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Richard S. Walden  
Date: 2/14/14



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**Name of the proposed project:** Rosemont Copper Project

**Name and Title of the Responsible Official:** James Upchurch, Forest Supervisor

**National Forest Name:** Coronado National Forest  
Nogales Ranger District

**The Rosemont Copper Project Will Adversely Impact FICO's Farming Operation**

As noted in FICO's comments on the draft Environmental Impact Statement (DEIS) Rosemont Copper is proposing to locate its mine water supply wells in the Santa Cruz Valley at sites adjacent to FICO's farming and water utility operations. (See FICO Letter, page 2)

The USFS responded that it noted aspects of potential impacts on water resources have been addressed in the FEIS. Potential impacts to groundwater availability, including water availability for homeowners, the regulatory mechanisms under which Rosemont is allowed to withdraw water, and the uncertainties associated with the groundwater modeling techniques, are analyzed. The potential impacts from subsidence due to groundwater withdrawal are addressed in Chapter 3, Geology, Minerals, and Paleontology. All mitigation measures associated with water resources are summarized in the mitigation and monitoring appendix of the FEIS and analyzed in the appropriate resource section in Chapter 3, including discussion of the limitations of those mitigation measures, specifically CAP recharge and the well owner protection agreements. (See FEIS, Appendix G, #314)

**Objection:** The USFS stated that "[r]egardless of the ability of Rosemont to apply for and receive rights from the Arizona Department of Water Resources to pump water above and beyond what their permit currently allows, any substantial change in water use could trigger a review of the applicability of the current NEPA analysis by the Forest Service." (FEIS Appendix G #916.) However, the USFS failed to provide any analysis of the potential impacts of this increased groundwater pumping, particularly for neighboring landowners.

This response is inadequate as there is no guarantee that an increase in Rosemont's groundwater use would require additional NEPA analysis, and is overly vague as to how the determination would be made.

**Suggested Remedy:** The USFS should require additional NEPA analysis should Rosemont propose to increase its groundwater pumping anytime during the life of the mine, or if it makes any other changes to any other Federal, state or local permits, or the proposed Mine Plan of Operation, and include this requirement in a revised DEIS that is made available for public review and comment.

**Limited Scope and Scale of the Sahuarita Heights Well Owner Agreements** The DEIS identifies the Sahuarita Heights Well Owner Agreements as a mitigation measure against "potential effects of mine related pumping on residential supply wells in the Sahuarita Heights neighborhood .... " DEIS, at 74, 276. The DEIS goes on to state the well protection program will "ensure that residential water wells in the Sahuarita area remain productive throughout the mining operation." DEIS, at 74-75, 276-77. This statement and overall discussion about this mitigation is overly broad, misleading, and must be clarified with further analysis. (See FICO Letter, page 3)

The USFS indicated in the FEIS that it had not analyzed impacts to individual domestic wells; the reasons for and limitations of this analysis are described in the FEIS. The potential mitigation measures applicable to domestic water supply and individual well owners are described in the mitigation and monitoring appendix of the FEIS, and their effectiveness is analyzed in Chapter 3, Groundwater Quantity. This includes well owner agreements on both the west and east sides, and CAP recharge. (See FEIS, Appendix G, #364)

**Objection:** The USFS does not provide specifics, details, or additional clarifications of the proposed well protection plan that would provide an objective basis for determining its adequacy as a mitigation measure. The USFS merely restates the unsupported assertion that the proposed Rosemont United Sahuarita Well Owners (RUSWO) well protection program will ensure that residential water wells in the Sahuarita area would "...remain productive throughout the life of minerals production operations." (FEIS Executive Summary at xxix; FEIS at 359.)

First, it is obvious that this agreement does nothing to actually "minimize, rectify, reduce, or eliminate" depletion of the regional aquifer in the Sahuarita area.

Second, the agreement does not appear to require that Rosemont provide "wet" water for groundwater recharge to mitigate declining water tables in the Sahuarita area caused by groundwater mining for the project.

