MEMORANDUM

Date: June 26, 2013

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

Re: **Rosemont Mine Permit Status Report**

Attached is a status report regarding the permitting of the proposed Rosemont Mine. We are uncertain when a Final Environmental Impact Statement and Record of Decision will be issued by the U.S. Forest Service.

There are a number of permits and approvals that are still needed by Rosemont Mine, including necessary Clean Water Acts permit from the U.S. Army Corps of Engineers.

CHH/dph

Attachment

c: Linda Mayro, Director, Sustainability and Conservation
Suzanne Shields, Director, Regional Flood Control District
Julia Fonseca, Environmental Planning Manager, Conservation and Sustainability
Nicole Fyffe, Executive Assistant to the County Administrator

MEMORANDUM

Office of Sustainability and Conservation

DATE: June 10, 2013

TO: C. H. Huckelberry
County Administrator's Office

FROM: Julia Fonseca
Environmental Planning Manager

SUBJECT: Rosemont Permit Status

Below is a status report on permits and approvals needed for the Rosemont mine:

The US Forest Service has not yet issued the Final Environmental Impact Statement (FEIS) and Record of Decision. The Forest Service process has been delayed in large part by Rosemont's failure to provide requested information and by the Company's decision to dramatically change its mining proposal in July 2012. Mr. Jim Upchurch has stated an Administrative Draft will be circulated to Cooperating Agencies for a one-month review period prior to issuance of the FEIS. The release of the Administrative Draft and Cooperator's meeting is scheduled for July 1. Cooperator comments will be due July 31. The schedule for the public release of the FEIS is unknown.

The Clean Water Act permit that allows Rosemont to pollute area waterways is still pending with the US Army Corps of Engineers. The permit has been slowed by Rosemont's failure to provide information needed to understand indirect impacts on Waters of the US and to complete a mitigation proposal that would be responsive to the previously expressed concerns and requirements of Corps and the U. S. Environmental Protection Agency. The mitigation proposal is planned for completion in time for the release of the Administrative Draft.

The US Fish and Wildlife Service (FWS) is assessing whether the Rosemont Mine would jeopardize threatened and endangered species, including the jaguar, ocelot and southwestern willow flycatcher before it issues its Draft Biological Opinion. The Draft Biological Opinion (BO) should be completed for the Administrative Draft EIS. FWS is also designating critical habitat for both the jaguar and the southwestern willow flycatcher that may include the Rosemont Mine site, and these concurrent processes have delayed the Draft BO. Federal agencies are not allowed to approve actions that destroy or adversely modify critical habitat for endangered species.

The Aquifer Protection Permit issued by the Arizona Department of Environmental Quality in 2012 is still under appeal. The administrative law judge has advised the appellants that he will issue a ruling by June 20. The appeal is on the grounds that it fails to protect area groundwater supplies.

The air quality permit issued by the Arizona Department of Environmental Quality (ADEQ) in January 2013 has been appealed by Save the Scenic Santa Ritas. This appeal is on the grounds that Rosemont underestimated air pollution from the mine and it would operate under a different mining plan than the one submitted to ADEQ. The appeal will be heard in July and August before an administrative law judge.

The Forest Service and U. S. Army Corps of Engineers must also consult with the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation, tribes and other interested parties on the portions of the mine proposal that affect federal lands. There have been multiple drafts of the Memorandum of Agreement among the parties. Another draft MOA is expected for Cooperating Agency review in July. The latest version of the MOA identifies the Tohono O'odham Nation as one of the consulting parties. Other tribes have been invited to be concurring parties as has Pima County. The utility corridors that would cross State Trust Lands (principally within the Santa Rita Experimental Range) are no longer part of the federal consultation, to facilitate the construction of the Rosemont utilities. The State Land Department will now be responsible for consulting separately with the SHPO and the tribes.

Arizona Corporation Commission must approve a joint operating agreement between Tucson Electric Power and Trico Electric regarding the mine prior to construction of the transmission line. By order of the Commission, the construction cannot commence until after additional events have occurred: 1) issuance of the Record of Decision for approval of the Mining Plan of Operations for the Rosemont Copper Company, 2) issuance of the Section 404 permit, 3) certification by Arizona Department of Environmental Quality under Section 401 of the Clean Water Act, 4) issuance of the Air Quality permit, and 5) acquisition of right-of-way from the Arizona State Land Department for the construction of the transmission line across the Santa Rita Experimental Range.

Arizona State Land Department must issue a Right-of-Way permit for the various pipelines and transmission lines leading to the mine across the Santa Rita Experimental Range. Pima County reviewed the applications in September 2012 when ASLD circulated it for comment. The ROW permits have not been issued.

Pima County Flood Control District must review and approve actions that would obstruct, divert or retard flow that are not statutorily exempted. No floodplain permit application has been received from Rosemont describing impacts to floodplains that are regulated by the District, but Rosemont is aware of its obligations.

C: Nicole Fyffe, Special Assistant to the County Administrator

Linda Mayro, Director, Office of Sustainability and Conservation