

**STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES  
MINING AND MINERALS DIVISION**

**IN THE MATTER OF THE APPLICATION BY  
FREEMPORT-MCMORAN FOR A REGULAR (PART 4)  
EXPLORATION PERMIT FOR THE TYRONE PEAK EXPLORATION PROJECT,  
GRANT COUNTY, NEW MEXICO  
PERMIT NO. GR093ER**

**HEARING OFFICER REPORT**

**Introduction**

Applicant Freeport-McMoRan Tyrone Operations ('Applicant' or 'FMI') submitted to the Mining and Minerals Division (MMD) of the Energy, Minerals and Natural Resources Department (EMNRD) an application for exploration within the boundaries of its Tyrone Peak Exploration Project, northeast of the Tyrone Mine located ten miles south of Silver City near the town of Tyrone, in Grant County, New Mexico.

The application proposes specifically to drill 36 boreholes on 17 drill pads to a maximum depth of 2,500 feet, and to disturb a total of 40 acres of private property owned by FMI. Planned disturbance in Phase 1 is 4.5 acres.

On February 10, 2025, the undersigned Hearing Officer accepted testimony and public comment during a hearing at the Grant County Veterans Memorial Business and Conference Center in Silver City, New Mexico as part of continued information gathering necessary for the Director of MMD to reach a decision on the permit application under Section 19.10 NMAC.

The hearing was conducted pursuant to Section 19.10.9.905 NMAC, Hearing Procedures. Following introductory remarks by the Hearing Officer, all comment was

taken under oath and subject to questioning by others present. Written comment and testimony was also submitted and accepted. The hearing followed an informational open house and an earlier hearing on the Emma Project, started at 7:00 p.m., and continued for less than two hours.

Notice of the hearing and opportunity to provide comment was sent by mail, email, and posted on the EMNRD webpage. The Hearing Officer also announced that following the hearing, written comment would be accepted by the Division through February 24, 2025, two weeks following the hearing.

### **Hearing Testimony from the Mining and Mineral Division**

**Alaina Osimowicz**, MMD Permit Lead within the Mining Act Reclamation Program, testified while presenting a slide show, which is part of the administrative record. Ms. Osimowicz described the purposes of the public hearing; the process by which a permit application is handled under the Mining Act rules; regular exploration permit requirements; a summary of the proposal for the Tyrone Peak Project and its application history; MMD reclamation standards with the Mine's related cost estimate; comments requested on the application from other governmental agencies; the public hearing process and MMD's review of public and operator comments; the review of financial assurance required for the Tyrone Peak Project to move forward; the location of documents in the administrative record; and the information needed to submit written comment on the project application following the hearing.

Ms. Osimowicz noted that the application is being processed by MMD under Part 4 of the Mining Act Rules set out in 19.10.4 NMAC, addressing exploration projects that

exceed five acres in disturbance, as planned for the Tyrone Peak Project. Phase 1 of the project includes the planned disturbance of 4.5 acres, while 40 acres total are covered by financial assurance.

The other governmental entities commenting on the project include several bureaus in the New Mexico Environment Department, the New Mexico Department of Cultural Affairs, the New Mexico Department of Game and Fish, the New Mexico Office of the State Engineer (OSE), the New Mexico Forestry Division, several tribes, pueblos, and the Navajo Nation.

The MMD reclamation standards in 19.10.4.403 NMAC include the requirement that operations be designed and conducted to mitigate disturbance caused by exploration operations and to the extent practicable provide for the stabilization of disturbed areas to minimize future impact to the environment and protect air and water resources following closure. The reclamation plan must be developed to address site-specific characteristics and the exploration and excavation work to be performed. Reclamation of the disturbed area shall be initiated and completed unless the disturbed area is included within a complete permit application for a new mining operation. Drill holes shall be plugged in accordance with 19.10.3.302(K) and (L) NMAC.

The current cost estimate for the proposed Tyrone Peak Project financial assurance includes estimated costs for surface reclamation, drill road and pad reclamation, and plugging and abandoning exploration drill holes. The required financial assurance is currently estimated at \$340,000.

MMD's review is not complete yet. This hearing was requested by GRIP and members of the public, and all comment offered during the hearing and the written comment received after the hearing will be considered in the application review. MMD will also review last comments by the operator, and the financial assurance instruments proposed.