Third, the FEIS explicitly states that "the well protection plan would be effective at mitigating impacts to well owners near the mine water supply pumping, *provided that those residential owners have entered into the agreement*" with the Rosemont Copper Company (Id., emphasis added.) It does nothing for well owners who choose not to enter into legally binding agreements with Rosemont Copper Company for any number of legitimate reasons. Many well owners refused to sign agreements because they believed or their legal advisors said the agreements were not legally binding or enforceable in the face of preemptive state and federal law.

The limited liability provision of the Rosemont agreement did not come close to offsetting the actual costs of damages. Rosemont offered \$5,000 per well, yet drilling a new private well could cost \$25,000-\$50,000. The costs to redrill and equip an agricultural irrigation well could be approximately \$500,000.

Moreover, the RUSWO is limited only to residential wells; the program was not offered to other classes of wells and well owners in the area of impact, namely domestic water supply wells for water utilities, agricultural wells, and industrial wells.

Also, Rosemont's Copper Project promise to recharge available CAP water to offset groundwater pumping in the Sahuarita is meaningless. Rosemont's commitment is limited by the fact that will recharge *available* CAP water (emphasis added.) Rosemont does not have a CAP allocation. Also, there is not enough CAP water legally or physically available to the Rosemont Copper Project in the amounts necessary to offset Rosemont's groundwater mining in the Sahuarita area. It is highly unlikely that CAP water will become available for groundwater recharge purposes in the foreseeable future. Given ongoing drought conditions in the Colorado River Basin, the predictions by climate scientists that drought conditions are likely to continue in the Southwest, current water demands in the Tucson AMA, and the recent Bureau of Reclamation (BOR) Colorado River Basin Water Supply and Demand Study that predicts continuing future imbalances between water supply and future water demand, it is highly unlikely that any CAP water will be available for groundwater recharge to mitigate groundwater mining by the Rosemont Copper Project. (see Colorado River Basin Water Supply and Demand Study, Bureau of Reclamation, December 2012)

Finally, and most importantly, the USFS fails completely to address the issue of the voluntary nature of the mitigation measures proposed by the Rosemont Copper Project. As the USFS admits, Rosemont has no legal obligation to recharge water to offset groundwater extracted under their groundwater withdrawal permit. Thus, it is not an acceptable mitigation measure.

**Suggested Remedy:** The USFS must prepare a revised DEIS that either eliminates from discussion Rosemont Copper using Central Arizona Project water as a mitigation measure or includes enough detail about the availability of CAP water for recharge, the proposed well protection plan, and the Rosemont United Sahuarita Well Owners agreements to allow for a credible assessment of their effectiveness as mitigation measures. Effective mitigation measures will include legally enforceable, unqualified, and unconditional requirements that bind Rosemont Copper and that require either a reduction or cessation in mineral production and associated groundwater pumping for the proposed mine at if existing well owners are adversely affected. The FEIS must consider real requirements to provide "wet" water to recharge depleted regional aquifers or include requirements to provide alternative water supplies for existing well owners and local communities if mining-related groundwater pumping depletes the regional aquifers they depend on for their life needs. The agency must provide this information in a revised DEIS that is released for public review and comment. The Rosemont Copper Project should be denied if the proposal cannot meet these mitigation requirements.

**Economic Impacts to the Existing Well Owners** Previous comments on the DEIS noted the impact of how reduced groundwater levels in the Santa Cruz Valley west of the mine site will economically affect existing well owners. Specifically, each foot of additional aquifer drawdown increases the costs to groundwater users due to the additional lift. The DEIS identified 70 feet of additional drawdown attributable to the mine pumping in the Santa Cruz Valley.

