

# Rosemont Copper Project EIS

## Cooperating Agency Coordination Meeting

### January 20, 2011

### Agenda

**Location:** Pima County Public Works Building, 201 N. Stone Avenue, Tucson, Arizona, 9<sup>th</sup> Floor Conference Room

**Facilitator:** Mindee Roth, Project Manager

#### AGENDA

9:30	Welcome, Project Update	Roth, Laford
10:00	Words from Forest Supervisor	Upchurch
10:30	Technical Reports and draft DEIS Literature Cited	Roth
10:45	Break	
11:00 – 12:00	Mitigation Lands Policies	Blaine, Lindenlaub

#### INVITED COOPERATING AGENCIES

**Tribes:** Tohono O'odham Nation  
**Federal:** Air Force, Army COE, BLM, Smithsonian Astrophysical Observatory  
**State of Arizona:** AZDEQ, AZMMR, AZDWR, AZGFD, AZGS, AZSMI, AZSLD, AZSP, ADOT  
**Local:** Pima County, City of Tucson, Town of Sahuarita

#### INVITED GUESTS

Rosemont Copper Company (Cheniae & Associates - Gordon Cheniae, Brian Lindenlaub, Westland Resources)  
National Park Service (Meg Weesner, Saguaro National Park East)

# Proposed Rosemont Copper Project

*DRAFT- NOT FINAL UNTIL INITIALED BY BEV EVERSON or MINDEE ROTH*

Approved by:

Bev Everson

Mindee Roth

Tom Furgason

File in:

Administrative

## Cooperating Agency Meeting Notes

January 20, 2011

The meeting was held at the Pima County Public Works Building.

### Attendees:

#### Forest Service

Reta Laford  
Jim Upchurch  
Mindee Roth

#### SWCA

#### Other

See attendance record

### Topics Discussed:

- Project Update, DEIS status and review steps, rough schedule going forward.
- Shared January 14, 2011 letter responding to alleged FACA violations.
- Shared CDs with roughly 350 technical reports and draft DEIS references for background in preparation for draft DEIS review.
- Forest Supervisor report, forest is working to provide a meaningful draft for cooperating agency review and input.
- Marjorie Blaine, Army Corps of Engineers, discussed Mitigation for Impacts to Waters of the U.S.

**Rosemont Copper Project EIS  
Cooperating Agency Meeting  
January 20, 2011**

**Attendance Record**

Cooperating Agency	Participant(s)
Tohono O'odham Nation	Addison Smith / Peter Steere Rosalynde Alexander
Air Force, 162 <sup>nd</sup> Fighter Airwing	
Army Corps of Engineers	Marjorie Blaine (by phone)
Bureau of Land Management	Dan Moore
Smithsonian Astrophysical Observatory	Dan Brocius (by phone)
AZ Department of Environmental Quality	Dennis Turner
AZ Department of Mines and Mineral Resources	MAJAN M. SINGH
AZ Department of Transportation	

Cooperating Agency	Participant(s)
AZ Department of Water Resources	
AZ Game And Fish Department	Linda Pollock AZ ATTY GENERAL John Windes & Aaron Miller
AZ Geological Survey	Lee Allison
AZ State Land Department	David Jacobs
AZ State Mine Inspector	Garrett Fleming
AZ State Parks	Bob Casavant
City of Tucson	RICHARD GRIMALDI PDEQ AIR QUALITY
Pima County	NICOLE Fyffe CREG SAIX NEVA CINDLEY RICH GRIMALDI JULIA FUNSEEN
Town of Sahuarita	Joe Marques Orlanti Henderson

Guests	Affiliation
Saguaro National Park National Park Service	↔ Meg Weesner 733-5170
Gordon Cheniae	Cheniae + Assoc.
Brian Lindenlaub	Westland Resources

014222



United States  
Department of  
Agriculture

Forest  
Service

Coronado National Forest  
Supervisor's Office

300 W. Congress  
Tucson, Arizona 85701  
Phone (520) 388-8300  
FAX (520) 388-8305  
Deaf & Hearing Impaired 711

2011 01 14  
4C (6)

File Code: 1950/1360/2810  
Date: January 14, 2011

Gayle Hartmann  
Save the Scenic Santa Ritas  
8987 E. Tanque Verde Road #309-157  
Tucson, AZ 85749

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NUMBER: 70081830000002524659**

Randy Serraglio  
Center for Biological Diversity  
P. O. Box 710  
Tucson, AZ 85702-0710

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Dick and Nan Walden  
Farmers Investment Co.  
P. O. Box 7  
Sahuarita, AZ 85629

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Dear Neighbors:

Thank you for your continuing interest in the activities of the Coronado National Forest.

I am writing in response to your letter dated December 27, 2010, regarding the Rosemont Copper Project environmental review process. This letter stated:

“...we are writing to notify you of violations of law in regards to the process of preparing the environmental impact statement (EIS) for the proposed Rosemont Mine. Specifically, the inclusion of Rosemont representatives on a regular and systematic basis in cooperating agency meetings is a violation of the Federal Advisory Committee Act, 5 U.S.C. App. II (FACA). Additionally, the Forest Service is in violation of the requirements of the Freedom of Information (FOIA) in regards to a response to a request filed by the Center for Biological Diversity on September 30, 2010.”

The Forest Service has not violated the FACA or the FOIA during the Rosemont Copper Project National Environmental Policy Act (NEPA) process.

