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## NEW MEXICO ENVIRONMENT DEPARTMENT

Ground Water Quality Bureau

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**James C. Kenney**  
Cabinet Secretary

**Jennifer J. Pruett**  
Deputy Secretary

August 14, 2019

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

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

Dear Ms. Burt-Kested:

NMED has reviewed the comments in your letter dated July 12, 2019 and offers the following responses. Additionally, we have consulted with stakeholders from the United States Environmental Protection Agency (USEPA), United States Fish and Wildlife Service (USFWS), and New Mexico Department of Game and Fish (NMDGF) regarding the Chiricahua Leopard Frog (CLF) issue at Chino Mine. All parties concur that the NMED letter dated June 5, 2019 requiring CLF habitat and presence/absence surveys contains appropriate instructions and general guidance for Freeport McMoRan, Inc. (FMI) to design a suitable and comprehensive workplan. USFWS suggests the review of their CLF Final Recovery Plan, Appendix E, located online at:

[https://www.fws.gov/southwest/es/arizona/Documents/SpeciesDocs/CLF/Final CLF Plan.pdf](https://www.fws.gov/southwest/es/arizona/Documents/SpeciesDocs/CLF/Final_CLF_Plan.pdf)

Those guidelines, in conjunction with our June 5, 2019 letter should provide adequate direction for the creation of an acceptable work plan. USFWS encourages FMI to contact Susan Millsap, Field Supervisor, at (505) 761-4781 or [Susan\\_Millsap@fws.gov](mailto:Susan_Millsap@fws.gov) with any survey specific questions.

NMED and the agency stakeholders recognize that the survey involves work outside of the subject Lampbright Investigation Unit (LIU) area. The goal of the survey is to locate and identify habitat and whether CLF are observed within the LIU and within adjacent areas from where the CLF may migrate. USFWS and NMDGF have observed extensive CLF migration into both new and former areas of suitable habitat. Therefore, potential paths for migration between habitat

areas are important for consideration. NMED and the stakeholder groups are open to having a conference call with FMI to discuss the survey goals and requirements.

The window of time for an adequate survey for 2019 and 2020 is approaching. Please provide a schedule for NMED review as soon as possible 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,

A handwritten signature in blue ink that reads "David W. Mercer".

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)  
Susan Millsap, USFWS (via email)  
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