



State of New Mexico
ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT
and the
ENVIRONMENT DEPARTMENT

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Certified Mail

January 8, 2020

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

Re: Joint Agency Response for:

- 1) Freeport-McMoRan, Incorporated (FMI), Chino, Tyrone, and Continental Mines:**
 - A. Final Net Present Value Calculation, and**
 - B. Framework for Adjustment of Financial Assurance Instruments**
- 2) Closure Costs Related to the Continental Mine. Comments on FMI Response - Updated Closure/Closeout Cost Estimate Continental Mine MMD No. GR002RE and NMED DP-1403**

Dear Ms. Burt-Kested,

The Energy, Minerals and Natural Resources Department (EMNRD), Mining and Minerals Division (MMD) and the New Mexico Environment Department (NMED) have reviewed the Freeport-McMoRan (FMI) New Mexico Operations counterproposal for the Net Present Value (NPV) calculation presented on November 13, 2019. Following the agreement reached on cost estimation by the "small work group" earlier this year, the parties set a schedule to have revised cost estimates and Financial Assurance (FA) instruments approved and in place by the end of 2019. This letter establishes a final NPV calculation and provides a framework for adjustment of FA instruments for all three FMI New Mexico mines. As a temporary resolution to finalize six months of NPV negotiations, this compromise is intended to move all parties forward with intent to focus on future, mutually beneficial resumption of required five-year closure-cost, NPV, and FA reviews, and associated permit renewals. EMNRD and NMED (Agencies) support the final NPV calculation and framework for adjustment of the FA instruments outlined below. In addition, we support a renewed focus on more frequent, routine evaluations of mine operations that affect reclamation costs and adequate FA amounts.

Final NPV Calculation

The Agencies’ final NPV calculation combines elements of the FMI November 13, 2019 counterproposal and the Agencies’ June 14, 2019 letter to FMI. The NPV calculation uses a short-term duration of 1-10 years and a long-term duration of 11-100 years. As required by the May 2016, Guidance for Calculating Reclamation Costs in Net Present Value (MMD NPV Guidance), the rates use consistent historical timeframes for datasets of the last 25 years for a discount rate of 5.09% and an escalation rate of 2.24% for the short term, and of the last 30 years for a discount rate of 6.12% and escalation rate of 2.54% for the long term. The discount rates use geometric means of the annual rates of return from Bloomberg Barclays U.S. Government Credit Index, and the escalation rates use U.S. Bureau of Labor Statistics Consumer Price Index (CPI)-All urban – All City Average Consumers.

Term	Duration of term for NPV calculation Years	Data set historical timeframe Years	Discount Rate (Bloomberg Barclays US Govt/Credit)	Escalation Rate US BLS CPI-all urban-all city average consumers	Real Discount Rate
Short	1 to 10	1994-2018	5.09%	2.24%	2.85%
Long	11 to 100	1989-2018	6.12%	2.54%	3.58%

Summary of Estimated NPV Cost* for Three Mines				
Mine Site	Tyrone	Chino	Continental	Total
2019 NPV Estimate	\$173,507,965	\$227,302,412	\$21,356,326	\$422,166,703
*Note that these costs are approximate because the final cost estimate will be generated by FMI and approved by the Agencies.				

Although the Agencies are providing this compromise to move the process forward, it does not resolve the disagreements surrounding the MMD NPV Guidance. MMD is working on an update to the MMD NPV Guidance to address those areas of disagreement raised by industry and the public. A draft will be circulated to the all stakeholders involved in the process.

Framework for Readjustment of FA Instruments

FMI is required to provide a proposal for FA instruments based on the above NPV calculation. Based on preliminary NPV calculations, the FA instrument amount required for Continental and Tyrone will decrease by approximately \$7 million NPV for each of both mines. The amount for Chino will increase by approximately by \$52 million NPV. Each of these adjustments will also be affected by the changes in the cash trust amounts. Noting that the final NPV amount will vary upon relatively minor cost estimate adjustments, the following framework shall apply to the readjustment of FA instruments:

1. Decreases in the FA amounts from Tyrone and Continental will be taken from the third-party guarantee (3PG). The magnitude of decrease is affected by the changes in the cash trust.

2. The cash trust base amount (floor) will be adjusted upward to account for the added accrued interest of the cash trust, which has approximately \$20.5 million combined above the current floor as of 9/30/2019. The floor will increase by about \$14 million for Chino, by about \$5 million for Tyrone, and by about \$0.5 million for Continental.
3. The increased FA amount required for Chino may be 3PG less the amount of the cash trust increase. For example, with a Chino cash trust floor increase of an additional \$14 million, the increase in 3PG would be \$52-\$14= \$38 million. Alternatively, the increased amount of 3PG may be covered by another FA instrument.
4. The raising of the floor for Tyrone and Continental cash trusts will further decrease the 3PG for these mines.
5. Collateral properties with appraisals at 5 years or older must have new appraisals.
6. FMI must evaluate the ability of the parent company to meet financial test for change of the third-party guarantor from FMC to FCX. If FCX passes the financial test, the third-party guarantor shall be changed to FCX.

Continental Mine Revised Cost Estimate

Agency comments are provided below for *Freeport-McMoRan Chino Mines Company (Chino) - Continental Mine's Response to Comments (RTCs)* dated July 15, 2019. The FMI Chino-Continental Mine prepared the RTCs based on the June 14, 2019 joint agency comments on the *Revised Financial Assurance Cost Estimate (RCE) and Net Present Value Calculation Permit No. GR002RE and Discharge Permit 1403 (DP-1403) (Continental Mine Cost Estimate and NPV Calculation dated April 2, 2019)*. The RTCs have been adequately addressed for a final update of the April 2019 RCE.

1. RTC No. 1. This comment on Miscellaneous Costs has been resolved and the RCE may be updated.
2. RTC No. 2. This comment on the 50-minute work hour will be accepted for this update to the RCE. The agencies may require further evaluation and discussion to provide clarity during the next 5-year cycle of updates to closure/closeout plan.
3. RTC No. 3. This comment on Well Plugging Costs has been resolved and the RCE may be updated.

Since the Continental Mine closure/closeout permits have been approved by the MMD and NMED, Agency acceptance of the RTC's, as conditioned above, is in partial fulfillment of subsections 8.N.6 and N.8 of MMD Permit No. GR002RE and Section C113 of NMED DP-1403. The remaining steps include Chino's response to this letter, agency approval of the cost estimate, approval of NPV calculation, and review/adjustment of the jointly held FA instruments.

Conclusion

The NPV rates and framework for adjustment of the FA instruments set forth in this letter apply to the Chino and Tyrone mines, and the Agencies will provide separate letters for these mines for their

respective RCEs. The Agencies require FMI-Continental Mine to submit a final RCE, NPV calculation, and FA instrument proposal in alignment with the above discussion by February 7, 2020.

With an extra effort on the part of all parties, the approvals and adjustment of FA instruments will culminate sometime in the first quarter of 2020. EMNRD and NMED appreciate FMI's cooperation in resolving the long overdue updates to cost estimates and FA. The Agencies will put resources toward making the next 5-year update go more efficiently than the previous attempts.

Please contact respective MMD and NMED permit leads, Kevin Myers at 505-476-3438 and Anne Maurer at 505-827-2906, with any questions regarding permitting issues for the Continental Mine.

Sincerely,



Kurt Vollbrecht, Manager
Mining Environmental Compliance Section
Ground Water Quality Bureau - NMED



Holland Shepherd, Manager
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