



COUNTY ADMINISTRATORS OFFICE

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

C.H. HUCKELBERRY
County Administrator

October 25, 2012

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

Re: Rosemont Mine Proposal – Substantial Changes and New Information Require a New or Supplemental Draft Environmental Impact Statement

Dear Mr. Upchurch:

In recent months, substantial changes have been made to Rosemont Copper's proposed new copper mine. These changes must influence the course of action that you must take regarding your decision under the National Environmental Policy Act (NEPA).

The Barrel Alternative was identified in your 2011 Draft Environmental Impact Statement (DEIS) as your agency's Preferred Alternative. By letter of July 10, 2012, Rosemont Copper informed you of major modifications they would like you to make regarding the Barrel Alternative, including eliminating the heap leach pads and solution extraction and electrowinning (SXEW) facilities, and deleting the entire nine-mile long under-drain system. In Rosemont's September 12, 2012 letter, they notified you of additional changes they would like to make and referred you to an August 2012 Feasibility Study for more information in response to your questions. Both of Rosemont's letters argue the proposed modifications do "not constitute a substantial change to the Barrel Alternative."

Based on a review of the letters and Rosemont's 2012 Feasibility Study, Pima County believes there are three key reasons for the Forest Service to prepare a new Draft or Supplemental DEIS for public comment. According to NEPA, there are three criteria for reinitiating a DEIS:

1. Substantial changes in the proposed action relevant to the environment; or
2. Significant new circumstances or information; or
3. The purposes of NEPA (as described in the Code of Federal Regulations) would be furthered.

This letter summarizes, in terms of the three basic criteria above, why a new or supplemental EIS is warranted.

1. Substantial changes in the proposed action relevant to the environment have been made.

Rosemont's July 2012 letter states that "project footprint and primary facilities—the open pit, waste rock area, tailings area, plant and administration area, site and utilities—will not change." We disagree. It appears that all but the administration areas have changed in location or design.

The Barrel Alternative appears to have a much larger pit than originally proposed (see Figure 1 attached). As a result, the total amount of rock removed will be about 80 million tons more than was proposed in 2007 and analyzed in the 2011 DEIS. The new shape of the pit, coupled with additional material extracted, could cause substantial differences in the dewatering impacts, talus snail impacts, tailings pile area and height, potential for rock failures, and to pit lake impacts.

The new Barrel Alternative removes underdrains from the facility and creates areas of surface ponding against the waste rock and tailings. Ponded areas may focus infiltration into certain areas of the porous waste rock and reduce downstream flows, while wraparound channels may speed some flows. New analysis is needed to understand the consequences of these changes. The new Barrel Alternative also appears to convey water on the top of the tailings impoundment downstream. If this is the case, substantial additional runoff will be generated from the tailings because they are designed with a very low infiltration capacity. A new DEIS is necessary to disclose what we believe will be substantial changes in stormwater runoff conditions, surface water quality, aquatic biology and potential for failures of the stormwater system.

The deletion of the heap leach, SXEW facility, and underdrains, and the addition of a new proposed compliance dam will trigger a significant amendment of Rosemont's Aquifer Protection Permit (APP). This should indicate to you that a substantial change would be made to discharge of pollutants. The next DEIS should also disclose the fate of the oxide waste. We now know the oxides will be segregated from the processed rock, but where and for how long, and what will be the effects on the environment? Of particular concern is the weathering of this rock and the potential impacts to downstream water quality.

2. Significant new circumstances or information now exist.

The Forest Service has pursued a Traditional Cultural Property (TCP) designation for the Santa Rita Mountains. The TCP broadens consideration of effects on cultural properties and beliefs. We understand the Forest Service has recently modified the boundaries and content of the TCP designation. This represents both a "significant agency action"

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(Criterion 1) as well as significant new information (Criterion 2). The effects of the modified Rosemont project on the modified TCP description will be relevant to water, plants, scenic beauty and other environmental concerns in the Santa Rita Mountains.

