natural Resources Department

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Mining and Minerals Division



August 28, 2026

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

**RE: Technically Approvable Determination and MMD Technical Review Comments:
Response to Request for Additional Information 2, 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 *Response to Request for Additional Information 2* ("Comments"), received May 18, 2026, and prepared by Freeport-McMoRan Chino Mines Company ("Chino") as part of Revision 24-2 to Permit No. GR009RE for the 2024 Chino Mine Closure/Closeout Plan ("CCP") Update.

MMD has reviewed the Comments and the amended Permit Application Package ("PAP") and found it to be *technically complete*. MMD's responses to these Comments are enclosed, as well as comments from the New Mexico Historic Preservation Division ("HPD") on the proposed Kessel Stockpile.

MMD requests that Chino provide a Reclamation Cost Estimate ("RCE") for Revision 24-2 within 30 days of the date of this letter. The RCE may include a proposal for a Net Present Value ("NPV") calculation of the total RCE financial assurance amount per 19.10.12.1205(C).

If you have any questions, please contact the permit lead for Permit No. GR009RE at (505) 470-5354 or kevin.barnes@emnrd.nm.gov.

Sincerely,

Kevin Barnes
Permit Lead, Mining Act Reclamation Program
Mining and Minerals Division

enc: MMD Technical Comments
HPD Comments on Kessel Stockpile

cc: David "DJ" Ennis, Mining Act Reclamation Program ("MARF") Program Manager
Brad Reid, NMED
Ned Hall, FMI
Mine File (GR009RE)

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New Mexico Mining and Minerals Division Request – Cover Letter

MMD requests that Chino submit a draft form of the CCP Reclamation Cost Estimate (“RCE”) to allow MMD to begin review of the document ahead of a Technically Complete determination of the PAP. If sections of the RCE are not able to be finalized due to unresolved issues with technical comments, Chino may include a list of calculations, designs, or reclamation activities that may be subject to change. RCE submittal should include electronic copies of the spreadsheets used to calculate the RCE in the form of an ‘.xlsx’ file or similar Microsoft Excel compatible file, in addition to any relevant backup materials, plans, figures, or calculations.

Chino’s response:

Enclosed is a preliminary CCP Reclamation Cost Estimate (RCE) that represents the scope of work, including modifications associated with responses to agency comments received to date. As technical comments from state agencies are still under review, the calculations, design and reclamation scope may be subject to change.

MMD: MMD will complete review of the RCE after submission of the final draft based on MMD and NMED technical comments.

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Amendment 2: Kessel Stockpile Reclamation Plan and Reclamation Cost Estimate (“RCE”)

1. MMD requests that FMI provide electronic copies for the spreadsheets used to calculate the RCE in the form of a .xlsx file or similar Microsoft Excel compatible file, in addition to any backup materials, plans, or calculations to explain FMI’s assumptions in calculating the RCE. MMD notes that this request will also apply to the Chino CCP RCE. MMD will continue review of the Kessel RCE once the requested files are received.

Chino’s response:

Enclosed is the Kessel full build-out RCE. Chino will provide the requested RCE spreadsheet calculation files in Microsoft Excel format to MMD via email by the date of this letter.

MMD: No further comment.

2. MMD notes in Section 4.0, FMI states “Reclaimed acres increase from 243 in the 2030 mine plan to 806 for the full buildout,” and in Section 2.2.2 of Appendix C it states that “reclamation progresses at a steady rate of about 200 acres per year” and estimates that reclamation of Kessel will last from the ninth to tenth years following closure. Please update Section 2.2.2 with an estimate of the time it will take to reclaim Kessel at full build-out in addition to the 2030 mine plan.

Chino’s response:

Chino estimates that it will take approximately 4 years to reclaim the Kessel Stockpile at full-build out. Section 2.2.2 of Appendix B has been updated to include this estimate.

MMD: No further comment.

