

DECISION RECORD
Environmental Assessment
DOI-BLM-NM-L000-2014-0001-EA
Freeport-McMoRan Tyrone, Inc.

Amendment to Mine Plan of Operations for Little Rock Mine (NMNM091644)

I. Decision to be Made:

The U.S. Department of the Interior, Bureau of Land Management (BLM) Las Cruces District Office has decided to approve the *Amendment to Mine Plan of Operations for the Little Rock Mine (NMNM091644)* (MPO Amendment). This approval of the MPO Amendment authorizes the proposed action requested by Freeport-McMoRan Tyrone, Inc. (Tyrone) as described and analyzed in the Environmental Assessment (EA) Number DOI-BLM-NM-L000-2014-0001.¹

The approved MPO Amendment authorizes surface disturbance activities on BLM-managed land necessary for the expansion of the current open pit configuration and related construction, operation, and reclamation activities at the Little Rock Mine. The approved MPO Amendment allows:

- Surface disturbance necessary to expand the open pit, including:
 - Construction, operation, and reclamation of the expanded open pit
 - Construction, operation, and reclamation of the western haul road
 - Installation of instrumentation, utilities, and access for various operational, monitoring, closure, and post-closure activities
- Surface disturbance for two linear facilities on BLM-managed land²
 - Dewatering pipeline alignment #2
 - Power line re-alignment

The approved MPO Amendment authorizes new surface disturbance on 109 acres of land managed by the BLM. The 14 acres of earlier, existing, and approved disturbance on land managed by the U.S. Forest Service (USFS) would continue to be maintained; no new disturbances are proposed on USFS-managed land.³

¹ The proposed action is explained in detail in Section 2.1 of the EA.

² Refer to Section 2.1.2 of the EA.

³ Given the intermingled configuration of private and BLM-managed land in the project area, the EA considered the potential indirect and cumulative environmental impacts associated with private activities on private land (*i.e.*, non-Federal actions) together with the effects of the proposed action on BLM-managed land. The BLM concluded that associated non-Federal actions, together with the effects of the proposed action on BLM-managed land, do not contribute to a finding of significant impact. While the impact of non-Federal actions were considered in the EA and the Finding of No Significant Impact, the decision to authorize surface disturbance consistent with the MPO Amendment applies solely to BLM-managed land; surface disturbance on private land is not subject to BLM authorization pursuant to the Surface Management Regulations at 43 CFR 3809.

This Decision also constitutes concurrence with Tyrone's use and occupancy of public land as described in the approved MPO Amendment. Consistent with this approval, Tyrone must maintain compliance with the Use and Occupancy Regulations at 43 CFR 3715. Concurrence by the BLM on Tyrone's use and occupancy is not subject to State Director review, but may be appealed by adversely affected parties directly to the Interior Board of Land Appeals as outlined in BLM Form 1842-1.

II. Authorities:

This decision has been prepared in conformance with the BLM regulations for surface mining on public land under the General Mining Law of 1872, which is implemented through the Surface Management Regulations at 43 CFR 3809, as mandated by the Federal Land Policy and Management Act of 1976, and in accordance with the National Environmental Policy Act (NEPA) and its implementing regulations. This decision has been prepared in accordance with the BLM NEPA and Surface Management Handbooks (H-1790-1 (2008) and H-3809-1 (2012), respectively). In addition, this decision conforms to 43 CFR 3715, Use and Occupancy under the Mining Laws.

