



SAVE THE SCENIC  
SANTA RITAS  
ASSOCIATION

## Press Release

For Immediate Release:

March 7, 2013

### **Rosemont Air Permit Based on Wrong Mining Plan and Manipulated Data** *ADEQ Decision Challenged by Local Coalition*

(Tucson, Ariz.) The air pollution permit issued in late January by the Arizona Department of Environmental Quality (ADEQ) for the proposed Rosemont Mine was based on an outdated mining plan that differs dramatically from the one Rosemont Copper announced last summer. The permit was also based on data that was manipulated by Rosemont to hide potential air pollution violations in Tucson and Pima County.

Those are among the key issues cited in an appeal of the ADEQ decision by Save the Scenic Santa Ritas (SSSR), a local coalition of farmers, ranchers, residents and businesses who are concerned about the damage the proposed open-pit copper mine would cause to southern Arizona's water supplies, air quality and economy.

"It's hard to believe that ADEQ would simply rubber-stamp this permit application," said Dr. Tom Purdon, a Green Valley physician. "ADEQ should have reviewed data about the mine that Rosemont actually intends to build, not data about a plan they discarded more than six months earlier."

In its appeal, SSSR identified several additional flaws in ADEQ's review of the Rosemont applications, including ADEQ's:

- failure to adequately evaluate Rosemont's setting of "process area boundary" for modeling air pollution emissions in direct violation of ADEQ standards;
- failure to adequately evaluate Rosemont's questionable claim that mining operations will not exceed 10 tons per year of certain hazardous air pollutants or 25 tons combined of those hazardous air pollutants; and
- failure to adequately evaluate Rosemont's manipulated modeling techniques that misrepresented weather conditions and other modeling inputs in order to avoid data showing violations of the Clean Air Act.

"Air pollution from the Rosemont Mine has the potential to harm the health and safety of southern Arizonans," said SSSR President Gayle Hartmann. "The ADEQ needs to follow its own regulations and require Rosemont to use accurate modeling techniques to ensure that the mine doesn't cause Tucson and Pima County to exceed air pollution standards. To do otherwise would jeopardize the health of those of us who live and work here."

Contrary to Rosemont's misrepresentations to potential investors and others, the ADEQ air pollution permit is just one of seven permits or other decisions that still must be obtained by Rosemont Copper before it can proceed with the mine:

- The US Forest Service must complete an Environmental Impact Statement (EIS) and issue a Record of Decision. In 2012, the Environmental Protection Agency gave the draft EIS its lowest possible rating and concluded that it was one of the worst EIS's ever reviewed. 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.
- The US Army Corps of Engineers must issue a permit under the Clean Water Act that allows Rosemont to pollute area waterways. As with the EIS, the Environmental Protection Agency concluded in 2012 that the Rosemont Mine would cause "significant degradation" of area waterways, including "substantial and unacceptable impacts" to Davidson Canyon and Cienega Creek.
- The US Fish and Wildlife Service (FWS) must issue a Biological Opinion assessing whether the Rosemont Mine would jeopardize nearly a dozen threatened and endangered species, including the jaguar, ocelot and southwestern willow flycatcher. In addition, the FWS is in the process of designating critical habitat for both jaguars and the southwestern willow flycatcher that may include the Rosemont Mine site. The Arizona Department of Game and Fish has concluded that the Rosemont Mine "will render the northern portion of the Santa Rita Mountains virtually worthless as wildlife habitat and as a functioning ecosystem, and thus also worthless for wildlife recreation." 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 ADEQ in 2012 is still under appeal on the grounds that it fails to protect area groundwater supplies. The Water Quality Appeals Board has not yet ruled on the appeal.
- The Forest Service must also consult with the State Historic Preservation Office and, potentially, the Advisory Council on Historic Preservation to ensure that the Rosemont Mine doesn't adversely affect historic and cultural sites, including traditional lands of the Tohono O'odham Nation and other Native American Tribes.

[Editors' Note: A copy of the statement of appeal is attached.]

