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**NEW MEXICO
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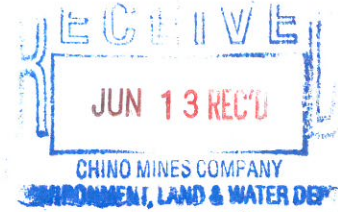


James C. Kenney
Cabinet Secretary

Jennifer J. Pruett
Deputy Secretary

June 5, 2019

Ms. Sherry Burt-Kested, Manager
Environment Services
Freeport-McMoRan Chino Mines Company
P.O. Box 10
Bayard, New Mexico 88023



RE: Request for Chiricahua Leopard Frog Habitat and Presence/Absence Surveys, Lampbright Ecological Risk Assessment Follow-up, Chino Administrative Order on Consent (AOC)

Dear Ms. Burt-Kested:

As noted in the previous Approval of the Ecological Risk Assessment, Lampbright Investigation Unit letter dated February 28, 2019, the New Mexico Environment Department (NMED) in consultation with the New Mexico Department of Game and Fish and U.S Environmental Protection Agency (EPA), require a new population census for the presence/absence and a habitat survey for suitable or marginal habitat to update the status of the Chiricahua Leopard Frog (CLF) due to uncertainties concluded in the Lampbright Investigation Unit Ecological Risk Assessment (LIU ERA). The gathered data will also be valuable for informing the remedial investigation, feasibility studies, and record of decision for the Smelter and Tailing Soil Investigation Unit and evaluating potential risk to receptors.

Because of potential migration and establishment of the CLF across FMI property, the survey will need to be performed in areas where past occurrences of CLF have been documented outside of the LIU. The surveys shall include Brown Spring, Bolton Draw, Bolton Spring, Ash Spring, Apache Tank, and Lucky Bill Canyon. In addition, other locations where the CLF status is currently uncertain, but presence was previously documented near the LIU including West Lampbright, Main Rustler, West Rustler, and Martin canyons should be surveyed for presence/absence of CLFs and suitable habitat.

Since seasonal surface water is required for CLF habitat, surface drainages within the LIU such as Tributary 1, Tributary 2, Tributary 2A, and downstream in West Lampbright Draw, should be visited immediately, and routinely thereafter with NMED staff to assess and document the presence/absence of surface water. These areas require repeated visits to document the presence/absence of water and habitat and shall become part of a monitoring program for the CLF Habitat Survey. The frequency of these inspections should be conducted at least every other week during the monsoon season (July through October) and can be limited to every other month for the remainder of the survey period. The duration and frequency of these inspections should be addressed in the CLF Habitat Survey Plan.

Please provide a schedule for NMED review within 30 days of receipt of this letter that outlines deliverables for a survey design and work plan. The work plan shall include a scientifically based CLF field survey that incorporates the comments above, observation during all parts of the CLF life cycle, data quality objectives, and Statements of Qualifications of the management team for this project.

Please contact me should you have any questions.

Sincerely,



David Mercer, Chino AOC Project Manager
Mining Environmental Compliance Section
Ground Water Quality Bureau
New Mexico Environment Department
Silver City Field Office

DWM: dwm

cc: Kurt Vollbrecht, Program Manager, MECS (via email)
Petra Sanchez, Remedial Program Manager, USEPA (via email)
Joe Fox, AOC Team Leader, MECS (via email)
Joe Allen, Formation Environmental (via email)
Pam Pinson, Freeport-McMoRan Chino Mines Company (via email)
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