The President's Council on Environmental Quality (CEQ) emphasizes early cooperation among agencies that have jurisdiction by law or special expertise with respect to any environmental



issue relating to the NEPA process of a specific project (40 CFR 1501.6). The benefits of such cooperation include, but are not limited to, sharing relevant information, providing technical expertise and staff support, avoiding duplication, and establishing mechanisms for successful intergovernmental relationships. In this spirit, the Forest Service, as the lead agency for the NEPA review of the Rosemont Copper Project, enlisted eighteen agencies to participate as "cooperating agencies". Monthly meetings are typically held with one or more of these agencies in attendance to exchange information.

The FACA applies to situations in which a specific group of individuals is formally designated to collectively advise and/or make recommendations to a Federal agency. This is not occurring in the Rosemont Copper Project environmental review process. The cooperating agencies in the NEPA process of the Rosemont Copper Project do not function as a formal, organized group or committee. The cooperating agencies will not offer consensus or collective advice or recommendations regarding Forest Service decisions. They are not directed by a group charter or similar document. Both individually and in their participation at cooperating agency meetings, these agencies simply provide technical assistance and support to the Forest Service regarding their individual jurisdiction and/or special expertise. In turn, we provide them with status updates regarding our progress in the NEPA process and preparation of an environmental impact statement (EIS).

Further, each cooperating agency has entered into a Memorandum of Understanding (MOU) with the Forest Service that provides the framework for its participation in the NEPA process and defines the respective roles and responsibilities of the parties. Each party has agreed to act on its own behalf and without any management control by the other party. Also, by agreement, each agency has acknowledged that the Forest Service is the lead agency for the NEPA review and will be the sole decision-maker regarding the activities on National Forest System Lands for the Rosemont Copper Project. No Forest Service decision-making authority is assigned to cooperating agencies, either individually or collectively.

In your letter, you state that the attendance of a Rosemont Copper Company representative at these meetings as a violation of the FACA. This is not correct. The participation of the project proponent (Rosemont Copper Company) at cooperating agency meetings has been and will continue to be solely for the purpose of providing and receiving relevant technical information about the project, including progress updates regarding the EIS process. The role of Rosemont Copper Company in the NEPA process was defined in an MOU with the Forest Service. Rosemont's participation in meetings with resource agencies and government officials was anticipated in this MOU and is appropriate. As the project proponent, it is essential that Rosemont provides the Forest Service with data and information relevant to its proposal. The monthly meetings held with cooperating agencies provide an excellent forum for the exchange and sharing of technical information and are not deliberative in nature or decision-making venues.

I understand that your groups are anxious to assist us in the NEPA process for the Rosemont Copper Project. To that end, when I am satisfied with production of a Draft EIS, there will be full opportunity for public involvement. I encourage your groups to avail yourself of the ample opportunities for public involvement that will follow publication of a Draft EIS.

With regard to the FOIA request submitted by Mr. Randy Serraglio on behalf of the Center for Biological Diversity, it is our intent to provide all requested records by January 31, 2011. I advised Mr. Serraglio of this in my letters to him dated December 13, 2010, and December 31, 2010, each of which transmitted records responsive to his request.

Again, I thank you all for your interest in this important project.

Sincerely,

  
for JIM UPCHURCH  
Forest Supervisor

cc: The Honorable John McCain, United States Senate  
The Honorable Jon Kyl, United States Senate  
The Honorable Raul Grijalva, United States House of Representatives  
The Honorable Gabrielle Giffords, United States House of Representatives  
The Honorable Jay Jensen, Deputy Undersecretary, U.S. Department of Agriculture  
The Honorable Jan Brewer, State of Arizona  
Mr. Corbin Newman, Regional Forester, U.S. Forest Service

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<small>Sent To</small>	Randy Serraglio - CBD
<small>Street, Apt. No., or PO Box No.</small>	PO Box 710
<small>City, State, ZIP+4</small>	TUCSON, AZ 85702

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<p>1. Article Addressed to:</p> <p style="font-size: 1.2em;">Randy Serraglio            Center for Biological            Diversity            P.O. Box 710            Tucson, AZ 85702</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
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<p>1. Article Addressed to:  <u>Dick and Nan Walden</u>  <u>Farmer's Investment Co.</u>  <u>P.O. Box 7</u>  <u>Sahuarita, AZ 85629</u></p>	<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
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## APRIL 2008 CORPS MITIGATION RULE SUMMARY OF REQUIREMENTS

The following provides a brief summary of the requirements for mitigation provided in the 2008 compensatory mitigation rule (73 FR 19594).

### Mitigation Type

Mitigation must be evaluated according to a mandatory hierarchy, as outlined below.

- *Mitigation bank* – none currently established in Arizona
- *In-lieu fee program* – 10 current sponsors; very few projects currently in Arizona
- *Permittee-responsible mitigation* –
  - Under a watershed approach
  - Through onsite and in-kind mitigation
  - Through off site and/or out-of-kind mitigation

### Mitigation Ratio

The district engineer is responsible for determining what, if any, compensatory mitigation is required to offset the unavoidable impacts to waters of the U.S. as a result of the permitted activity.

- Mitigation must compensate for loss of the identified functions of the waters at least at a one to one ratio, but may be *greater* than one-to-one depending on site-specific circumstances.
- It is recommended that a functional assessment of the impacted waters of the U.S. be completed to determine the appropriate mitigation ratio for the project.

### Mitigation Method

The permit applicant is responsible for proposing an appropriate mitigation option. The four acceptable methods of mitigation are listed below in order of preference:

- Restoration – returning the natural/historic functions to a former or degraded aquatic resource
- Enhancement – producing a gain in a specific aquatic resource function, rather than a gain in aquatic resource area
- Establishment – developing a new aquatic resource at an upland site
- Acquisition/preservation – protecting or maintaining an existing aquatic resource without gain in resource function or area