**Hearing Testimony from Permittee Freeport-McMoRan Tyrone Operations**

FMI representatives testified while presenting a slide show, which is part of the administrative record: Raechel Roberts, FMI Senior Environmental Scientist; Simone Runyon, Senior Geologist with FMI's exploration team; and Sharon Offutt, FMI's Grant County Senior Social Performance Specialist.

This project will take place northeast of the Tyrone mine in an area called Tyrone Peak. Historically, turquoise and copper minerals in this area were extracted by indigenous peoples and then via underground mining techniques by the Burro Mountain Copper Company. It was later acquired and further developed by Phelps Dodge near the beginning of the 20th century. The Burro Mountain Tailing Impoundment, where the waste from processed ore was deposited, was expanded in 1917 to support the demand associated with World War I. Throughout this permitting process, Tyrone has provided maps, GPS coordinates of each hole, and sent public notices to both interested parties and neighbors within a ½ mile of the project boundary. Tyrone owns the surface resources and all mineral rights.

Tyrone is bonding for 40 acres of disturbance but there are only about 4 acres of planned disturbance associated with this phase and much of this disturbance will take

place just off existing ranch roads or in areas that have already been disturbed.

Additional financial assurance has been added as contingency for operational flexibility to field fit pads and roads if needed, create borrow areas, and address concerns expressed by agencies and the public involving wildlife and vegetation protection.

Additional disturbance is sometimes needed for reclamation as well. All disturbance in this area will be reclaimed unless it is carried over into a revised permit for additional exploration phases. If that occurs, Tyrone will implement and maintain a variety of best management practice to control erosion.

The project consists of 36 drill holes with maximum depth of 2500 feet. Depending upon the geologic material being observed, drillholes could be shorter than the anticipated target depth. The planned hole diameter is between 3.5 and 5.5 inches and OSE-approved drilling fluid will be used to help stabilize the borehole. The project is anticipated to start in July of this year and estimated to take between 6 and 8 months depending on unforeseen equipment maintenance and any drilling complications. Drilling activity occurs 24/7 with different crews taking on different shifts.

Tyrone's purpose for continued work in the area is to determine if there is a copper deposit in the subsurface. There are multiple different types of data that suggest a possible copper deposit is present in the subsurface. Further evaluation is needed to test the evidence for copper mineralization in the sub-surface.

Exploration in the Tyrone Peak area is the first step in along process which may or may not include mining. No negative impacts to the community are anticipated during the exploration phase. If the mineral deposit is economically viable, it could take

10 years or more before mining occurs. The Mining Act requires another public notice and permitting process.

A typical drill site layout has specific controls in place to protect people and the environment. Usually, each site has one or two support vehicles for transporting personnel and equipment to the site as well as a water truck for both dust control and water delivery for drilling. The soil berms are to protect vehicles and any fluids from leaving the pad. The entrance is marked and monitored so people must sign in and be made aware of any hazards.

The drilling rig is comparable to other medium-sized utility trucks. The mud pit or sump is used to capture the drilling mud. It is barricaded with 5-foot panels and lined. Vacuum trucks are dispatched before the sump is full to evacuate fluid and prevent spills. Fluids and mud are discharged to permitted locations at the mine. The panels are left in place until the mud is extracted, and the hole is completely backfilled. Each site typically has one stand-alone light plant and a few lights on the drilling rig itself to illuminate the workspace.

They will drill in 10-foot increments, and collect cores during drilling. [A length of core was displayed at the hearing.] Drill fluid will be pumped downhole to flush out drill cuttings/chips.

Freeport is committed to mitigating environmental impacts through many regulatory and voluntary actions including: using only OSE-approved drilling fluids; spill control measures such as liners under the drill rig, berms around the pad; and constant monitoring and evacuation of the drilling sumps. They plug the drillholes immediately

after completion to prevent any risk to the aquifer. Erosion is controlled through best management practices such as berms, silt fences, or waddles. The drilling sumps or mud pits are also lined to prevent any seepages of fluids from the drill cuttings.