3. MMD notes that in the RCE for the Kessel Stockpile, the hauling of the 3,910,700 cubic yards of RCM is considered as one load & haul task from the Rubio Peak Stockpile to the Kessel, with dozer assistance (IDs 9003-B-b-Dz4, 9003-C-b-Ld2, and 9003-D-b-Tk1). The Kessel plans state that the Rubio Peak Stockpile will be constructed from materials excavated from the Kessel Stockpile footprint and has a

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design limit of 1,746,000 cubic yards. This would indicate that a substantial amount of RCM required to reclaim Kessel would not come directly from the Rubio Peak Stockpile, but from in-situ materials located elsewhere. The cost estimate should be updated to include tasks and costs associated with these additional mining and hauling activities given the different haul distances and challenges mining the in-situ material as opposed to a constructed stockpile. Please update the Kessel and Chino CCP RCE to account for this additional salvage required post-closure.

Chino's response:

Please note that the 1,746,000 cubic yards excavated and hauled to the "Rubio Peak Stockpile" is simply topsoil salvaged from the footprint of the Kessel Stockpile prior to waste rock placement. This shallow, easily excavated soil, will be used later for the reclamation of Kessel and other nearby facilities. Only a small portion of the salvaged topsoil overlaps with the Rubio Peak Conglomerate deposit. The remaining Rubio Peak Conglomerate is not excavated during operations.

The Kessel and Chino RCE's are updated to include the use of the in-situ Rubio Peak Conglomerate borrow material. Previously submitted Tables 1 and 2 in Appendix E have been revised to reflect the use of Rubio Peak material, both stockpiled and in-situ, for reclamation of stockpiles on the eastern side of the mine (i.e., Lampbright, Kessel, etc.).

To meet the required reclamation borrow volume, excavation of the in-situ Rubio Peak Conglomerate will occur at closure, when reclamation activities begin. While field investigations indicate approximately 30 feet of suitable borrow material is available, only 15 to 20 feet of excavation is required across 177 acres of the 192-acre borrow area to obtain the volume of cover material required. The remaining 15 acres are overlain by the Kessel footprint and have been removed from the Rubio Peak cover material estimate in Table 2; however, topsoil salvaged from this area is still accounted for in the Rubio Peak RCM Stockpile estimate.

MMD: It is acknowledged that the estimated 1,746,000 cubic yards that will be stored in the Rubio Peak Stockpile is salvaged shallow topsoil generated during excavation of the Kessel Stockpile footprint. No further comment.

4. MMD notes that a portion of the Kessel footprint is located on lands managed by the US Department of the Interior, Bureau of Land Management ("BLM"). MMD requests figures clarifying the position of both the 2030 Kessel mine plan (5-year build considered under the CCP) and the ultimate build out with respect to BLM lands.

Chino's response:

Bureau of Land Management (BLM) land boundaries are included in the updated Figure 8 of the Main CCP document.

MMD: No further comment.

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5. Please provide figures illustrating the haul routes and distances included in the RCE calculations for major earthwork activities at Kessel, especially where haul routes may diverge from simple distances between stockpile centroids. This request will also apply to the Chino CCP RCE.

Chino's response:

Sheet 5 was added to the Kessel CCP drawing set to illustrate haul routes associated with the ultimate build-out. Sheets 17 and 27 in the Chino CCP drawing set depict haul routes for the main CCP. Corresponding haul distances are included in the RCE spreadsheet in worksheet "3 Material" under activity E.

MMD: No further comment.