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9 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**  
10 **DEPARTMENT OF ADMINISTRATION**  
11 **IN AND FOR THE STATE OF ARIZONA**  
12

13 **SAVE THE SCENIC SANTA RITAS**

14 **Appellant,**

15 **v.**

16 **ARIZONA DEPARTMENT OF**  
17 **ENVIRONMENTAL QUALITY,**

18 **Respondent.**

**No.**

**NOTICE OF APPEAL OF**  
**AIR QUALITY CONTROL**  
**PERMIT NO. 55223**

**(Rosemont Copper Company –**  
**Rosemont Copper Project)**

19  
20  
21 Pursuant to A.R.S. § 49-428(A), this Notice of Appeal is filed by the following  
22 party ("Appellant"):

- 23 1. Save the Scenic Santa Ritas  
24 Gayle Hartmann, President  
25 8987 East Tanque Verde, #309-147  
Tucson, Arizona 85749

26 This Notice of Appeal is filed against the Arizona Department of Environmental  
27 Quality ("ADEQ"). The action being appealed is ADEQ's issuance of Air Quality  
28 Control Permit No. 55223 on January 31, 2013, to Rosemont Copper Company

1 ("Permit"). Appellant received notification of ADEQ's final licensing decision on this  
2 matter no later than February 5, 2013.

3 Appellant will be adversely affected by ADEQ's decision to issue the Permit.  
4 Appellant filed comments with ADEQ in response to ADEQ's issuance of a draft permit  
5 and request for public comment on August 6, 2012. Appellant filed comments with  
6 ADEQ on October 31, 2012, both by its individual comments letter dated October 31,  
7 2012, and by being a signatory to the group comments letter dated October 31, 2012,  
8 whose first signatory is the Arizona Mining Reform Coalition.

9 Appellant files this appeal for the following reasons:

- 10 1. Potential emissions of Hazardous Air Pollutants ("HAPs"), pursuant to Clean  
11 Air Action section 112, 42 U.S.C. §7412, will exceed ten (10) tons per year of  
12 certain individual HAPs and 25 tons per year of all HAPs combined. ADEQ's  
13 approval of the Permit was also arbitrary, capricious, and not supported by the  
14 record because the record fails to demonstrate that ADEQ made an adequate  
15 evaluation of the application materials submitted by Rosemont and that  
16 Rosemont would not exceed these thresholds.
- 17 2. Because of the HAPs potential-to-emit, Rosemont should have applied for a  
18 Class I permit, rather than a Class II permit. ADEQ's approval of the Permit  
19 was also arbitrary, capricious, and not supported by the record because the  
20 record fails to demonstrate that ADEQ made an adequate evaluation of the  
21 application materials submitted by Rosemont and that ADEQ did not require  
22 Rosemont to apply for a Class I permit.
- 23 3. The modeling procedures are technically deficient, including, but not limited to,  
24 analyzing the current weather conditions, use of the AERMOD model, and  
25 definition of the "Process Area Boundary." Input data for modeling was not  
26 developed consistent with regulatory guidance. Consistent with its regulatory  
27 role to analyze the adequacy of the applicant's data and reports, ADEQ should  
28 have required the applicant to justify or revise modeling data inputs and

1 analytical conclusions to conform to regulatory guidances. ADEQ's approval  
2 of the Rosemont air permit was arbitrary, capricious, and not supported by the  
3 record because the record fails to demonstrate that ADEQ made an adequate  
4 evaluation of the application materials submitted by Rosemont and that the  
5 record fails to demonstrate that Rosemont used appropriate modeling  
6 procedures and inputs.

7 4. Data submitted by Rosemont in support of its permit application indicates the  
8 probability of NAAQS violations of certain criteria pollutants, including, but  
9 not limited to, particulate matter, ozone, and nitrogen dioxide. NAAQS  
10 violations by the applicant's operations have a significant likelihood of  
11 violating NAAQS limitations for the Tucson airshed and the Pima County SIP.  
12 ADEQ should have required additional emission controls to provide an  
13 adequate margin of safety to protect against the probability of NAAQS  
14 violations. ADEQ's approval of the Permit was also arbitrary, capricious, and  
15 not supported by the record because the record fails to demonstrate that ADEQ  
16 made an adequate evaluation of the application materials submitted by  
17 Rosemont and that the NAAQS standards would not be violated.