Tyrone adheres to a Fugitive Dust Control Plan to minimize dust emissions. The drilling process itself will not generate any dust. Wildlife are initially protected by completing a preliminary biological evaluation to identify threatened or endangered species or their critical habitat. If identified, species-specific mitigation factors can be implemented. Before construction, nesting surveys are performed every 10 days; pipes and sumps will be inspected at the start of each shift; and barricades around the mud pits remain in place until the mud and liners are removed and the hole is filled in. When not in use, the mud pit is securely covered with a tarp to prevent wildlife access. All vehicles are washed to prevent the spread of noxious plant species.

A rare plant survey will be conducted prior to disturbing any ground and FMI will avoid any protected species identified. Topsoil is salvaged to increase the success rate of reclamation as well as any plants and seeds that can be transplanted successfully. During reclamation, Tyrone sources seed and mulch that is free of noxious weeds. Tyrone conducts Class III archeological surveys to identify any cultural resources. If discovered, Tyrone completely avoids those sites with buffer zones marked off.

No meaningful water withdrawals will occur during drilling; these exploration holes are permitted by OSE as “no consumptive use” or wells with “no water rights.” Water used in the process to flush the cuttings or for lubrication comes from clean, permitted water sources at the Tyrone Mine, which have been in use for many decades.

That water will be recirculated and recycled throughout the process to the greatest extent possible. A small amount is lost to the hole from absorption which cannot be controlled. Per FMI policy, the bore holes are plugged and abandoned in accordance with OSE standards immediately after the drill hole is complete. The same drill rig dispenses a clean cement slurry with no additives from the total depth up to 2 feet below the surface. This creates a cement plug and prevents wildlife or contamination from entering the hole as well as commingling or inter-aquifer exchanges.

Drilling activities and the potential for nuisance impacts were modeled under the additional studies conducted for the Emma expansion project. These studies can be used again as a proxy because the conditions are very similar with the exception that they are located further away from the Apache Mound and Loma Blanca neighborhoods. The closest neighbor is ½ mile away but resides on FMI property. As for noise, neighbors can expect levels comparable to noise traffic at times, but based on the Emma noise study, there is no anticipated impact to nearby residences because of the distance. Mitigation practices may include sound aprons and barriers, adjustments to work schedules, or any other best management practice needed.

To mitigate impact from lighting, controls are in place to direct the work lights downward and illuminate only what is needed for the project. Short-term use of a few lights will not have a long-term impact on the darkness in the area and is not expected to generate light trespass onto neighboring residences. These studies are on MMD's website. The lights are oriented away from neighbors to prevent glare. Skyglow impacts are highly unlikely because of the minimal lighting and short term of the project.



Tyrone has been conducting exploration for many decades and has successfully reclaimed the pads and roads across the mine site. The reclamation techniques are consistent with large scale reclamation, including regrading to match original topography, ripping, seeding, mulching, and crimping. Typically, by the second year, plants begin to thrive, diversity increases through adjacent species recruitment, and wildlife moves back into the area. The only notable difference is the lack of trees which is intentionally designed by using a native seed mix to promote reestablishment of grasslands. This practice was chosen in cooperation with US Fish and Wildlife and the New Mexico Department of Game and Fish many years ago, to align with the State Wildlife Action Plan and the Western Grasslands Initiative. These programs aim to improve and protect dwindling grassland habitats and species that are dependent upon their resources.

FMI addresses questions or concerns through its Community Grievance Management System (CGMS). Questions or concerns can be submitted at any time. Community members can contact Ms. Offutt directly, or use the community information and grievance hotline available 24 hours a day, seven days a week. They can send mail or email to the community development address. The CGMS defines how they record, processes, and respond to community grievances, which are tracked and monitored using a web-based system called Enablon.

FMI is deeply committed to conducting mining operations responsibly. They prioritize the well-being of the environment, their employees, and the communities in which they operate. Their adherence to international best practices includes compliance

with guidelines and standards set by leading global organizations in the mining industry. They have voluntary memberships and commitments to organizations such as the International Council on Mining and Metals and the United Nations Guiding Principles on Business and Human Rights. They received the Copper Mark for responsible copper production, and have won awards through the Wildlife Habitat Council for their environmental efforts.