Response to Request for Additional Information, Revision 24-2, 2024 CCP Update (December 22, 2025)

1. Design limit change driven by Kessel Stockpile and Rubio Peak RCM Stockpile: *MMD requests that FMI provide any additional data used to support the determination of a "minimum thickness of 30 feet", per the 2016 Rubio Peak As-Built, for the Rubio Peak Formation materials located in the 192-acre borrow area other than the observed surficial exposure. If no additional data is currently available, MMD requests a justification for the estimate of 9,300,000 cubic yards of available in-situ Rubio Peak Formation RCM materials based on borehole drilling data or geotechnical studies of the area. MMD would support conditionally approving this estimate based on an investigation of the formation area to be conducted at a later time as a condition of the Permit.*

MMD notes that based on review of the 2016 Rubio Peak Formation Demonstration Plot As-Built ("As-Built"), it is unclear if the material to the west of the proposed Kessel Stockpile, shown as the Rubio Peak Flows (RPF) on Figure 2 of the As-Built, was tested as part of the test plot program which characterized the Rubio Peak Conglomerate (RPC). The RPF formation roughly corresponds with the footprint of the Kessel Stockpile, which FMI has estimated will yield 1,746,600 cubic yards of material to be stored in the Rubio Peak RCM Stockpile. That same Figure 2 shows 5 soil sample locations to the east of Reservoir 8 that were examined for soil suitability, but none appear to have been taken from materials to the west along the slopes of Santa Rita range, within the Kessel Stockpile footprint, or the RPF formation as shown on that Figure 2. FMI should provide any characterization data for any material that may be taken from the RPF formation area, as described above, that may be used wholly or in part with RPC materials that were already characterized. Use of materials not included in the As-Built and not presented before as RCM materials (e.g. Rubio Peak Flows, Sugarlump Tuff, Colorado Formation, etc.) will likely require a test plot program to show that these materials, individually or as a mixture, are appropriate RCM. MMD would support the initial stockpiling of these materials in the Rubio Peak Stockpile with a test plot program to follow at a later time as a condition of the Permit.

Chino's response:

The 30-foot Rubio Peak Conglomerate deposit depth was determined by Chino geologists who completed a surface visual estimate of the area with their field mapping. Chino agrees to conduct test pitting to confirm the visual estimates as a condition of the permit.

As stated above (see Amendment 2, response to Comment 3 above), the "Rubio Peak Stockpile" is a salvaged topsoil stockpile. Chino proposes to salvage shallow, easily excavated soil and rock (topsoil) material within the footprint of the proposed Kessel Stockpile as part of the initial phase of the stockpile construction process. This material will be stockpiled for use in reclamation of the Kessel stockpile and other nearby facilities. The Kessel salvaged material quantity is conservatively based on site field observations and test pits. One foot of topsoil material could be practically/safely salvaged from about ½

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of the footprint of the proposed facility to yield the 1.7 Million cubic yards proposed. These materials do not require a test plot program because this topsoil is already the foundation of the currently existing self-sustaining ecosystem that exists at the site now. It is already proven to support the ecosystem in the surrounding life zone.

MMD: In email communication with Chino, it was clarified that the 1.7 million cubic yards of topsoil material would salvaged from a 498-acre section of the Kessel stockpile footprint with an approximate depth of 2 feet. No further comment.

2. Reservoir 9 expansion within permitted 9 stockpile footprint: *While Chino has not included plans to construct the 9 Waste Rock Stockpile in the 2030 mine plan, MMD recommends including reclamation costs for this stockpile in the Chino RCE, rather than just the costs of reclaiming Reservoir 9. This will avoid a situation in which Chino may require the construction of the Stockpile, but not have adequate financial assurance in place, requiring revision of the RCE and the mine permit. Table 1 of Appendix E should be updated to include the RCM requirements for either Reservoir 9 or the 9 Waste Stockpile, as appropriate.*

Chino's response:

Chino agrees with MMD's suggestion and has included the higher-cost scenario of reclaiming the 9 Waste Rock Stockpile to ensure adequate financial assurance (FA) coverage for both scenarios over the next five years. This scenario is included in the enclosed RCE.

MMD: No further comment.