Moreover, based on Rosemont Copper's groundwater pumping locations, the existing wells most directly impacted by the mine pumping will be FICO's agricultural water supply wells and FWC's domestic water supply wells. (See FICO Letter, page 3)

The USFS responded that increased costs to individual well owners or rate payers due to increased pumping costs, caused by drawdown from mine water supply, is identified as a potential impact in Chapter 3, Socioeconomics and Environmental Justice, as is the economic effect of the loss of water supply for real estate near the mine pit. (See FEIS, Appendix G, #364)

**Objection:** Adverse economic impacts from the mine are not just limited to damage “near the mine pit.” The well site chosen by Rosemont is adjacent to FICO land, which is one of the largest remaining tracts of land owned by one owner suitable for future development. Annexation to the town of Sahuarita was predicated on the Town agreement to certain densities for future development. As a result, FICO has vested property rights in the future use of its land, and expended considerable funds to secure its 100 year assured water supply analysis. However, land without water (or aquifer levels so depleted that it is uneconomic to pump) is land without value. Thus the proposed Rosemont Mine will harm FICO.

The USFS identified Issue 3B: West Side Groundwater Availability as a major issue in the FEIS. (See FEIS Executive Summary at xi.) It is evident from this issue identification that the USFS clearly understands the issue that “[w]ater needed to run the mine facility could reduce groundwater availability to private and public wells in the Santa Cruz Valley, specifically the communities of Sahuarita and Green Valley, Arizona and that household water availability could potentially be reduced.” (FEIS Executive Summary at xi.)

While the USFS acknowledges public concern over the absence of analysis on predicted impacts on individual well owners in the DEIS, the USFS did not respond adequately to those concerns by providing additional analysis in the FEIS. Instead, the USFS continues to avoid the bottom line issue of what are the likely impacts of groundwater pumping by the Rosemont Copper Project on individual home owners, existing businesses, and communities by characterizing impacts as merely potential, (i.e., “could reduce groundwater availability”) and by saying that “the information available for most wells remains insufficient for assessing impacts to individual wells.” (FEIS at 291.)

The USFS apparently was able to collect enough information “...to describe the progression of impacts to all wells over time and space, to give a better picture of potential impacts that could occur to individual wells.” (*Id.*) The USFS was able to describe the existing rate of water table declines and predict an *additional* decline in the water table in the upper Santa Cruz Basin of 1.5 to 3.5 feet per year and a total drawdown of the regional aquifer of 90 feet due to groundwater mining by the Rosemont Copper Project. (See FEIS at 317.) The USFS was able to predict the geographic extent of the impact from groundwater pumping (i.e., 3 to 4 miles from the pumping center), the duration of impact in years (100 to 140 years), and the approximate number of the 500 to 550 individual wells that would be affected by Rosemont’s groundwater pumping. (See FEIS at 317-318.)

The USFS asserts that limitations of the Mine Water Supply model developed by Montgomery and Associates (2009a; 2010) that the USFS used to model impacts to groundwater levels associated with the mine supply well field made USFS assessment of impacts to local wells “not feasible.” (FEIS at

305.) The USFS also asserts unpersuasively that it would be “prohibitively costly and time consuming to create...” an inventory of existing wells with the requisite information to assess impacts to existing well owners. (*Id.*)

While the USFS identifies groundwater pumping for the Rosemont Copper Project and the reduction of groundwater availability for existing well owners as a major issue in the FEIS (i.e. Issue 3B), there is no quantitative or even a qualitative analysis of a reduction in groundwater availability nor any socioeconomic analysis of the effect of groundwater mining on existing well owners.

**Suggested Remedy:** The USFS should conduct an inventory of the 500 to 550 individual wells that could be affected by groundwater pumping at the production well-sites for the Rosemont Copper Project. The USFS should obtain the necessary information on well depth, screened intervals, and current depths to groundwater to assess likely impacts to existing well owners within the affected geographic area of the mine supply well field for the project. After the well inventory is completed and the necessary data and information has been compiled, the USFS should provide a quantitative hydrologic and socioeconomic analysis of the likely impact of the predicted 90-foot drawdown of the regional aquifer over the next 100 to 140 years. What is the likelihood that existing wells will dry up? What is the likelihood that groundwater pumping will affect groundwater supplies for agricultural users? What is the likely impact on local community water systems? What additional costs will well owners suffer in order to pump groundwater from deeper aquifer depths? The USFS must analyze the reasonably foreseeable effects of groundwater pumping on existing water users in the local community in the upper Santa Cruz Basin and provide this information in a revised DEIS that is released for public review and comment.

