



February 14, 2013

Sandra Fabritz-Whitney, Director
Arizona Department of Water Resources
3550 North Central Avenue, Second Floor
Phoenix, Arizona 85012-2105

Re: Comments to “Enhanced Aquifer Management: Alternative Cut to the Aquifer” Concept Paper

Dear Director Fabritz-Whitney:

Freeport-McMoRan Copper & Gold, Inc. (“Freeport”) appreciates the opportunity to provide comments on the Department’s “Enhanced Aquifer Management: Alternative Cut to the Aquifer” concept paper. As you know, Freeport has water interests statewide, including recharge and recovery related interests within the Phoenix and Tucson Active Management Areas (“AMA”). Freeport believes that Arizona’s recharge program is a strong water management and supply tool that is integral to Arizona’s future economic development and water resource planning. As such, we urge the Department to work with stakeholders to fully evaluate the potential impacts of fundamental changes to the program, including the proposed “Alternative Cut to the Aquifer.”

Freeport believes an initial step to this evaluation is the identification of the specific problem that any proposed changes to the recharge program would be seeking to address. This assessment should be done on an AMA-by-AMA basis for each proposed solution, as the water supplies, management and circumstances within each AMA are unique. Any changes then should be tailored to address issues specific to the identified problem for that AMA.

Freeport understands the Department’s general concern over groundwater level imbalances and appreciates the Department thinking “outside the box” to suggest one potential strategy to address this issue. However, as the Department recognizes in the concept paper, changes to the “cut to the aquifer” are beyond the Department’s Management Plan authorities and will require changes to Arizona’s recharge statutes. Accordingly, Freeport suggests that the Department convene a comprehensive stakeholder process for each AMA to fully evaluate issues relating to the recharge statutes. That process can be used to vet not only the Department’s proposal, but also to identify any other proposals relating to the recharge program requiring legislation. To avoid unintended consequences, it will be important to address all proposed legislative changes to the recharge statutes in a comprehensive manner.

For example, in 2011, Freeport worked with the Department and stakeholders in the Tucson AMA to secure passage of Senate Bill (SB) 1417, allowing mining companies to engage in recharge and recovery, subject to limitations on the use of mineral extraction permits while engaging in recovery. SB 1417 also provided an additional 5% cut to the aquifer if recovery took place more than 20 miles from a mining company's wells. Freeport believes any changes to the current recharge statutes, including the Department's proposal, will need to be fully evaluated for impacts to the balanced approach provided for in the SB 1417 legislation. This could be done effectively in a larger stakeholder process.

Additionally, Freeport notes that the comments submitted by other stakeholders, including those of the Central Arizona Project ("CAP") and the Southern Arizona Water Users Association ("SAWUA"), presented a number of questions. It will be very difficult for stakeholders, including the Groundwater Users Advisory Council ("GUAC") for each AMA, to properly assess the impacts of the Department's proposal until the Department's response to those questions can be reviewed. Also, it will be important to understand the resources needed by the Department to implement its proposal and other changes to the recharge statutes that may be contemplated.

Finally, as you know, Arizona's recharge program has been a tremendous success for the state and has reliably assisted with long-term water planning for many state-wide interests, including the private sector. Changes that may have the consequence (even if unintended) of increasing risks related to recharge and recovery activities, diminishing the value of assets or investments already made or planned for recharge activities, or potentially "chilling" future recharge and recovery efforts could have serious negative consequences to the state and its economy. All of these considerations need to be carefully weighed prior to formulating final recommendations for statutory changes to the recharge program.

We appreciate the opportunity to comment and look forward to continued participation in the stakeholder process at both the Phoenix and Tucson GUACs, as well as any future stakeholder process related to legislation associated with recharge.

Sincerely,



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Land and Water Department
Freeport-McMoRan Copper & Gold, Inc.

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