



Freeport-McMoRan Chino Mines Company  
P.O. Box 10  
Bayard, NM 88023

**December 1, 2023**

NMED Comment Portal

New Mexico Environment Department  
Ground Water Quality Bureau  
Attn: Water Reuse Regulation  
PO Box 5469  
Santa Fe, NM 87502

To Whom it May Concern:

**Re: Draft Supplemental Requirements for Wastewater Reuse**

This letter presents comments on behalf of Freeport-McMoRan Chino Mines Company and Freeport-McMoRan Tyrone Inc. (Chino and Tyrone) concerning the above-entitled draft rule (Title 20, Chapter 6, Part 8). Chino and Tyrone understand that this is an initial draft proposal, and that NMED may present a future formal proposal to the Water Quality Control Commission for consideration at a public hearing, and that these comments will be considered by the Environment Department as it further considers a formal rule proposal.

Chino and Tyrone understand that the draft rule is intended primarily to address the treatment and reuse of produced water generated by oil and gas operations for reuse for purposes not regulated under the Oil and Gas Act. However, the draft rule would establish a regulatory framework, definitions and other provisions relating to treatment and reuse of other types of wastewater. Consequently, the draft rule language is of interest and potential concern with respect to mining operations. In particular, the draft rule language defines "wastewater" to include "water or other liquids associated directly with sewerage systems, industrial processes, or produced water that is disposed of, or undergoes treatment for discharge, transference, or reuse. Wastewater in this Part does not include dairy wastewater, as defined in 20.6.6 NMAC." While this language does not specifically mention mining, it also does not explicitly exclude mining operations.

As the Department is aware, mining operations, and copper mining operations in particular, handle large volumes of waters that can be characterized as process water, wastewater, stormwater, etc. These waters are typically circulated within mining operations for various purposes, with or without treatment. Most importantly, for copper mines, these operations have been regulated for decades under 20.6.2 NMAC and specific ground water discharge permits, and for copper mines, under the Copper Mine Rule, 20.6.7 NMAC. Moreover, unlike most other industries, mining operations are subject to extensive and detailed ground water discharge permits for closure that require detailed plans for the handling of water and water treatment during mine closure and post-closure. Chino and Tyrone have invested a great deal of time and resources to develop these plans and to obtain the associated permits.

As there is no mention of mining in the notices related to the draft rule or in the rule language itself, perhaps the Department does not intend to include mining-related waters within the scope of the rule, or perhaps the Department has not considered how the draft rule might apply to mining operations. That said, regulation of waters associated with mining operations under a new and separate regulatory scheme for "wastewater reuse" is unnecessary, and Chino and Tyrone object to the establishment of a new regulatory program that would establish additional, duplicative and potentially conflicting new requirements relating to waters associated with mining operations.

The most straightforward way to address these concerns would be to exclude water associated with mining operations where the use, treatment, reuse or other water management activities is regulated under a ground water discharge permit issued under 20.6.2 NMAC. This approach

would be consistent with the exclusion of dairy wastewater regulated under 20.6.6 NMAC. In the absence of such an exclusion, Chino and Tyrone will need to comment on several other definitions and provisions in the draft rule, including, but not limited to, “application,” “commercial application,” “effluent,” “fit for purpose,” “impoundment,” “industrial application,” “land application,” “planned water reuse,” “pretreatment,” “reuse,” “transference,” “treated wastewater,” and “wastewater” to address how those terms might apply to and be applied within the context of mining operations.

We would be happy to discuss these comments and concerns and associated changes to the draft rule at your convenience. Thank you for considering these comments.

If you have any questions or need additional information, please contact me at (575) 912-5927.

Sincerely,

A handwritten signature in cursive script that reads "Sherry Burt-Kested".

Sherry Burt-Kested  
Manager, Environmental Services  
Freeport-McMoRan Chino Mines Company

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