Another new circumstance is that the terms of the APP are now known. The APP terms show that not all discharge impacts will be prevented or even monitored in the state's permit. The obvious gaps are — as we have pointed out in the Draft EIS comments and our comments on the APP — the unregulated pit and pit lake; no surface-water quality protections for springs and seeps; and the fact that Arizona's numeric water quality standards fall short of the federal primary drinking water standards for some constituents and do not regulate sulfate or total dissolved solids.

The deficient financial assurance and ill-defined mine closure strategy in the APP also bear on the Forest Service's need to obtain and disclose to the public the bonding strategy, costs, and limitations in the next DEIS. The 2012 feasibility study itself contains new information on reclamation costs and net income after taxes that should be divulged for public review and comment, relating to the ability of Rosemont to do land forming or perform other mitigation for impacts to Forest resources such as oak trees and springs and seeps.

3. Other purposes of NEPA would be furthered.

Alternatives analysis is the heart of NEPA process, and the Forest Service has a duty under 40 CFR 1502.14 to "rigorously explore and objectively evaluate all reasonable alternatives...devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits."

For instance, the September 12, 2008 letter from Kathy Arnold to Supervisor Upchurch (page 8) states the electricity demand has decreased to less than 100 MW. A double-circuit 46 kV (2 x ~60 MW capacity) or a 69 kV (~120 MW capacity) could meet this demand and should now be analyzed as a new alternative. The Rosemont CEC-approved 138 kV transmission line has excess capacity of several hundred megawatts, adequate to support all four mines in the affected environment. The ability to draw more water and power needed to process additional ore with the larger line needs to be evaluated under cumulative impacts.

No previous efforts have been made to minimize the footprint of the processing areas. The recent deletion of the SXEW facilities and change in approach to routing stormwater now provide the Forest Service and Rosemont Copper with an opportunity to consolidate the footprint of the mineral processing areas. In addition, our information suggests the top of the pit(s) (as proposed in both the Mine Plan of Operation and in the new proposed action) will intersect the crest of the Santa Rita Mountains (see Figure 2 below). Efforts to

minimize and mitigate the pit impacts to visual resources, water quality, aquifer conditions, and talus snails must be made.