3. Additional PMLU of Water Management:

Conceptual Salt Disposal Area

MMD does not take issue with the relocation of the salt disposal facility to the North In-Pit Leach and Waste Rock Stockpiles given the cited issues. Given that future mine plans may continue to shift the best location of the salt disposal facility, MMD requests that the planned location of this facility be reconsidered and updated in each 5-year CCP update.

MMD notes that the CCP, specifically Appendix G, does not address why FMI has shifted the water treatment plan design to include an enhanced evaporation system for treatment of High TDS waters in Years 6-100. MMD requests that FMI prepare additional justification for the operation of the open evaporation and salt disposal facilities inside the permit area for high TDS waters in addition to the operation of the water treatment facility for low TDS waters at closure as part of the CCP RCE. This justification should compare the costs of operating both treatment options versus solely running all water through the water treatment facility, compare the amount of treated water that may be put to some beneficial use, and include any other relevant justification for the design change. This justification should focus on Year 6-100 of the treatment plan and does not need to address recirculation of process solutions on the South, Main Lampbright, and South Lampbright stockpiles considered in Years 1-5.

Chino's response:

Chino acknowledges MMD's request for additional justification for selecting enhanced evaporation and salt disposal to manage high-TDS water during Years 6–100. The closure plan was developed to meet the requirements of the New Mexico Mining Act and the New Mexico Water Quality Act and represents a technically feasible and compliant approach based on current site conditions and long-term water-management needs. While detailed cost comparisons of multiple alternative treatment designs would require development of additional conceptual designs beyond the scope of this CCP update, the following discussion provides the basis for the selected approach.

The long-term use of evaporation to manage high-TDS water is consistent with the approach approved in

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the 2018 CCP. While reverse osmosis (RO) treatment was also included in the 2018 plan, it relied on lime pretreatment to remove metals. The current plan eliminates this pretreatment step due to improved influent water quality achieved by intercepting groundwater before it enters the pit. This approach is already being implemented at Chino for mine and pit wall dewatering, demonstrating its effectiveness under site-specific conditions.

The updated plan significantly simplifies operations and improves long-term sustainability by eliminating the need for lime, polymers, mixing infrastructure, and the associated power demands, thereby reducing operational complexity and resource use. Relocating the water treatment plant to the North Mine Area allows for full reclamation of Tailings Pond 7 as scheduled and removes the requirement to manage and store high-density sludge previously proposed for disposal in that facility or elsewhere. In addition, placing the long-term evaporation system entirely within the area of open pit hydrologic containment results in a simpler and more sustainable configuration.

Current cost estimates for earthwork and water management are included with this submittal. These costs are not directly comparable to previous estimates due to differences in planning horizons, water volumes, and mine configurations. Cost changes primarily reflect the addition of interceptor wells and pumps and the elimination of the lime treatment system. The estimates are based on an independent evaluation of projected site conditions and water quality and quantity and are consistent with regulatory requirements and current operations.

MMD: No further comment.

4. Rubio Peak materials changed from a conditional to an approved RCM:

Rubio Peak Conglomerate materials, which was characterized as part of a test plot program, is supported by MMD for approval as an RCM at Chino. However, other materials within the Kessel stockpile footprint are not approved as no characterization data has been provided to MMD and will likely require a test plot program prior to approval.

Chino's response:

Chino was under the impression that MMD would require or support salvage of "topsoil/RCM" from beneath the footprint of facilities like Kessel. Please see the response to Kessel Comment 1 above. For materials outside of Kessel, where Chino proposes to utilize the top 15 to 20 feet for RCM within the same deposit as Rubio Peak, Chino agrees to complete additional test pitting and sampling to compare to the Rubio Peak material that was utilized in the test plot program. Demonstrating sufficient correlation to Rubio Peak will support approval of this material in addition to the justification mentioned in response to Kessel Comment 1 above.

MMD: No further comment.

