



COUNTY ADMINISTRATOR'S OFFICE

PIMA COUNTY GOVERNMENTAL CENTER
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C.H. HUCKELBERRY
County Administrator

January 4, 2011

Jim Upchurch, Forest Supervisor
Coronado National Forest
300 W. Congress Street
Tucson, Arizona 85701

Re: Mineral Validity Exam – Rosemont Lands

Dear Mr. Upchurch:

On May 28, 2010, your office provided a response to our Freedom of Information Act request regarding a mineral validity exam conducted by the Forest Service on the limestone/marble quarry located just north of Helvetia. The validity exam was conducted July 1972. It concluded "that the subject mining claims are invalid under the provisions of Public Law 167."

As far as we can determine, this validity exam was conducted at the discretion of the U.S. Forest Service. There is no evidence in the responses from either the Forest Service or the U.S. Bureau of Land Management that the validity exam was related to an effort by the mining company to patent the land or modify their operation. Nor was a mineral withdrawal being proposed. As far as can be ascertained from the records, the validity exam was initiated by the Coronado in response to citizen complaints.

In your new capacity as Forest Supervisor, I hope you will consider Pima County's request to initiate a mineral validity exam for the use of the Rosemont lands as waste disposal sites. Given your office has in the past conducted discretionary mineral validity exams for mines that are far smaller than the proposed Rosemont mine, I believe such an examination of facts would be appropriate.

I am aware it is not common practice for the Forest Service to challenge or contest the validity of mining claims and that the placement of waste and tailings on the Forest is

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considered to be mining activity. However, you must also be aware that neither ASARCO nor its predecessors ever tried to patent the subject claims; they instead sought a land exchange to perfect their title to the waste disposal sites, which ultimately failed. History suggests and extant geology could confirm the lack of a mineral discovery on the lands proposed as dumping grounds.

Because the examination could have profound consequences for the range of alternatives and for your discretion as Forest Supervisor in the Rosemont National Environmental Policy Act (NEPA) process, we ask that you consider contesting the claims.

In addition, the geologist reported tremolite at the marble mine. Other reports have noted tremolite in the host rock in the Rosemont project area. Thus, I ask your office to consider the potential for asbestiform minerals to be released into the atmosphere. Only the fibrous forms of tremolite and several other minerals may contribute to asbestosis or other lung impairments; however, there has been no work, to my knowledge, to define the occurrence and risks of asbestiform minerals in the Rosemont NEPA process. Pima County would like to consider this information in relation to air quality permitting under the Clean Air Act. County staff is available to discuss potential methods of investigation.

Sincerely,



C.H. Huckelberry
County Administrator

CHH/mjk

c: The Honorable Chairman and Members, Pima County Board of Supervisors
Nicole Fyffe, Executive Assistant to the County Administrator
Julia Fonseca, Environmental Planning Manager



United States
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Forest
Service

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File Code: 2810

Date: February 11, 2007

C. H. Huckelberry
Pima County Administrator
Pima County Administrator's Office
130 W. Congress
Tucson, AZ 85701-1317

Dear Mr. Huckelberry;

This is in response to your December 19, 2006 inquiry regarding the proposed Augusta Resource Corporation copper and molybdenum mine at Rosemont Junction. You suggested that the Coronado National Forest could challenge the validity of the corporation's mining claims. Your argument for claim validity challenge was based primarily on the fact that the company intends to use many of the claims for mill tailings and waste rock placement. I have received opinions on this topic from our Office of General Counsel and also from our Regional Geologist in Albuquerque.

Both opinions state that it is not common practice, nor is it Forest Service policy, to challenge mining claim validity, except when a) proposed operations are within an area withdrawn from mineral entry, b) when a patent application is filed, and c) when the agency deems that the proposed uses are not incidental to prospecting, mining, or processing operations. This last category includes such management concerns as illegal occupancy or use of mining claims for non-mining or non-mineral processing purposes. For operations proposed in accordance with our regulations, and where the above situations do not exist, there is no basis for pursuing a validity exam. The placement of waste rock and mill tailings on the Forest are considered to be activities connected to the mining and mineral processing per regulation 36CFR228 subpart A, and as such they are authorized activities regardless of whether they are on or off mining claims.

I appreciate your interest in protecting the environment. I have the same interest and will be giving particular attention to having an effective design for mine reclamation when we address the mine operating plan. Please feel free to contact Forest Geologist Beverley Everson at 388-8428 if you have further questions.

JEANINE A. DERBY
Forest Supervisor

