

Freeport-McMoRan Copper & Gold
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United States Nuclear Regulatory Commission
Attn: James C. Shepherd, Project Manager
Decommissioning and Uranium Recovery Licensing Directorate
Division of Waste Management and Environmental Protection
Office of Federal and State Materials and Environmental
Management Programs
11545 Rockville Pike
Rockville, MD 20852

Dear Mr. Shepherd:

Please find attached a copy of Western Nuclear, Inc.'s (WNI) response to the United States Nuclear Regulatory Commission (NRC) Staff's requests for additional information (RAI) regarding WNI's application for indirect change of control for its NRC-licensed Split Rock site in the State of Wyoming. By letter dated July 22, 2009, WNI submitted an application for an indirect change of control to NRC Staff requesting that it transfer NRC License No. SUA-56 from Phelps Dodge Corporation (PDC) to Freeport-McMoRan Copper & Gold Inc. (Freeport). By letter dated August 13, 2009, NRC Staff completed its acceptance review of WNI's indirect change of control application and informed WNI that its application was acceptable for detailed technical and environmental review. Then, by letter dated December 30, 2009, NRC Staff issued a set of RAIs to WNI for its review and response. On May 7, 2010, WNI submitted a response to these RAIs. By letter dated July 27, 2010, NRC Staff issued a request for clarification of WNI's RAI responses. In response, WNI hereby provides the following additional information:

RAI #3

A. NRC Request for Clarification: Please explain the differences in the amounts guaranteed as stated in SEC Form 10-K, the submitted Financial Test, and the CFO letter:

- **Note 14, specifically, the Asset Retirement Obligations (AROs) section, to Freeport-McMoRan's (Freeport's) SEC Form 10-K suggests that \$414 million of Freeport's aggregate financial assurance obligations associated with closure and reclamation costs is supported by a parent company guarantee;**
- **The submitted Parent Company Guarantee Financial Test indicates that \$296.8 million is the total amount covered by parent company guarantee, self-guarantees or financial tests of other Federal and State Agencies.**
- **The guarantee amount listed on the CFO letter is less than the amount listed in the draft Parent Company Guarantee Agreement.**

WNI Response: WNI has reviewed its financial documentation submitted previously to NRC, as well as its internal financial records and has determined that the total aggregate sum encompassing only parent company guarantees was \$296,800,000. However, the total aggregate sum encompassing all parent company guarantees, self-guarantees or financial tests in the “worst case” is \$414,300,000. When WNI describes the “worst case,” this means a final amount including parent company guarantees, self-guarantees or financial tests, as well as financial capability demonstration amounts. The financial capability demonstration amounts under the Arizona Aquifer Protection Permit program and Mined Land Reclamation Act resulted in an additional \$117,600,000 (see Table 1) that when added to the WNI site guarantee resulted in the final number of \$414,300,000.

Table 1: Financial Capability demonstrations

Arizona Closure/Reclamation	
Bagdad (Aquifer Protection Permit)	\$ 18,363,348
Bagdad (AZ State Mined Land Reclamation)	\$ 13,012,532
Miami (AZ State Mined Land Reclamation)	\$ 16,947,503
Morenci (Aquifer Protection Permit)	\$ 24,161,000
Morenci (AZ State Mined Land Reclamation)	\$ 15,492,000
Safford (AZ State Mined Land Reclamation)	\$ 12,243,250
Sierrita (AZ State Mined Land Reclamation)	\$ 12,904,850
Twin Buttes (AZ State Mined Land Reclamation)	\$ 2,090,178
Ajo (Aquifer Protection Permit)	\$ 308,117
United Verde (Aquifer Protection Permit)	\$ 1,891,000
Smeltertown Site (EPA CERCLA Action)	\$ 160,000
Total	\$ 117,573,778

B. NRC Request for Clarification: With respect to the draft Parent Company Guarantee Agreement, CFO letter, financial test and Auditor’s Report, discuss Freeport’s rationale for deviating from the suggested language contained in Appendix C of “Technical Position of Financial Assurance for Reclamation, Decommissioning, and Long-Term Surveillance and Control of Uranium Recovery Facilities.”

- The first paragraph of the CFO letter lists the 1988 Technical Position in lieu of the appropriate NRC regulation.

WNI Response: Attached to this submission is a revised version of WNI’s CFO letter containing revised language removing the reference to the 1988 Technical Position and adding a reference to 10 CFR Parts 40.36 and 40.42 and NUREG-1757, Volume 3 entitled *Consolidated Decommissioning Guidance: Financial Assurance, Recordkeeping, and Timeliness*.

- The second paragraph of the CFO letter suggests that Freeport guarantees the decommissioning of the licensed site and facility. Explain why reclamation and long-term surveillance and control are not included.

WNI Response: The attached revised CFO letter adds additional language referencing “reclamation and long-term surveillance and monitoring.” However, it is important to note that the revised financial assurance amount does not include the mandatory 10 CFR Part 40, Appendix A, Criterion 10 contribution for long-term surveillance and monitoring. This amount will be contributed when the Commission terminates WNI’s NRC license, and title to the appropriate properties are transferred to DOE.

C. NRC Request for Clarification: Clarify if the request to withhold the Total US Asset Schedule from public disclosure, under 10 CFR 2.390, extends only to the above mentioned schedule, but not the other portions of the submittal.

WNI Response: WNI does not require that any portion of the submittal be maintained as confidential with the exception of the U.S. Assets Schedule. This is consistent with previous WNI submissions.

In addition to the above-referenced responses to NRC Staff’s requests for clarification, WNI’s submittal includes its revised 2011 financial assurance package, including the following items:

1. Letter from the Chief Financial Officer of Freeport-McMoRan Copper & Gold Inc. (“FCX”), WNI’s parent, and Form 10-K filed with the Securities and Exchange Commission (Fiscal year ended December 31, 2010) which includes a copy of an independent certified public accountant’s report on page 117 ;
2. Financial Assurance Worksheet (Exhibit A);
3. Total U.S. Assets Schedule, which includes commercially sensitive information submitted under 10 C.F.R. § 2.390 (Attachment A);
4. A report from FCX’s independent certified public accountant comparing the data used by the parent company in the financial test to the requirements of 10 C.F.R. Chapter I, Part 30, Appendix A.II.2(i)-(iv); and
5. Revised parent guarantee agreement: This document is enclosed in draft form. If it is acceptable to NRC Staff, the agreement will be executed immediately and submitted to NRC Staff for final acceptance.

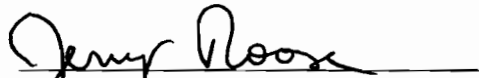
Pursuant to Section 1314 of the Atomic Energy Act (42 U.S.C. § 2167), the Freedom of Information Act (5 U.S.C. § 552), and the rules and regulations promulgated by the NRC (10 C.F.R. § 2.390), FCX hereby designates the enclosed Total U.S. Assets Schedule as confidential commercial information. The Total U.S. Assets Schedule qualifies as confidential commercial information for the reasons set forth in the enclosed affidavit. Accordingly, the document and information should be treated as confidential by the NRC.

Pursuant to the above-referenced authorities, the NRC should maintain the enclosed Total U.S. Assets Schedule as confidential and exempt from disclosure pursuant to the Freedom of Information Act and other public records or disclosure laws. If a request is made for public

review of the document or information, the NRC must notify FCX and provide FCX with a reasonable opportunity to substantiate its claim that the information is confidential.

I appreciate the NRC's consideration. If you have any questions, please do not hesitate to contact me directly at 602-366-8458.

Sincerely,


Jeffy Roose

Enclosures