III. Terms, Conditions, and Features of the Approval:

Section 2.1 of the EA includes descriptions of the design features and environmental protection measures essential to the implementation of the MPO Amendment. The approved MPO Amendment incorporates existing permits for the Little Rock Mine. A summary of the design features and environmental protection measures include:

- The Little Rock Mine will continue to implement and comply with the requirements of the U.S. Environmental Protection Agency's (EPA's) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit (MSGP), the New Mexico Environment Department's (NMED's) Discharge Permit (DP-1236), and other applicable Federal and State permits and regulations. Surface water and groundwater quality and quantity will continue to be protected in accordance with applicable law and the permit requirements. In addition to existing water management systems, additional facilities will be installed as needed, including structural and non-structural controls and best management practices (BMPs) to minimize erosion, control sedimentation, reduce pollutants in storm water discharges, safeguard water use, and manage surface water and groundwater quality.
- The Deadman Canyon diversion will include an inlet structure designed and constructed to direct storm water flows from the natural channel of Deadman Canyon. Storm water flows from a small canyon on the south side of the open pit, west of Deadman Canyon may also be directed to the inlet structure and diversion channel. The diversion will be constructed as an open channel, designed with the capacity to convey the 100-year, 24-hour return storm event; storm water flows exceeding the 100-year, 24-hour return storm event will be directed into the open pit. Storm water may also be diverted to the open pit during the construction of the channel. The channel design will incorporate standard engineering practices and design criteria to: (1) ensure the safety, stability, capacity, durability, maintenance, and function of the conveyance; (2) minimize potential

degradation of the channel bed and maintain stability; (3) control the channel grade; and (4) minimize erosion. The diversion will be designed to comply with applicable local, State, and Federal law and regulations. Storm water diverted into the open pit will continue to be incorporated into the pit dewatering system. These design features and environmental protection measures serve to promote efforts which will prevent or eliminate damage to the environment.

- Mine reclamation and closure requirements are governed by the Closure/Closeout Plan prepared for and approved by NMED under DP-1236 and the Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department under Mining Act Permit GR07RE, approved by the BLM as meeting the requirements of 43 CFR Part 3809, and incorporated into the MPO. Mine reclamation and revegetation practices will continue to promote a viable post-mining land use, reduce impacts to surface water and groundwater, and provide for post-mining public safety. Reclamation activities for the Little Rock Mine will enhance, stabilize, and revegetate the disturbed areas and achieve compliance with State and Federal regulations for mine reclamation and water quality protection. Reclamation of the site will provide for the establishment of a self-sustaining ecosystem consistent with the designated post-mining land use and life zone of the surrounding area, with consideration of the site-specific conditions that would exist at the Little Rock Mine at the time of closure. Monitoring and maintenance activities will follow final reclamation and continue for approximately 30 years. These practices serve to promote efforts which will prevent or eliminate damage to the environment.

IV. Compliance and Monitoring:

The BLM will conduct compliance and monitoring inspections during the construction, operation, and reclamation of the Little Rock Mine in accordance with the BLM's inspection policy for locatable mineral operations and the Surface Management Regulations at 43 CFR 3809. Inspections will be conducted to determine whether or not operations are being conducted in compliance with the MPO. Monitoring inspections will be conducted to determine the effectiveness of the design features and environmental protection measures, results of reclamation work, and impacts to other resources. Based upon the results of inspections, the BLM could impose requirements to modify operations to minimize or eliminate adverse impacts to other resources, if needed.

Mining and mine reclamation and closure activities at the Little Rock Mine, including activities on land managed by the BLM, are subject to the aforementioned NPDES permit issued by EPA and DP-1236 issued by NMED, as well as Mining Act Permit GR07RE issued by MMD. These permits also require routine and continual monitoring, sampling, testing, and reporting. The EPA, NMED, and MMD also conduct inspections of the Little Rock Mine and are charged with ensuring compliance with permit requirements.

V. Plan Conformance and Consistency:

The BLM *Mimbres Resource Management Plan (RMP)* is the current resource plan for Grant, Doña Ana, Luna, and Hidalgo Counties (1993). The RMP provides management guidance to

minimize environmental damage from mineral development and rehabilitate affected lands. The Mimbres RMP directs the BLM to encourage and facilitate the development by private industry of public land mineral resources in a manner that satisfies National and local needs and provides for economically and environmentally sound exploration, extraction, and reclamation activities. The activities authorized by the approved MPO Amendment on land managed by the BLM are consistent with and in compliance with the Mimbres RMP guidelines and policies [pages 2-3 through 2-7 and Appendix B of the Mimbres RMP].