FMI has a strong record of environmental stewardship, and employs specific measures to minimize environmental impact during exploration activities, including advanced environmental assessments, sustainable practices, reclamation and restoration efforts, and biodiversity conservation. They comply with leading sustainability reporting frameworks, including the Sustainability Accounting Standards Board Standards, the Global Reporting Initiative Standards, the Task Force on Climate-related Financial Disclosures recommendations, the Taskforce on Nature-related Financial Disclosures framework, and the Organization for Economic Co-operation and Development guidelines. This compliance ensures they meet international best practices and continuously improve environmental, social, and governance (ESG) performance.

FMI operations have a significant economic impact on the state of New Mexico, contributing \$414.5 million to the state's economy. This economic contribution supports various sectors, including local businesses, infrastructure development, and public services. In Grant County, FMI operations contribute \$175 million to the local economy. This includes job creation, local procurement, and community development initiatives, which enhance the quality of life for residents and support the county's economic

growth. Securing permit applications for exploration drilling is crucial to continuing and fostering this economic impact. Permit approval will enable FMI to sustain and potentially increase their contributions to the local and state economies, ensuring ongoing support for various sectors and continued community development.

FMI thanked all for participating in the hearing.

Questions of the FMI panel were invited. Ms. Siwik would like to see the nuisance mitigation plans. She would also like to see an updated map. It appears there will be a new road from Highway 90 to access the northern portion of the mine exploration area, but this does not appear on the maps in either the original or revised application. FMI representative Ty Bays confirmed that FMI will have this road and will need a driveway permit.

**Hearing Testimony on Behalf of Gila Resources Information Project (GRIP)**

**Ms. Allyson Siwik**, GRIP's Executive Director, thanked the Division for granting the request for a public hearing; FMI's presentation helped the public understand the details of the exploration proposal and potential impacts to the community, the environment, and wildlife. GRIP is not trying to end mining in the area; they are offering suggestions for improvement to safeguard the environment.

FMI should provide a better map showing the location of adjacent residents to its proposed exploration activities. A USGS map was not provided in the original application or the revised application, even though this is explicitly required.

Road building and land disturbance has already begun in the Tyrone Peak Project area, prior to permit approval. As can be seen on Google Maps, in 2022 there were

vehicle tracks apparent, but no road. In 2024 there is now a road. MMD should investigate this issue further and take appropriate action. Traffic could be an issue for the new road off Highway 90; signage will be needed. The speed limit there is 65 mph, and it is already a dangerous stretch due to hills and curves.

GRIP supports the comments submitted by the New Mexico Department of Game and Fish offering permit requirements to protect wildlife, as required by the Mining Act. They agree with FMI's plans to salvage plants and to leave large legacy trees.

Following the hearing, GRIP timely submitted written comment for the administrative record on the permit application supporting and amplifying its testimony at hearing. The comment letter includes the Google map images referenced above.

#### **Public Comment**

Public comment was offered during the hearing.

**Bruce Ashburn** read a statement from Representative Luis Terrazas. There is a worldwide push into renewable energy. Electric vehicles, solar panels, wind turbines, and more all rely on copper. Economically, exploration projects are critical to keep Grant County working. He strongly supports approval of the application.

**Glenn Griffin** worked at Chino Mine. The Gabby Hayes well used as a municipal water supply well is three miles from the Tyrone Peak Project area. Anderson, another municipal well, is one mile away. Tyrone's bore holes will go through the Gila Aquifer at 2500 feet depth. Although OSE has expressed concerns, no Silver City or Grant County trustees have responded to this significant threat to the municipal water supply. The

Town cannot afford to lose its water supply. FMI has saved \$350 million in taxes. With an unbalanced use of water, the underground workings at Phelps Dodge can collapse. The Mine should not be allowed to proceed with its proposal without an update to the Town's water plan.

[Mr. Griffin's written public comment providing more detail for the points above is also in the administrative record.]

**Arthur Ratcliffe** appreciates the information about the new road. He has questions about the use of clean water for drilling. Will they be adding fluids to it? And is there a Tyrone Peak?

**Kim Clark** is a 5<sup>th</sup> generation resident of Grant County, and she fully supports approval of the project. FMI has shown their commitment to responsible mining practices.

**Christina Hess** thanked Division staff and GRIP for providing her an opportunity to speak. She opposes this project, which will lead to the Emma Expansion, and may leave the Town high and dry because the Tyrone Peak Project is way too close to Silver City's water supply wells. We are in a severe global crisis. FMI has provided no map showing the proximity of disturbances to the adjacent residents. FMI should put more money into responsible mining, use less water, and be held responsible for their bad mining practices in Indonesia. [FMI representatives invited Ms. Hess to discuss the Indonesia Mine with them after the hearing.]