Appendix E: Material Handling Plan 2024 Update "MHP"

1.FMI: Per the updated Table 2 in the Material Handling Plan, the anticipated volume of material stored in the Rubio Peak RCM Stockpile is approximately 1,746,600 cubic yards. This material is expected to support reclamation of both the 5-year and ultimate Kessel build-out configurations, which require 1,176,100 cubic yards and 3,910,700 cubic yards of RCM, respectively. Because the stockpiled volume alone is not sufficient to fully reclaim the Kessel area, additional in-situ Rubio Peak material will be used to complete reclamation of the remaining Kessel and Lampbright stockpiles. Table 1 of the Material Handling Plan has been updated to incorporate Kessel and presents the total RCM volume required to reclaim the Chino North Mine Area. As described above and in Table 2 of Appendix E, it is estimated that there is 10,953,600 cubic yards of total Rubio Peak material available. According to the 2016 Rubio Peak Formation Demonstration Plot As-Built Report, approximately 9,300,000 cubic yards of Rubio Peak material are present within the

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original 192-acre borrow area, calculated using the observed 30-foot formation depth. An additional 1,746,600 cubic yards of Rubio Peak material associated with the Kessel Stockpile pad will be placed in the 49-acre Rubio Peak RCM Stockpile. The total Rubio Peak material quantity was then reduced by a 1% rejection rate to account for oversized material that resulted in the available volume presented in Table 2.

MMD: Please refer to comment 1 above.

Chino's response:

Please refer to response to comment 1 above

MMD: No further comment.

2.FMI: The RCM balance in Table 2 incorporates the portion of the Upper South material identified as unsuitable for use as RCM in Golder's 2006 Supplemental Materials Characterization for the Upper South Stockpile. An additional 7% rejection rate is applied to account for chemical exclusion and oversized material. Of this, 2% reflects anticipated rejection due to historic plating of haul roads constructed with sulfate-bearing materials. This assumes that a 6-inch layer of plated material over each 30-foot lift will require removal. Chino proposes to provide MMD with a Material Handling Plan for the RCM stockpiles as a condition of the issued permit. Chino's experience reflecting the relative ease Tyrone and Chino have experienced managing the borrow sites from either shovel pits and/or stockpiles to visually select appropriate material for cover during reclamation of test plots and/or actual reclamation projects can be incorporated in the stockpile specific MHPs.

MMD: MMD supports the creation of a separate Material Handling Plan ("MHP") for all RCM materials at Chino as described as a condition of Revision 24-2, in addition to an updated MHP for In-Pit Materials.

Chino's response:

As previously discussed with MMD, Chino agrees to develop a site-specific MHP as a condition of the permit to allow sufficient time to develop a comprehensive plan.

MMD: No further comment.

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3.FMI: See response to Comment 1 above for unsuitable RCM percentages for the Upper South Stockpile. A 5% and 1% rejection rate is applied to the STS2 and Rubio peak RCM quantities respectively to account for oversized material. The available RCM quantities for STS2 and Upper South Stockpile in Table 2 were taken from the Permit GR009RE Technical Comments on Revision Application 18-1 for the Updated Closure Closeout Plan submitted to MMD on April 15, 2018. Updated cut/fill analyses completed in AutoCAD for STS2 and Upper South indicated substantially higher available quantities than were previously reported. These updated volumes were developed by generating cut/fill reports in AutoCAD using the base elevations that represent the point at which RCM material begins within each stockpile, compared against current surface topography. The resulting calculated volumes are approximately 10.7 million cubic yards for STS2 and 31.6 million cubic yards for the Upper South. However, to maintain consistency with values historically reviewed by MMD, Chino will continue to use the previously reported (lower) RCM quantities.

These quantities have been updated in the attached Table 2 to reflect the following:

- *Updated Rubio Peak Cover Material quantities discussed in primary Comment 1 and Material Handling Plan Comment 3*
- *Rejection rates discussed in Comment 1 and the first additional comment on the MHP*
- *Relocation of the Whitehouse material to STS2 completed in March 2024*

MMD: MMD concurs that previously approved values for the STS2 and Upper South Stockpiles in Table 2 should continue to be used. If FMI wishes to use newly calculated values for these stockpiles, sufficient justification for the volume calculations will need to be provided.