18 5. Particulate matter emissions are not sufficiently controlled to avoid a NAAQS  
19 violation. The new permit requirement that necessitates the installation of an  
20 ambient particulate monitoring device (Permit section XIV, B) is insufficient to  
21 ensure that particulate emissions limitations are not violated. Such violations  
22 should be avoided before they occur, rather than trying to correct operational  
23 failures after they occur. ADEQ's approval of the Permit was also arbitrary,  
24 capricious, and not supported by the record because the record fails to  
25 demonstrate that ADEQ made an adequate evaluation of the application  
26 materials submitted by Rosemont and that the record fails to demonstrate that  
27 the NAAQS particulate standards would not be violated.

28 6. Both Rosemont and ADEQ were aware prior to submission and subsequent

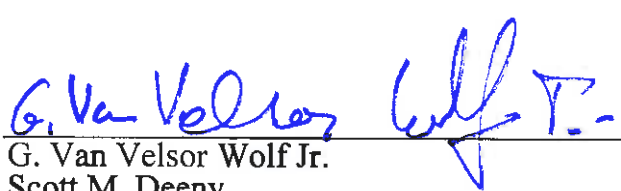
1 issuance of the Permit that Rosemont would not operate the facility as set forth  
2 in the permit application. ADEQ should have requested, and Rosemont should  
3 have provided, relevant new information to amend the application to more  
4 accurately reflect likely operations at the facility. This would avoid the  
5 unnecessary expense and delay from having to deal with permit revisions.  
6 Knowing that Rosemont was unlikely to operate its facility as set forth in the  
7 application prior to issuance of the permit makes ADEQ's decision arbitrary  
8 and capricious.

- 9 7. There is no evidence in the record to demonstrate that ADEQ conducted the  
10 required "administrative completeness" review of the permit application prior  
11 to commencing the substantive review. Merely deeming the permit application  
12 "administratively complete" by the passage of time is arbitrary and capricious  
13 in light of ADEQ's duty to actually conduct an "administrative completeness"  
14 review prior to commencing the "substantive review." The rule allowing  
15 ADEQ to deem a permit application "administratively complete" by the passage  
16 of time, A.A.C. R18-1-503(B), does not nullify ADEQ's obligation to conduct  
17 an "administrative completeness" review, A.R.S. § 49-426(C) and A.A.C. R18-  
18 1-501(2) & -503(A).

19 Appellant requests a hearing on this appeal and also requests that ADEQ withdraw  
20 its issuance of the Permit, for the reasons stated above.

21  
22 Date this 7<sup>th</sup> day of March, 2013.

23  
24 By:

  
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**CERTIFICATE OF SERVICE**

**IN THE ARIZONA OFFICE OF ADMINISTRATIVE HEARINGS**

**Re: *Save the Scenic Santa Ritas*, Appellant v. *Arizona Department of Environmental Quality*, Respondent**

**Case No.**

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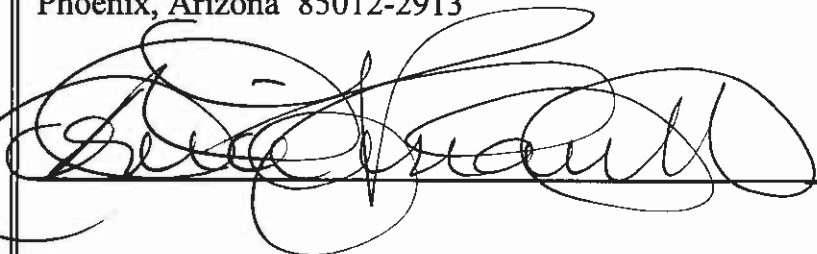
**ORIGINAL** filed via hand delivery  
this 7<sup>th</sup> day of March, 2013, with:

Hearing Administrator  
Arizona Department of Environmental Quality  
Office of Administrative Counsel  
1110 West Washington Street  
Phoenix, Arizona 85007

Courtesy **COPIES** of the foregoing  
mailed this 7<sup>th</sup> day of March, 2013, to:

Rosemont Copper Company  
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A large, stylized handwritten signature in black ink, likely belonging to Sean T. Hood, is written over a horizontal line. The signature is cursive and spans across the width of the text area.