

Testimony

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**Subcommittee on National Parks, Forests and Public Lands
And
Subcommittee on Energy and Mineral Resources
Committee on Natural Resources
United States House of Representatives**

Concerning

**Our National Forests at Risk: The 1872 Mining Law and its Impact
on the Santa Rita Mountains of Arizona**

**February 24, 2007
Tucson, Arizona**

Mr. Chairman and Members of the Committee, thank you for the opportunity to present the Department's views on the impacts of the 1872 Mining Law on National Forest System lands, in particular in relation to the Rosemont Mine proposal on the Coronado National Forest.

Forest Service policy for administering the 1872 Mining Law

Forest Service regulations provide rules and procedures for using the surface of National Forest system lands in connection with locatable mineral operations authorized by the 1872 Mining Law. This law and its amendments confers to a citizen a statutory right to enter upon public lands to search for and develop minerals and engage in activities reasonably necessary for such uses. Operations covered by these regulations include all reasonable activities, regardless of whether such operations take place on or off mining claims on National Forest System lands. All prospectors and miners whose proposed activities could result in significant environmental impacts must comply with these regulations through submittal and agency approval of plans of operation.

All proposed activities are conducted to minimize, prevent or mitigate and reclaim adverse environmental impacts to surface resources. Reasonable conditions, which do not materially interfere with such operations, are required to ensure environmental impacts to surface resources are minimized. In evaluating a proposed plan of operations, the Forest Service considers the environmental effects of the mineral operation, including whether the proposed operation represents part of a well-planned, logically sequenced mineral operation. On lands that are open for entry under the 1872 Mining Law, the statutory right of the public to prospect, develop, and mine valuable minerals is fully honored and protected.

The Forest Service Minerals Program Policy signed by Forest Service Chief Jack Ward Thomas in 1995 states that the Forest Service will "foster and encourage private enterprise in the development of economically sound and stable industries, and in the orderly and economic development of domestic resources to help assure satisfaction of industrial, security, and environmental needs." This national policy was affirmed by Chief Dale Bosworth in 2004.

Likewise, the Department of Agriculture has a long-standing policy regarding mining operations on National Forest System lands open to mineral entry. In a portion of a 2003 informational memorandum to the Chief of the Forest Service, Under Secretary Mark Rey stated:

1. The Forest Service's locatable mineral regulations 36 CFR 228 Subpart A have not been amended or limited and remain fully in effect for operations on or off mining claims.
2. The Forest Service is not required to conduct mining claim validity exams before processing and approving proposed plans of operation.
3. The Forest Service will conduct a timely review of proposed operations and continue to ensure proposed activities are required for and reasonably incidental to prospecting, mining, or processing operations.
4. The Forest Service will continue to ensure operations comply with the regulations and minimize adverse environmental effects to the extent feasible.

For National Forest System lands that are open to entry under the 1872 mining law, the Forest Service is not required to inquire into claim validity before processing and approving a plan of operation.

Mining on the Coronado National Forest

The Rosemont property is part of the historic Helvetia Mining District, which began producing copper in the late 1880's. Small, underground workings and diggings in the district yielded copper and other metals continuously from 1915 to 1951. Until 1950, total production from the Helvetia District included 227,300 tons of ore which yielded 17,290,000 pounds of copper, 1,097,980 pounds of zinc, and 180,760 ounces of silver. Over the last several decades, various mining companies conducted mineral exploration in the Helvetia Mining District, and two companies proposed land exchanges to facilitate mining in Rosemont Valley . These proposals were subsequently dropped when copper prices declined. In December 1995, ASARCO, Inc. was granted mineral patents on 347 acres of National Forest lands that were later sold in 2004. Shortly thereafter, Augusta Resource Corporation purchased the patented land and is currently interested in developing their mineral deposit. The Rosemont mine includes the land patented in 1995, adjacent land which had been patented in the late 1800s and early 1900s, and unpatented claims on National Forest System lands.

Coronado National Forest Land Management Plan

The current management direction for minerals in the Coronado National Forest Land Management Plan is to support environmentally sound energy and mineral development and reclamation.

The proposed Rosemont Mine is within Management Areas 1 and 4 in the existing Coronado National Forest Plan. Management area designation provides overall management direction for the area based on the resources and uses occurring in the area. Management emphasis in Area 1 is for visual quality and semi-primitive dispersed recreation opportunities including those related to wildlife. There is no management direction for Area 1 that is specific to minerals. The emphasis for Management Area 4 is to manage for a sustained harvest of livestock forage and fuelwood while maintaining and improving game animal habitat. Visual quality objectives in this management area should be met or exceeded and dispersed recreation activities may occur, with the exception of those that adversely affect the productivity of the land or resources. Watershed and soil conditions will be improved or maintained. Direction for minerals management in Area 4 addresses mineral materials only, specifically, that permits will be required for common materials for personal or commercial use, and borrow pits will be located in areas such that resources or facilities will be enhanced.

Concerning the Forest Plan revision, Phase I of the Comprehensive Evaluation Report for the plan revision will be completed in March, 2007, and the revision itself is scheduled to be completed by December 2008.

Rosemont Project

The Coronado National Forest received a preliminary mine proposal from Augusta Resource Corporation on August 1, 2006. The proposal lacked sufficient detail to initiate National Environmental Policy Act analysis, and was retracted by Augusta Resource Corporation on October 20, 2006. A proposal for geotechnical and hydrogeologic drilling was submitted to the Forest in December, 2006. The Forest responded with a request for additional information. The company is currently revising the proposed drilling Plan of Operations, and expects to resubmit it soon. The Forest Service will evaluate the drilling proposal under the National Environmental Policy Act with public involvement and disclosure and the appropriate analysis, documentation, and decision documents.

If the Forest receives a proposed Plan of Operations for development of the Rosemont mine from Augusta Resource Corporation, it will be evaluated according to the locatable mineral regulations and the National Environmental Policy Act. The analysis and documentation in the National Environmental Policy Act process will be commensurate with the proposed mine activities.

Thank you for this opportunity to address the subcommittee. I will be pleased to answer any questions that you may have.