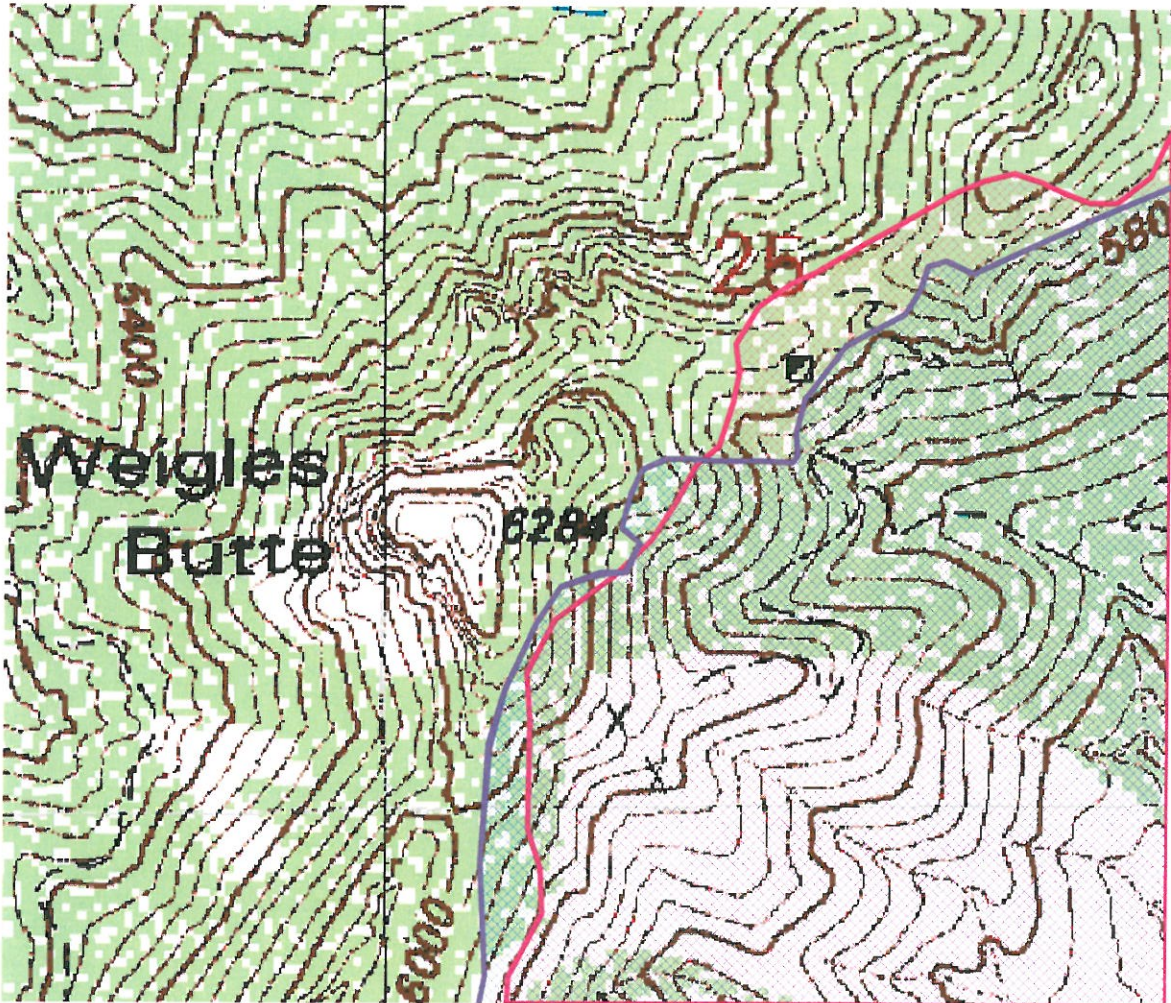


Figure 2. Two different configurations for the Rosemont open pit, on U.S. Geological Survey topography, both intersect the crest of the Santa Rita Mountains. (Sources: U.S. Forest Service 2011 in purple; CDMSmith 2012 in pink).

40 CFR 1502.1 says an EIS "shall provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment." The inadequacies of the 2011 DEIS are well known to the Forest Service, and were the basis for calls by the U.S. Environmental Protection Agency and Congressman Raúl Grijalva for a new DEIS even before substantial changes were made and significant new information came to light this past year.

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In conclusion, all three criteria for the preparation of a new DEIS have been met. A new Draft EIS and public comment period are warranted for this project.