Specifically, the RMP states:

The policy of the BLM is to make mineral resources available in accordance with the objectives of the Mining and Minerals Policy Research and Development Act of 1980. These acts require the Federal Government to facilitate the development of mineral resources to meet National, regional, and local needs for domestic and defensive purposes.

VI. Alternatives Considered:

The EA identified two alternatives to the Proposed Action: an alternative eliminated from detailed analysis and the No Action Alternative. The reason that more alternatives were not presented is that the range of potential alternatives is spatially constrained since the project centers on the expansion and continued development and extraction of mineral deposits with a fixed geologic condition, as defined in the purpose and need for the action in the EA.

The eliminated alternative did not include a diversion to route storm water flow from Deadman Canyon around the open pit, but rather, storm water flow would have been directed into the open pit. This alternative would have required a substantial upgrade to the existing dewatering facilities, including an expansion of the 1X1 lined pond. Considering the additional cost and disturbance footprint of the resulting pond, this alternative was eliminated from detailed analysis.

The No Action Alternative would not authorized new surface disturbing activities on BLM-managed land. Tyrone would have continued with activities previously authorized under existing permits and approvals, including the 1993 MPO, as modified, comprising approximately 320 acres of earlier, existing, and approved disturbance. While the evaluation of the No Action Alternative provided a baseline from which the Proposed Action was compared, the No Action Alternative would not have met the purpose and need of the project because it would not have allowed Tyrone to develop the mineral resource (*i.e.*, the No Action Alternative would waste mineral resources by leaving ore unmined) consistent with the requirements of 43 CFR 3809 and the General Mining Law of 1872.

VII. Rationale for Decision:

The decision to approve the MPO Amendment is based upon a number of factors, including careful consideration of the relevant issues listed in the EA. The authorization of the approved MPO Amendment conforms to the Mimbres RMP, Mining Laws, and the Surface Management Regulations found at 43 CFR 3809.

Public Notification

In December 2013, the BLM solicited input from the public on the proposed project to assist in identifying key issues and defining the scope of the project and environmental analysis during a 30-day scoping period. Seven public scoping comment letters were received (as summarized in Appendix A of the EA) and were used to identify the key issues for consideration in the EA, as presented in Section 1.6 of the EA.

The BLM also published the EA and draft Finding of No Significant Impact (FONSI) for a 30-day public review and comment period in July 2015. Two letters were received. The comments and responses to these comments have been documented in the administrative record; changes to the EA or FONSI were not warranted.

FONSI

The FONSI concluded that the project is not a major Federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects of the proposed action met the definition of significance in context or intensity as defined in 40 CFR 1508.27 and did not exceed those effects described in the Mimbres RMP/Final Environmental Impact Statement. Therefore, the FONSI determined that an environmental impact statement was not needed.

VIII. Information on Taking Appeals to the Interior Board of Land Appeals

DO NOT APPEAL UNLESS:

1. This decision is adverse to you,
- AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL	A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the <i>Notice of Appeal</i> in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a <i>Notice of Appeal</i> in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413)
2. WHERE TO FILE	Bureau of Land Management, 1800 Marquess Street, Las Cruces, NM 88005
Notice of Appeal	
With Copy to Solicitor	Office of the Solicitor, P.O. Box 1042, Santa Fe, NM 87504
3. STATEMENT OF REASONS	Within 30 days after filing the <i>Notice of Appeal</i> , file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filling a <i>Notice of Appeal</i> , no additional statement is necessary (43 CFR 4.412 and 4.413).
With Copy to Solicitor	Office of the Solicitor, P.O. Box 1042, Santa Fe, NM 87504

4. ADVERSE PARTIES Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413)

5. PROOF OF SERVICE Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

6. REQUEST FOR STAY Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your Notice of Appeal (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

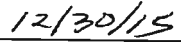
Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

This action may be appealed to the Interior Board of Land Appeals as described above.



Signature of Authorized Officer



Date