**The Potential Socio-economic Impact Analysis on Property Owners** The potential socio-economic impact analysis on property owners in the DEIS were very cursory and unsupported statements are made regarding the Project's impacts on property values. (See DEIS" "p.104 II A). In that section the DEIS states that there is a "potential decrease in property values of 15% within 2 miles of the project area." There is no support or analysis for this sweeping conclusion or geographic limitation. Our land is the underlying asset for our farm and our water company. The vistas, quiet, beauty, air quality, lack of traffic congestion and quality and quantity of drinking water as well as other factors all impact the value of that asset. There must be a supplemental DEIS addressing the impact of the Project on property values and ongoing concerns like our farm and water company. (See FICO Letter, page 8)

The USFS in the FEIS recognized the Rosemont Mine, as an industrial facility that dramatically changed the natural landscape with its open pit and massive waste piles and intensive use of the existing scenic highway as a haul road, could damage the attractiveness of the region surrounding the mine as a place to live and/or operate a business. One way to measure the damage done to local amenities and economic well-being is to study the impact of noxious facilities on property values. As the USFS states, “Measuring the social costs of mining is challenging because of the absence of quantitative values for social conditions. Estimating changes in property values is one approach to measuring social changes, as it reflects changes in structural attributes of homes and neighborhood quality. To date, there has been limited research completed on open-pit mining operations, especially in the southwestern United States. In order to assess potential impacts to property values, other open-pit mining studies and reported impacts from industrial sites (such as demolition dumps, waste sites, hazardous manufacturing facilities,

freight facilities, etc.), landfills, and large-scale feed operations are discussed in the analysis of the proposed mine's potential impacts." (FEIS at 1105, emphasis added.)

The FEIS goes on to state, "Although the empirical literature includes many hedonic valuation studies spanning the past several decades, very few studies have focused specifically on the impact of surface mining on surrounding property values." (*Id.*)

Unbelievably, the USFS used a 1996 analysis based on the traditional approach of evaluating the sales values of individual properties. "Air Quality and View Degradations due to Copper Mining and Milling: Preliminary Analysis and Cost Estimates for Green Valley, Arizona" (Green Valley study) was published in "Nonrenewable Resources" in 1996 (Kim and Harris 1996). For the purposes of evaluating the potential effects of the Rosemont Copper Mine on nearby property values, there are several advantages in using the information from the Green Valley study. (*Id.*)

The USFS in the FEIS used this Green Valley study to estimate the potential impact of the Rosemont Mine on property values in the vicinity of the mine. It concluded that, "In aggregate, the best estimate based on available information is that development of the mine would reduce the value of privately owned properties within 5 miles by approximately \$3.2 million, or a little less than 5 percent of their current value. Properties within 1 mile would be the most affected (11 percent decrease in value), followed by those between 1 and 2 miles of the mine (9 percent decrease in value)." (FEIS at 1107, Table 230.)

Although the USFS did not provide the new socioeconomic analyses in a DEIS to allow for adequate public comment and review, including review of the appropriateness of the application of the economic literature, the reliability of the data, and the accuracy of the calculations, serious general conceptual problems have been identified with those analyses that indicate that they cannot be relied upon in making a decision on the propose Rosemont Mine.

The USFS in this part of the FEIS does not characterize the study of changes in property values as a study of economic impacts. It characterizes the impacts as "social." This is another example of the USFS and the FEIS ignoring or denying the economic impacts associated with degradations in natural landscapes.

Second, the USFS in the FEIS makes abundantly clear that the study that it used to estimate the impact of the Rosemont Mine on property values was not reliable for this purpose for many reasons. To quote the FEIS and its supporting consultants' report:

- i. "One important limitation of the Green Valley study is that the analysis was based on real-estate transactions over a relatively short (4-month) period. Only 20 properties in Green Valley were sold during that period, resulting in an unusually small sample for a hedonic property value study." (FEIS at 1105.)
- ii. "The Green Valley study is now more than 15 years old, and the typical values of residential property in Green Valley may be quite different from typical property values in proximity to the proposed Rosemont Copper Mine." (FEIS at 1105.)
- iii. "The Green Valley study found that both dust pollution and viewshed degradation decreased property values 'significantly.' More specifically, the impact of dust pollution on property values was determined to be greater than that caused by viewshed degradation." (FEIS at 1106.)

