



DIRECTOR AND SECRETARY  
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Michael B. Sloane

STATE OF NEW MEXICO  
DEPARTMENT OF GAME & FISH

One Wildlife Way, Santa Fe, NM 87507

Tel: (505) 476-8000 | Fax: (505) 476-8180

For information call: (888) 248-6866

[www.wildlife.state.nm.us](http://www.wildlife.state.nm.us)

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28 May 2024

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

***RE: Response to Agencies' Comments, Revision 23-1 to Continental Mine and Mill,  
Update to Closure/Closeout Plan, Permit No. GR002RE; NMDGF No. NMERT-3479.***

Dear Mr. Myers,

The New Mexico Department of Game and Fish (Department) has reviewed the above referenced response to agencies' comments for the update to the Closure/Closeout Plan (CCP), submitted by Freeport-McMoRan Chino Mines Company (Chino), for the Continental Mine and Mill (Continental).

The Department appreciates Chino's response, which provided more detailed information on the current and predicted water quality of the Continental's pit lake. Telesto (2022) documented the current pH of the pit lake to be 7.52 and that the pit lake also currently meets wildlife habitat standards defined in 20.6.4.900.J(1) of the New Mexico Administrative Code (NMAC). Geochemical modeling for a 300-year projection period indicated that pH values would range between 6 and 7 and that water quality of the pit lake would continue to meet wildlife habitat standards. Thus, Chino believes that excluding wildlife from accessing the pit lake as recommended by the Department is not warranted. The Department still contends that modeled, future water quality conditions in the pit lake, especially model results projected far into the future, will always have inherent uncertainties and are no guarantee that the water quality will remain safe for wildlife. The Department recommends that, at minimum, Chino incorporates language into the CCP indicating that adaptive management practices will be implemented to exclude wildlife from the pit lake if it is determined in future that pit lake water quality has become hazardous to wildlife.

The Department continues to recommend that Chino provide nearby sources of clean drinking water to attract wildlife away from the pit lake. The wildlife drinker tanks should be designed with textured escape ramps to prevent unintentional entrapment and drowning of smaller animals. The Department is available for consultation regarding appropriate wildlife drinker tank designs.

Thank you for the opportunity to comment on Chino's response to agencies' comments for the updated CCP for Continental. If you have any questions, please contact Ron Kellermueller, Mining and Energy Habitat Specialist, at (505) 270-6612 or [ronald.kellermueller@dgf.nm.gov](mailto:ronald.kellermueller@dgf.nm.gov).

Sincerely,

Virginia Seamster, Ph.D.  
Assistant Chief for Technical Guidance

cc: USFWS NMES Field Office



MICHELLE LUJAN GRISHAM  
GOVERNOR

JAMES C. KENNEY  
CABINET SECRETARY

## MEMORANDUM

DATE: May 15, 2024

TO: Anne Maurer, 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 Comments on Revision 23-1 to Continental Mine and Mill – Update to Closure/Closeout Plan, Response to Comments, New Mexico Mining Act Permit No. GR002RE, Freeport-McMoRan Chino Mines Company (Chino), Grant County, NM.**

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The New Mexico Environment Department (NMED) Surface Water Quality Bureau (SWQB) received the subject request for comments on May 8, 2024. Chino's response to SWQB's January 11, 2024, comments notes that "The entire project area lies within the Mimbres Closed Basin and therefore there are no Waters of the United State". SWQB emphasizes that the comments provided are specific to New Mexico Administrative Code (NMAC) 20.6.4 Environmental Protection, Water Quality, Standards for Interstate and Intrastate Surface Waters which apply to all Waters of The State of New Mexico at all times and are independent of federal Waters of the United States regulations.

If you have any questions, please contact Davena Crosley at [davena.crosley@env.nm.gov](mailto:davena.crosley@env.nm.gov) or 505-636-3425.



## Electronic Transmission

### MEMORANDUM

Date: June 7, 2024

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

Through: Anne Maurer, Mining Act Team Leader, Mining Environmental Compliance Section (MECS)

From: David Mercer, MECS  
Davena Crosley, Surface Water Quality Bureau (SWQB)  
Sufi Mustafa, Air Quality Bureau (AQB)

Subject: **New Mexico Environment Department (NMED) Comments, Freeport-McMoRan (FMI) Continental Mine, Response to Comments, Updated Closure/Closeout Plan (CCP), FMI Chino Mines Company, Grant County, New Mexico, New Mexico Mining Act Permit No. GR002RE**

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The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on May 6, 2024, requesting that NMED review and provide comments on the above-referenced MMD permitting action. Pursuant to the Mining Act, this is a regular existing mine. MMD requested comments on the application by June 5, 2024. NMED requested an extension to submit comments by June 7, 2024. NMED has the following comments.

#### **Background**

MMD received an application requesting a revision to Mining Act Permit No. GR002RE for the Continental Mine Closure/Closeout Plan Update (Updated CCP) in July of 2023 from Freeport-McMoRan Chino Mines Company (permittee). The 2023 CCP provides updates to the 2014 CCP. In addition, NMED received an application for renewal of Discharge Permit No. 1403 (DP-1403) on July 31, 2023, which is the groundwater discharge permit that addresses closure of the Continental Mine. NMED considers the Updated CCP as a primary component of the application for renewal of DP-1403. MMD sent comments

Mr. David Ennis  
FMI Continental Mine  
June 7, 2024

to the permittee on February 19, 2024, and received a response to comments (RTC) on April 30, 2024. NMED is commenting on the RTC.

**Air Quality Bureau**

The Air Quality Bureau has no comments.

**Surface Water Quality Bureau**

The Surface Water Quality Bureau comments are attached.

**Mining Environmental Compliance Section (MECS)**

MECS has no further comments.

**NMED Summary Comment**

NMED is withholding issuance of the environmental determination pending completion of the technical review of the application and Updated CCP for DP-1403 renewal and to ensure compliance with 20.6.2 and 20.6.7 NMAC.

If you have any questions, please contact Anne Maurer at (505) 660-8878.

cc: David Ennis, Permit Lead, EMNRD-MMD  
Joseph Fox, Program Manager, NMED-MECS  
Shelly Lemon, Bureau Chief, NMED-SWQB  
Donna Bahar, EHB Division Director, NMED-AQB