Chino's response:

Chino will continue to use the previously approved values.

MMD: No further comment.

MMD General Comments

1.FMI: Chino agrees that updates of the pit and stockpile waiver areas are useful, but recommends the agency consider whether annual updates are truly necessary. Chino believes that updating them in conjunction with the 5-year CCP updates is sufficient.

MMD: Given the likelihood of regular changes to the Chino pit perimeter (and the difference between the pit perimeter boundary and waived area boundary of the West Stockpile and South Stockpile), MMD reiterates its request for annual updates of the pit waiver and stockpile waiver areas as part of the Annual Report submittal. Permit language requiring these updates will likely be modelled after applicable language in Section 9.S of Revision 9-1 to Permit No. GR010RE.

Chino's response:

The pit perimeter generally remains unchanged from year to year. Some of the stockpiles adjacent to the pit do increase in height slightly which tends to increase the waiver area minimally. Over more than a decade of annual evaluations at Tyrone, this process has not resulted in a need to change FA and is conveniently updated in the five-year CCP updates. In instances where the evaluation has resulted in minimal decreases of the waiver area, no increase FA has been required as these changes fall well within the existing allowance of excess FA to address minor scope changes. Given the minimal impact of year-to-year change, Chino considers annual waiver updates to be unnecessary.

MMD: MMD concurs with updating the pit perimeter every five years or during CCP updates. No further comment.



New Mexico Historic Preservation Division

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July 30, 2026

Kevin Barnes
Permit Lead
Mining Act Reclamation Program
Energy Minerals and Natural Resources Department
1200 South St. Francis Drive
Santa Fe, NM 87505
Sent via Email

RE: Site Wide Closure/Closeout Plan Update 2024, Amendment 2 – Kessel Waste Rock
Stockpile, Chino Mine, Revision 24-2, Grant County, NM Permit NO. GR009RE (HPD
Log#128441)

Dear Mr. Barnes:

I am writing regarding the above-referenced project and the cultural resources survey (NMCRIS 157791) completed by WestLand Resources Inc. (WestLand) for the Kessel Waste Rock Stockpile. My review is conducted under the Cultural Properties Act, NMSA 1978. Because part of the project is located on Bureau of Land Management (BLM) lands, project is subject to federal review, and the BLM may provide separate comments pursuant to Section 106 of the National Historic Preservation Act.

The cultural resources survey documented nine previously recorded archaeological sites and five newly identified sites. Two additional previously recorded sites appeared to fall within the project area but were not relocated.

WestLand provided recommendations regarding the National Register of Historic Places eligibility of these sites, and this office concurs:

- LA 119641/119642 - Eligible
- LA 119663 – Eligible
- LA 119665 - Eligible
- LA 119666 - Eligible
- LA 119667 - Eligible
- LA 119670 - Eligible

- LA 119674 – Unevaluated
- LA 119675 -Not Eligible
- LA 205437 - Eligible
- LA 206032 - Eligible
- LA 206033 -Eligible
- LA 206164- Unevaluated
- LA 206165 - Unevaluated
- LA 207164 – Not Eligible
- LA 114559 – Not Relocated
- LA 119669 – Not Relocated

WestLand recommends avoiding all eligible and unevaluated sites. However, given the nature of the project avoidance does not appear feasible. Freeport-McMoRan Chino Mines Company will need to coordinate with the BLM to develop an archaeological testing and data recovery plan to address adverse effects to affected sites.

Please do not hesitate to contact me if you have any questions regarding these comments. I can be reached by telephone at (505) 827-4064 or by email at michelle.ensey@dca.nm.gov.

Sincerely,



Michelle M. Ensey
Executive Director, Historic Preservation Division
State Historic Preservation Officer