



COUNTY ADMINISTRATOR'S OFFICE

PIMA COUNTY GOVERNMENTAL CENTER
130 W. CONGRESS, FLOOR 10, TUCSON, AZ 85701-1317
(520) 724-8661 FAX (520) 724-8171

C.H. HUCKELBERRY
County Administrator

October 21, 2016

Colonel D. Peter Helmlinger
South Pacific Division Commander
US Army Corps of Engineers
1455 Market Street
San Francisco, California 94103-1398

Re: Rosemont Mine Clean Water Act Section 404 Permit Recommendation

Dear Colonel Helmlinger:

Pima County supports the US Army Corps of Engineers (Corps) Los Angeles District's recommendation to deny the Clean Water Act (CWA) Section 404 permit for the Rosemont Mine project near Tucson, Arizona that was reported recently in the *Arizona Daily Star*. We urge you to uphold this recommendation with a timely decision.

We have confidence the Corps can reach this decision with the administrative record as it now stands. While our experts disagree with some of the facts, conclusions and evaluations in the Environmental Impact Statement (EIS), the EIS does provide sufficient documentation of the significant and lasting degradation this mine would cause. With the help of cooperating agencies, local community groups, and the US Environmental Protection Agency (EPA), the administrative record for this project has more fully identified the risks and damages this mine poses, and it is clear the damages and risks are too great.

As stated in our January 2012 comments submitted on this matter, the project would bury over 100 miles of headwater streams and cause additional indirect and cumulative adverse effects on a number of springs and streams in various watersheds in eastern Pima County, including some Waters of the United States owned or managed by Pima County and the US Bureau of Land Management for open space, recreation and grazing. Affected Waters would also include streams acquired by Pima County for mitigation purposes under Section 10(a)(1)(B) of the Endangered Species Act. Despite years of negotiations with project proponent Hudbay Minerals, mitigation cannot be found to offset the damages in any meaningful timescale.

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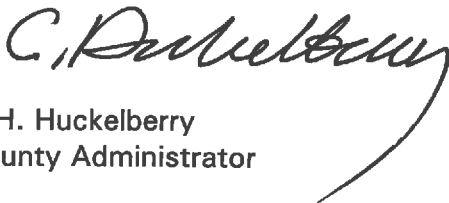
Denying a CWA Section 404 permit because of unacceptable adverse effects has precedent. In January 2011, the EPA vetoed a Section 404 permit for the Spruce No. 1 mine in West Virginia, stating the decision was warranted "because the discharges associated ... will have unacceptable adverse effects on wildlife. In addition, the impacts downstream due to the destruction of those streams will result in unacceptable adverse impacts to wildlife." EPA, *Final Determination of the U.S. Environmental Protection Agency Pursuant to §404(c) of the Clean Water Act Concerning the Spruce No. 1 Mine, Logan County, West Virginia*, at 6. (January 13, 2011). This decision was upheld by the courts, with the DC Circuit Court of Appeals finding the EPA has the authority to veto Section 404 permits whenever it finds the criteria in Section 404(c) regarding unacceptable adverse effects are met. *Mingo Logan Coal Co. v. U.S. Env'tl. Prot. Agency*, 714 F.3d 608 at 615 (DC Cir., 2013). As we stated in our earlier comments, there are many similarities between the Spruce No. 1 mine and the Rosemont mine, except the extent of impacts of the Spruce No. 1 mine are considerably smaller than those the Rosemont Mine would cause.

The deliberations over the Rosemont Mine project have gone on for years. The project proponent and the federal agencies have considered every conceivable alternative, including underground mining and mining of the other, smaller ore bodies, which were examined and rejected. Frankly, all sides are tired of waiting for a federal decision. Denying a CWA Section 404 permit is the best decision that can be made with the existing technologies and conditions presented by this particular mine.

The natural and cultural resources, riparian areas, wildlife, and environmental values dear to communities of southern Arizona are quite literally irreplaceable, and the short-term benefits of this particular mine, in this particular location, do not outweigh the significant and permanent degradation mining would cause. We concur with the Corps LA District's recommendation to deny the Rosemont project's CWA Section 404 permit, and we urge you to uphold this recommendation in a timely decision.

We understand you may be conducting a site visit to review this situation. If you are contemplating such, we would be happy to discuss our comments on this subject in more detail. Please let us know if you would like to meet on this subject.

Sincerely,



C.H. Huckelberry
County Administrator

CHH/mjk

c: Linda Mayro, Director, Pima County Sustainability and Conservation Office