

EPA-R5-2014-001593-70

Thomas Poleck/R5/USEPA/US
07/09/2012 09:20 AM

To Christine Wagener
cc Linda Holst
bcc
Subject Re: Fw: From BNA Daily Environmental Report, 7/6/12 -- Enforcement: Mining Company to Pay \$6.8 Million In Deaths of Migratory Birds at Arizona Site

Thanks Chris. Kathy had raised this concern way back in the PolyMet review and it was discussed a bit at that time. I haven't seen or heard much lately but I would think that the EIS should contain an assessment of this impact. The FWS should be the ones keeping on top of this issue but we did raise it so probably should keep it on our list so that we can at least look for it when the supplemental comes out. I guess it is good that they know that they can be held liable for this down the road which may cause them to do an adequate assessment/mitigation up front.

Tom

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Tom Poleck poleck.thomas@
U.S. EPA, Region 5
Water Quality Branch (WQ-16J) 312-582-5841 (fax)
77 W. Jackson Blvd
Chicago, IL 60604

Christine Wagener FYI. -----Forwarded by Christine W... 07/09/2012 03:39:59 AM

From: Christine Wagener/R5/USEPA/US
To: Thomas Poleck/R5/USEPA/US
Cc: Linda Holst/R5/USEPA/US
Date: 07/09/2012 03:39 AM
Subject: Fw: From BNA Daily Environmental Report, 7/6/12 -- Enforcement: Mining Company to Pay \$6.8 Million In Deaths of Migratory Birds at Arizona Site

FYI.

-----Forwarded by Christine Wagener/R5/USEPA/US on 07/09/2012 03:37AM -----

To: Mary.Manydeeds, Scott.Doig, Thomas L Weaver <tlweaver>, Perry M Jones <pmjones>, fafitzpa, James R Stark <stark>, Frederick.VandeVenter, mark.kuester, Jennifer Manville/R5/USEPA/US, Ed Fairbanks/R5/USEPA/US, James Ruppel/R5/USEPA/US, Margaret Millard/R5/USEPA/US, Kenneth Westlake/R5/USEPA/US, Sue Elston/R5/USEPA/US, Barbara Wester/R5/USEPA/US, RobertL Thompson/R5/USEPA/US, Ross Micham/R5/USEPA/US, Jose Deleon/R5/USEPA/US, John Colletti/R5/USEPA/US, George Azevedo/R5/USEPA/US, Kathleen Mayo/R5/USEPA/US, David Pfeifer/R5/USEPA/US, Charmagne Ackerman/R5/USEPA/US, Kestutis Ambutas/R5/USEPA/US, Eloise Mulford/R5/USEPA/US, Stephanie Cheaney/R5/USEPA/US, Benjamin Giwojna/R5/USEPA/US, Melanie Haveman/R5/USEPA/US, Erik Olson/R5/USEPA/US, Christine Wagener/R5/USEPA/US, Joanna Glowacki/R5/USEPA/US, Genevieve Damico/R5/USEPA/US, Elizabeth Laplante/R5/USEPA/US, Patrick Hamblin/R5/USEPA/US, Stephen Roy/R5/USEPA/US, Simon Manoyan/R5/USEPA/US, Nuria Muniz/R5/USEPA/US, Robie Anson/R5/USEPA/US, Michael Sedlacek/R5/USEPA/US, James Grimes/R5/USEPA/US, Sheila Desai/R5/USEPA/US, Nefertiti DiCosmo/R5/USEPA/US, Krista McKim/R5/USEPA/US, Jennifer Darrow/R5/USEPA/US, nancyschuldt,