Sincerely,

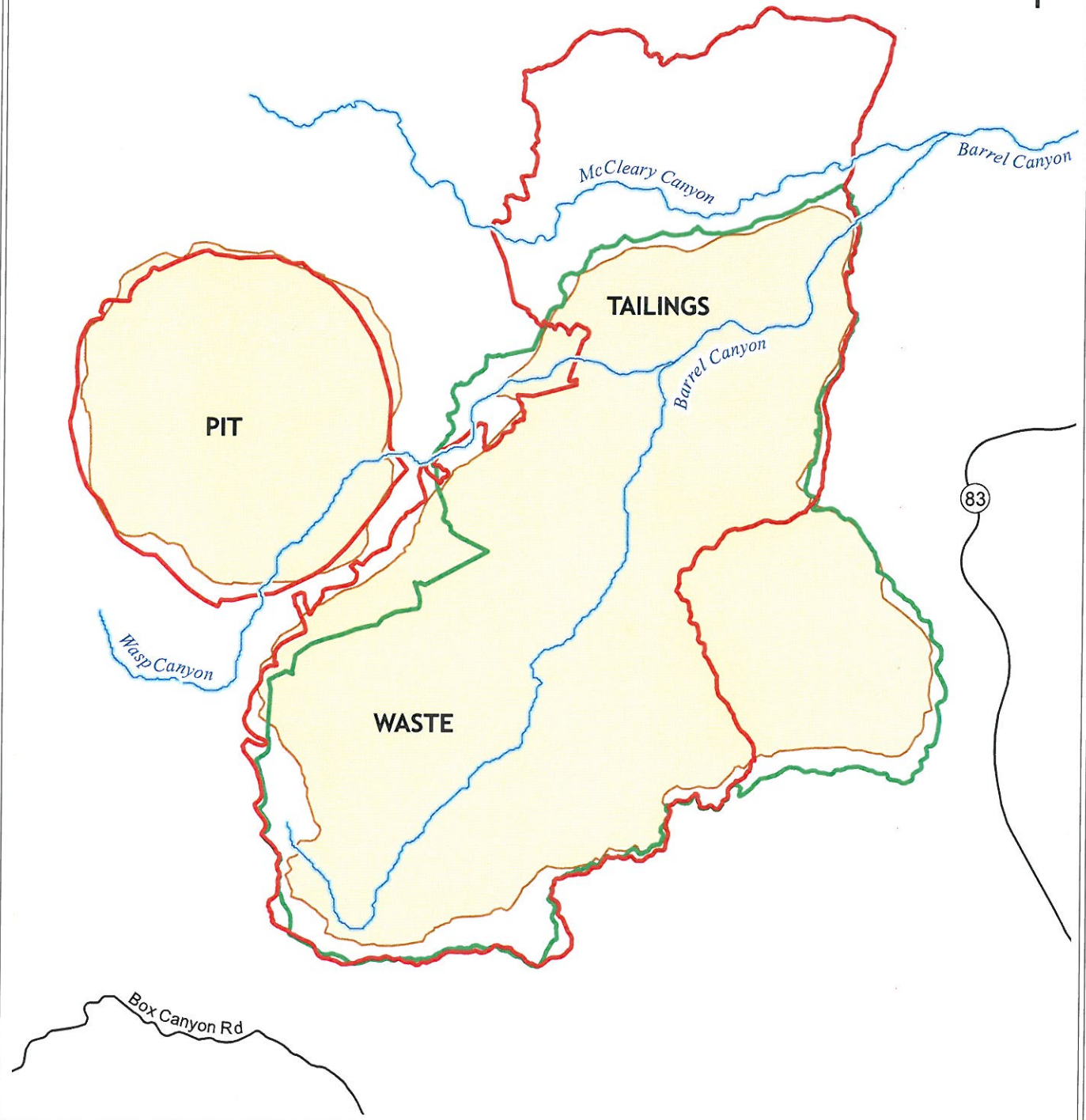
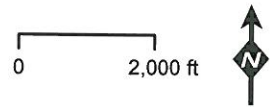


C.H. Huckelberry
County Administrator

CHH/mjk

Attachment

c: The Honorable Raúl Grijalva, Member, United States House of Representatives
The Honorable Ron Barber, Member, United States House of Representatives
The Honorable Chairman and Members, Pima County Board of Supervisors
Julia Fonseca, Environmental Planning Manager, Conservation and Sustainability
Office
Nicole Fyffe, Executive Assistant to the County Administrator



Comparison of Old and New Barrel Alternatives to Mine Plan of Operations



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GEOGRAPHIC INFORMATION SYSTEMS
 Pima County Information Technology Dept.
 201 North Stone Avenue - 9th Floor
 Tucson, Arizona 85701-1207
 (520)740-6670 - FAX: (520)798-3429



- Mine Plan of Operations
- Old Barrel (Pit same as Mine Plan of Operations)
- New Barrel