

T: 18 R: 12 Sec: 11
Latitude: 31.872392
Longitude: -111.088146
Parcel #: 304-01-013A
SD: 4



PIMA COUNTY
DEPARTMENT OF ENVIRONMENTAL QUALITY
33 N. Stone Avenue, Suite 700
Tucson, Arizona 85701-1429
www.pima.gov/deq

Ursula Kramer, P.E.
Director

(520) 724-7400
FAX (520) 838-7432

August 27, 2013

CERTIFIED MAIL
Return Receipt Requested

Freeport-McMoRan Sierrita Inc.
Attn: John Broderick, General Manager
6200 W. Duval Mine Road
PO Box 527
Green Valley, AZ 85622-0527

Permit #: 6067

NOTICE OF VIOLATION # PC 1307-099

The Pima County Department of Environmental Quality (PDEQ) has reason to believe that Freeport-McMoRan Sierrita Inc., located at 6200 W. Duval Mine Road, Green Valley, Arizona, has violated requirements of rules within the Pima County Code (PCC) and an applicable permit/license. The alleged violation was determined after an on-site inspection conducted by an authorized PDEQ representative on July 29, 2013 and review of PDEQ inspector observations and photographs taken July 27, 2013. The site inspection report, including a review of applicable regulatory requirements and the compliance determination, are attached to this notice.

I. ALLEGED VIOLATIONS – APPEALABLE AGENCY ACTIONS

FINDINGS OF FACT

VIOLATION

Permit Condition, Part B, Section II.E.1
PCC 17.16.050.D

Section II.E

1. The Permittee shall not cause, suffer, allow, or permit diffusion of visible emissions, including fugitive dust, beyond the property boundary line within which the emissions become airborne. Sources may be required to cease temporarily the activity or operation which is causing or contributing to the emissions until reasonably necessary and feasible precautions are taken.

2. Condition II.E.1 shall not apply when wind speeds exceed twenty-five (25) miles per hour (using the Beaufort

Scale of Wind-Speed Equivalents, or as recorded by the National Weather Service). This exception does not apply if control measures have not been taken or were not commensurate with the size or scope of the emission source.

3. Condition II.E.1 shall not apply to the generation of airborne particulate matter from undisturbed land.

PCC 17.16.050

D. No person shall cause, suffer, allow, or permit diffusion of visible emissions, including fugitive dust, beyond the property boundary line within which the emissions become airborne, without taking reasonably necessary and feasible precautions to control generation of airborne particulate matter. Sources may be required to cease temporarily the activity or operation which is causing or contributing to the emissions until reasonably necessary and feasible precautions are taken.

1. Sources required to obtain an air quality permit under ARS § 49-426, § 49-480 or Rule 17.12.470 may request to have the actions constituting reasonably necessary and feasible precautions approved and included as permit conditions. Compliance with such permit conditions shall be considered compliance with this subsection.

2. This subsection shall not apply when wind speeds exceed twenty-five (25) miles per hour (using the Beaufort Scale of Wind-Speed Equivalents, or as recorded by the National Weather Service). This exception does not apply if control measures have not been taken or were not commensurate with the size or scope of the emission source.

3. This subsection shall not apply to the generation of airborne particulate matter from undisturbed land.

Findings:

Freeport-McMoRan Sierrita Inc. allowed diffusion of visible tailings dust generated from the tailings impoundment beyond the eastern property boundary on July 27, 2013, without taking control measures commensurate with the tailings impoundment surface area susceptible to windblown dust.

Requested Corrective Actions

- Employ control measures to prevent diffusion of tailings-generated visible emissions beyond the property boundary.

II. CITATION OF AUTHORITY

ARS § 49-471 et seq

17.28.010, PCC Title 17, Violations and Order of Abatement

III. REQUESTED COMPLIANCE DOCUMENTATION

Freeport-McMoRan Sierrita Inc. shall submit a written response to PDEQ within **thirty (30)** calendar days of receipt of this notice. The response shall include:

- Planned dust control measures for the tailings impoundment, including any changes in operation or monitoring, to prevent future violations of this type.

The above documentation shall be deemed "submitted" when received by PDEQ at the following address:

Pima County Department of Environmental Quality
Air Program
Attn: Elizabeth Quinley
33 N. Stone Avenue, Suite 700
Tucson, AZ 85701-1429

Or email to: Air.Permits@pima.gov with Subject: NOV PC 1307-099

IV. STATEMENT OF CONSEQUENCES

Failure to achieve compliance or enter into a Consent Order will result in PDEQ initiating a unilateral enforcement action. Achieving compliance does not preclude PDEQ from seeking civil penalties. A unilateral enforcement action may result in a civil penalty. A civil penalty may be imposed for each violation for the entire non-compliance period.

PDEQ believes that alleged violations identified in a Notice of Violation (NOV) are significant and advises you they may be used to determine a pattern of non-compliance or used to determine civil penalties pursuant to ARS § 49-513. As such, PDEQ believes that an NOV is an appealable agency action as defined in ARS § 49-471(4).

A person whose legal rights, duties or privileges were determined by an appealable agency action or who will be adversely affected by an appealable agency action and who exercised any right to comment on the action provided by law, rule or ordinance may appeal the action to the air pollution hearing board established pursuant to ARS § 49-478.

V. ADMINISTRATIVE INFORMATION

OFFER TO MEET

PDEQ personnel are willing to schedule a meeting to discuss the NOV and corrective action. If you would like to meet, please contact me at (520) 724-7400. Before meeting, please submit the following:

- An agenda that specifies the objectives you wish to discuss.
- The names and affiliations of the participants that will be accompanying you.

COMPLIANCE ASSISTANCE

PDEQ personnel are also willing to help you achieve and maintain compliance. If you need assistance complying with the regulations please contact our department at (520) 724-7400.

NOTICE OF NON-DISCRIMINATION

The Pima County Department of Environmental Quality does not discriminate on the basis of race, color, national origin, sex, disability religion, or age in its programs or activities in accordance with applicable laws and regulations. Further, any person who is in need of special services (e.g., written material in large type, signer for the hearing impaired, or for free assistance in Spanish), please contact PDEQ's Environmental Justice Program Manager, Beth Gorman, 33 N. Stone Avenue, Suite 700, Tucson, Arizona, 85701, Phone (520) 724-7446, email beth.gorman@pima.gov.

AVISO DE NO DISCRIMINACIÓN

El Departamento del Condado de Pima de Calidad Ambiental no discrimina en base de la raza, el color, el origen nacional, el sexo, la religión, discapacidad, o la edad en sus programas o actividades de acuerdo con leyes y regulaciones aplicables. Además, cualquier persona que esté necesitando los servicios especiales (e.g., material escrito en letra grande, intérpretes de lenguaje con señas, o para obtener asistencia gratuita en español), por favor contacte a la encargada del Programa de Justicia Ambiental del Departamento Calidad Ambiental del Condado de Pima, Beth Gorman, 33 N. Stone Avenue, Suite 700, Tucson, Arizona, 85701, teléfono (520) 724-7446, email beth.gorman@pima.gov.

Sincerely,



Elizabeth Quinley
Compliance Inspector
Air Program

Attachment: Site Inspection Report

cc: Permit File #: 6067