Margaret Watkins <watkins [REDACTED]>, "Tod LeGarde" <gpenviro [REDACTED]>, John Coleman <jcolema1 [REDACTED]>, Esteban Chiriboga <edchirib [REDACTED]>, Ann McCammon-Soltis <amsoltis [REDACTED]>, Todd Warner <twarner [REDACTED]>, Charles Brumleve <cbrumleve [REDACTED]>, jkoski [REDACTED], ejohnston [REDACTED], thomas.pietila [REDACTED], george.beck [REDACTED], jbohm [REDACTED], sbowe [REDACTED], abosak [REDACTED], ccharwood [REDACTED], 1854treatyauthority [REDACTED], swieting [REDACTED] Brandy Toft <air [REDACTED]>, Sam Malloy <SMalloy [REDACTED]>, "M. Ripley" <mripley [REDACTED]>, Environmental [REDACTED], "Jeff Mears" <JMEARS [REDACTED]>, vflowers [REDACTED] larmagost [REDACTED], ldfbrownfields [REDACTED], Nate.Guldan [REDACTED], Natalene.Cummings [REDACTED], JGodwin [REDACTED]

From: Daniel Cozza/R5/USEPA/US

Date: 07/06/2012 02:20PM

Subject: Fw: From BNA Daily Environmental Report, 7/6/12 -- Enforcement: Mining Company to Pay \$6.8 Million In Deaths of Migratory Birds at Arizona Site

For your mining libraries.

----- Forwarded by Daniel Cozza/R5/USEPA/US on 07/06/2012 02:19 PM -----

From: Gary Hudiburgh/DC/USEPA/US

To: Stephen Hoffman/DC/USEPA/US [REDACTED]

Cc:

Date: 07/06/2012 01:59 PM

Subject: From BNA Daily Environmental Report, 7/6/12 -- Enforcement: Mining Company to Pay \$6.8 Million In Deaths of Migratory Birds at Arizona Site

Enforcement

Mining Company to Pay \$6.8 Million

In Deaths of Migratory Birds at Arizona Site

By [William H. Carlile](#)

PHOENIX—Mining company Freeport-McMoRan Corp. has agreed to pay \$6.8 million in compensation in a case brought by the government alleging migratory birds died when they drank acidic water collecting on waste rock at an open-pit copper mine in Arizona (United States v. Freeport-McMoRan Corp., D. Ariz., No. 4:12-cv-307, order signed 6/12/12).

The settlement money is to be used for restoration of Arizona wildlife populations and their habitat, government officials said.

It ends several years of negotiations among Freeport-McMoRan, the U.S. Fish and Wildlife Service, the Arizona Department of Environmental Quality, and the Arizona Game and Fish Department. The case began in 2003 when Fish and Wildlife investigated bird mortalities at tailings ponds at the Morenci mine located between the San Francisco River and Eagle Creek in southeast Arizona.

The settlement filed in U.S. District Court for the District of Arizona was made public July 2. It was signed June 12 by Judge Cindy K. Jorgenson.

Freeport-McMoRan is the world's largest producer of copper, gold, and molybdenum and is a leading manufacturer of copper strip, cadmium copper, copper wire, and bars. A company spokesman declined comment when contacted by BNA.

Birds Drank From Acidic Ponds

Rainwater-formed ponds on the tailings at Morenci were documented to be highly acidic

in 2000 and 2001 and to cause death and other injuries to migratory birds through exposure and ingestion, according to a joint statement from Fish and Wildlife, ADEQ, and Game and Fish.

Hazardous substances at the mine included sulfuric acid, copper, and other dissolved metals.

According to court documents, the federal government filed a complaint against the company, seeking recovery of damages for injuries to natural resources under the Comprehensive Environmental Response, Compensation, and Liability Act.

The complaint alleged that Freeport-McMoRan was liable for injuries to natural resources belonging to, managed by, or controlled by the United States and Arizona that resulted from hazardous substance releases.

By [William H. Carlile](#)

For More Information

The government's motion to enter the consent decree in United States v. Freeport-McMoRan Corp. is available at

<http://op.bna.com/env.nsf/r?Open=jsun-8vwu6c>.

The order of the U.S. District Court for the District of Arizona approving the motion is available at <http://op.bna.com/env.nsf/r?Open=jsun-8vwu8w>.

Gary Hudiburgh

Attorney

Water Permits Division (MC 4203M)

US Environmental Protection Agency

1200 Pennsylvania Avenue, NW

Washington, DC 20460

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202 564-9544 (fax)

<http://www.epa.gov/npdes>