- iv. The Green Valley situation was totally different from that presented by the proposed Rosemont Mine. In the Green Valley study a retirement community was located adjacent waste piles. Homes were located so close to the waste piles that the waste piles towered over the homes often completely obscuring the view from the house. In addition wind carried dust from the waste piles some distance to neighboring properties. The “view shed degradation” was not the view of the open pit mine but the blocking of any view from backyards due to the waste piles towering over the homes. (Kim and Harris 1996; BBC Research and Consulting 2013)
- v. “Applying the Green Valley study relationships between distance from the mine and property values may somewhat understate the potential effects of the Rosemont mine on property values. In addition to the distance variable, the Green Valley study also incorporated a variable to examine the additional effects on property values for homes that faced the tailings bank. This variable, also statistically significant, indicated an additional reduction in property values for properties that did face the tailings banks compared with those that faced east, away from the tailings. Overall, the magnitude of this effect was relatively small compared to the distance variable (about one-third of the distance effect in scale). However, given the limited information in the Green Valley study publication and absent access to the original data, we cannot reliably transfer this effect to potentially impacted properties in proximity to the proposed Rosemont mine.” (BBC Research and Consulting, 2013, p. IV-4) That is, only part of the negative impact measured by the Green Valley study was applied in the application of this inappropriate study to the Rosemont Mine impacts.
- vi. “The Green Valley study does not provide any information regarding effects on the values of more distant properties. This does not rule out the possibility that values of properties farther from the mine, such as homes or ranches in the Sonoita or Patagonia areas, could also be affected if the proposed mine is developed. The potential reduction in amenity-based migration, discussed previously in this resource section, would tend to reduce demand for housing in the area. That effect could, however, potentially be offset by new demand for housing from workers associated with the proposed mine, since an indefinite number of employees may relocate to the area.” (FEIS at 1107.) The last sentence in this FEIS paragraph was previously contradicted by the FEIS in its projections that all of the workers for the mine could be found among existing residents of the Greater Tucson Area and that there would be no significant increase in the demand for housing in the vicinity of the mine. “Operation of the project is expected to have very little impact to the availability of housing because the number of workers needed for the operation of the mine and mill (average annual employment is 434 workers) and the resulting population changes (an estimated 0.08 percent increase in the population of Tucson and the Green Valley area if most or all employees relocated) would be far below the number of vacant housing units in Pima, Santa Cruz, and Cochise Counties (more than 60,000 units). Tucson alone had more than 24,000 vacant units (U.S. Census Bureau 2010g). As a result, there would be minimal demands on the local housing supply during the operational phase of the mine. In-migration would result in beneficial long-term impacts to the local housing supply; an increase in population would help offset local housing vacancies, which are estimated to range from 11.9 to 14.3 percent.” (FEIS at. 1101.)

These statements by the USFS and its consultant make clear that the transfer of values and relationships from a study of air pollution problems and towering waste piles that dominated views from the backyards of homes in a retirement community could not be reliably applied to the Rosemont Mine and the much more dispersed rural settlement that surrounds it. In addition, the USFS in the FEIS limited

any impact from the mine on property values to a five mile radius. The Green Valley study limited the impacts to a 10 mile radius. As cited above, the USFS recognized that its approach in the FEIS did not deal with the impact of the industrialization of this natural landscape, including the open pit, waste piles, congestion of scenic and other highways, night lighting, dust, sound, etc. on a much broader area surrounding the mine.