[Ms. Hess's written public comment is also in the administrative record.]

**Tom Shelley** is a lifelong Grant County resident, a Grant County Commissioner, District 5, and a retired miner. Folks don't appreciate how long an exploration project takes. It is important to have the application vetted and approved. FMI is not proposing any water withdrawals as part of this exploration project. Roads and drill pads can be reclaimed if not needed. Community impact will be short-term.

**FMI representatives** responded at this point to several of the previous comments: bore holes will be plugged immediately; there will be no pumping and no impact to ground water. If copper is found during exploration, there will be years of planning, more applications, and more hearings before any mining would occur. They are happy to discuss FMI's other mining operations after this hearing has concluded.

#### **Written Public Comment**

Written comment was timely submitted following the hearing, aside from the comments submitted by the speakers above:

**Susan Hanna** wrote to ask that the permit be denied or curtailed. She is a landowner who lives and has a well not far from the proposed affected area. She is concerned about danger to the well and the water table considering the huge amount of water required for mining operations. She requests restrictions on water use and that a fund be established to buy out homeowners whose current market value is affected.

**Randy Chulick** attended the hearing and wrote to express several concerns: Tyrone did not provide a USGS quad map of the project site as part of the Tyrone Peak application. This would make it easier for readers to locate proposed drill sites. In addition to showing drilling sites, the map could show important features such as

municipal wells located nearby. The Tyrone Peak Project is scheduled to begin in July, which is in the middle of the breeding season for migratory songbirds and most raptors. Will the area be surveyed for active nest sites as the Department of Game and Fish recommends? If not, perhaps FMI should wait until October to begin construction activities. The application cites ground water data from a 50-year old study. Is there more recent data for the area? How will this project affect the municipal water supply? The public hearing for Tyrone Peak may have been scheduled prematurely since the updated application was not readily available. Applications should be easily accessible to the public and updated before a hearing so that invested public participants can stay informed.

**The Board of County Commissioners of Grant County** submitted a resolution as their written comment: the Board understands the importance of responsible mineral exploration and the significant economic benefits it brings to Grant County; and urges MMD to timely approve FMI's exploration permit application for the Tyrone Peak Project. The approval of this Project will not only support economic development but also ensure that the exploration is conducted in an environmentally responsible manner.

**FMI** submitted its own written comments following the hearing. They first addressed the permit processing timeframe, noting that the ability to plan the timing for a drilling project is critical in mining to develop a new resource or to continue a current mine operation like Tyrone's. Tyrone supports streamlining the permitting process for routine activities. This permit is a proposal to drill on land that is 100% privately owned

adjacent to a world-class mine that has been operating for more than 50 years. The permitting process has had a significant impact on the cost of ongoing operations.

Although MMD interprets the rules to require the permittee to provide detailed maps of proposed disturbances, some operational flexibility is necessary due to a myriad of situations that can arise during construction, and the need to re-route roads to avoid biological resources, terrain, or geology. Tyrone proposed to include additional acreage and to secure additional financial assurance to ensure that the cost of reclamation is covered regardless. Tyrone believes this is a reasonable process to allow for operational flexibility while avoiding time-consuming and costly delays for approval of minor changes to the planned disturbance.

In recent years MMD has been incorporating requirements from other agencies in its mining permit applications, such as OSE permits, but this creates multiple time delays when the Mining Act regulations assure operators that the agency will avoid duplicative and conflicting requirements. MMD should rather simply require operators to obtain other necessary permits.

FMI respectfully challenges MMD's interpretation that the blading of vegetation growing on previously established roads is a "new disturbance." This interpretation disincentivizes operators from attempting to minimize disturbance by planning roads and drill pads on previously established roads. So long as erosion is controlled, Tyrone should be allowed to determine which roads will remain unclaimed for future use. As a private landowner, Tyrone should have that flexibility rather than being forced into a permit process for projects that would otherwise qualify as minimal impact.



Tyrone thanks the Division for the opportunity to submit comments and looks forward to working collaboratively on future permits.

Respectfully submitted,

-original signed on April 4, 2025 by-  
Felicia L. Orth, Hearing Officer