

mission (WQCC) to dismiss NMED's proposed Copper Rule petition because it would authorize mining companies to pollute groundwater and therefore violate the state Water Quality Act (WQA). The motion was filed on behalf of NMELC's clients: the Gila Resources Information Project; Turner Ranch Properties, Inc.; and Amigos Bravos.

NMELC Staff Attorney Bruce Frederick maintained that "the Environment Department's primary mission is to prevent water pollution, but the proposed copper mine rule would do just the opposite. It would expressly authorize mining companies to pollute water above human health standards."

A FCX rewrite of portions of the final petition allows monitoring wells to be used as points of compliance that, according to Frederick, would create groundwater "sacrifice zones" at copper mines and allow mining companies to use free public groundwater supplies as part of their processing and waste disposal systems. This would violate the Water Quality Act.

"There are 14 commissioners on the Water Quality Control Commission (WQCC)," said Frederick, "all appointed by or under the control of Governor Martínez. If the current commissioners deny the Motion to Dismiss and vote to adopt the Department's proposed rule, they will be the first commissioners in 35 years to adopt a rule that expressly allows water pollution rather than prevents it."

The FCX rewrite proposed to eliminate some critical WQA variance procedures that allows the WQCC and the public to question and comment upon, for the record, alternative actions to the prescriptive regulations that mining companies may want to implement. Development of industry-specific regulations, lobbied for by the mining and dairy industries, were mandated by a 2009 legislative amendment to the WQA.

State Attorney General Gary King (D) agrees that NMED's proposed regulations would lead to groundwater pollution and is also asking the WQCC to dismiss the petition. "Allowing groundwater to be contaminated underneath a mining site," according to King, "sets a precedent for allowing contamination underneath any site regulated under" the state's Water Quality Act.

Our state legislature mandated an Advisory Committee to hash out new rules concerning copper mining. Over the course of eight months, GRIP and other stakeholders expended considerable time and energy working with FCX to put together workable and sustainable regulation. Then, at the last minute and without notice to any of the other stakeholders, FCX and the New Mexico Environmental Department injected new rules that would allow corporate pollution of water at mine sites—this without any public hearing or other input from the public.

Since December, over 20 Motions, Briefs, Replies, and Responses have been filed by the parties regarding the proposed new copper mining regulations. The NMELC, on behalf of GRIP, Amigos Bravos, and Turner Ranch made a Motion to Dismiss and Remand the Copper Rules back to the Advisory Committee for further development. GRIP and its partners in the New Mexico Mining Act Network will be at the WQCC hearing that begins April 9. In Silver City, a hearing of the Commission is slated from 4 to 6 p.m. at WNMU's Global Resources



SALLY SMITH, GRIP
BOARD PRESIDENT
AND DIRECTOR OF
RESPONSIBLE MINING,
AT CHINO MINE PIT
OVERLOOK.

(GRIP PHOTO)

Auditorium on May 3.

Meanwhile, other permitting and operational issues continue.

Accompanied by FCX officials and representatives of NMED, the Mining and Minerals Division, and the Department of Game and Fish, I recently toured reclamation sites at the Chino and Tyrone mines. **Tyrone Mine is requesting partial Financial Assurance (FA)** release of \$5,426,777 for reclamation done over several years on 289 acres of the 1C/7A Stockpile Unit and \$2,263,170 for completion of additional studies. The work includes 17.5 acres of test plots. Reclamation began at Tyrone in 2003 and almost 3,000 acres have been regraded, covered with over three feet of cover, and reseeded.

The Chino mine is requesting a release of \$10,236,082 for regrading and cover placement as well as additional studies on Tailing Ponds B/C, 6 West and East (total of 1,277 acres including massive spillways). Both releases of FA are deducted from the Third Party (company) Guarantee. Additional Studies involve evaluations of the performance of the work including stability, cover performance, cover, erosion and revegetation test plots. FA will be retained for seeding, repairs, replanting and maintenance. These FA applications are at the Energy Minerals and Natural Resources Department website.

During February the Community Work Group — comprised of citizens overseeing cleanup of historic mining contamination at the Chino Mine—was given a presentation by NMED consultant Robert Lee of Neptune and Company, Inc. on the **Human Health Risk Assessment for the Lampbright Investigative Unit**. Neptune concluded that, "the only potential issue from the human health perspective may be nervous system effects related to manganese concentrations in soils in a future construction scenario." The firm considers this potential, "highly unlikely due to conservative assumptions regarding the quality of dust generated by vehicle traffic on unpaved roads used in the exposure assessment." The Hanover/Whitewater Creek Investigation Unit Ecological Risk Assessment revision should be available soon, and a draft Feasibility study for the Smelter/Tailings Soil Unit should be available in the second quarter of 2013. The CWG's next public meeting will be at 7 p.m. on March 19, at the Bayard Community Center.

The **BLM scoping process for an Environmental Assessment (EA) of proposed modifications to the Mine Plan of Operations for FCX's Cobre Mine** is due March 8. This is the EA for development of the North Overburden Stockpile, 3.25 miles of haul road connecting the Cobre and Chino mines, expansion of the South Waste Rock Disposal Facility, and for a dam and relocation of the utility corridor. Copies of this EA scoping may be viewed at the Silver City and Bayard public libraries. For more information, contact GRIP or the BLM's Douglas Haywood at 575.525.4498 or dhaywood@blm.gov.