Because there were only a small number of privately-owned land parcels (576) not owned by Rosemont Copper within the five-mile radius around the mine and the estimated decline in value was so small (less than 5 percent on average), the conclusion the USFS reached in the FEIS was that the degradation in the value of natural landscape amenities due to the Rosemont Mine measured by the decline in property values was exceedingly small compared to the total value of land in the study area. Again, the USFS was able to conclude that the impact of the Rosemont Mine on the landscape values and quality of life in the region surrounding the proposed mine was trivially small.

Finally, the USFS lost its focus on what the property value study was seeking to estimate, namely the degradation in the value of the natural amenities or environmental services provided by the natural landscapes that the Rosemont Mine would degrade. In the end, the USFS in the FEIS used this information to calculate the property tax revenues that would be lost because of its calculation of a small reduction in the value of some property surrounding the Rosemont Mine. (FEIS at 1108, Table 231.) In fiscal year 2010/2011, Pima County collected about \$384 million in property taxes. (Pima County FY 2012/2013 Adopted Budget, p. 16-64) The USFS estimate of the decline in tax collections due to the Rosemont Mine was about \$44,000 or about one-hundredth of one percent. (FEIS at Table 231.) That is an astoundingly trivial number.

The USFS acknowledges that the model it used to calculate these impacts was inappropriate and unreliable yet relied on it in the FEIS. The USFS was also clearly confused in this section of the FEIS: It lost track of what it was actually calculating and why. The result is a set of confused and misleading conclusions that should not be used in making any decision concerning the proposed Rosemont Mine.

Additionally, the USFS's focus on economic impacts to property values is improperly narrow. These impacts would also occur some distance from the mine, including in the Green Valley and Sahuarita communities.

As discussed previously, there would be a direct impact to property owners from the pumping of significant amounts of groundwater by Rosemont. This would result in both increased water pumping costs and as well as potential depletion of available supplies.

Rosemont has mining claims that extend over the ridge of the Santa Rita Mountains facing west that would diminish the quality of the view sheds of Green Valley, Sahuarita and surrounding communities. If the Rosemont Mine is allowed, it would facilitate Rosemont's future development of its Peach-Elgin, Broad Top Butte and Copper World claims. The visual and aesthetic impacts to this spectacular scenery from both sides of Santa Ritas will directly affect real estate values and the businesses that depend on real estate and tourism.

The USFS also failed to take into consideration the impacts to the production value of farmland which will be affected by the water withdrawals and migration of an existing sulfate plume due to siphon effect of Rosemont's groundwater pumping.

**Suggested Remedy:** The new socioeconomic analysis circulated for the first time in the FEIS should be circulated as a revised DEIS so that the public can review that analysis in detail and provide recommendations to the USFS to correct and improve the analysis before it is used by the USFS in making a decision on the Rosemont Mine. This will allow the USFS to prepare a professional and reliable socioeconomic section that will not mislead or confuse USFS decision-makers as they rule on the proposed Rosemont Mine. Alternatively, and preferably, the Forest Service should commission the preparation of a current, reliable analysis of economic and social effects.

Additionally, the scope of the socioeconomic impacts must be broadened to also include impacts to the property values in the Sahuarita and Green Valley communities.

**Rosemont Will Impair Ability to Meet Arizona Safe Yield Goal in Tucson AMA** As noted in DEIS comments, the State of Arizona, in its Groundwater Law of 1980 has established a state goal of "safe yield by 2025" for groundwater pumping in Active Management Areas (AMA) to reach sustainability. A new, unlimited user of water like Rosemont will certainly make this state goal unattainable in the Tucson AMA. This must be discussed and analyzed in terms of socio-economic and property value impacts in a supplemental DEIS." (See FICO Letter, page 7)

The USFS responded that the potential impacts to water resources are discussed in the Groundwater Quantity and Quality section of the FEIS's Chapter 3, as well as the "Surface Water Quantity and Quality section. The potential impacts to property values are discussed in the Socioeconomics section of Chapter 3." (See FEIS, Appendix G, #461)

The USFS acknowledges in the FEIS that groundwater mining for the Rosemont Copper Project will affect overall groundwater availability within the Upper Santa Cruz Subbasin and within the Tucson AMA as a whole. (*See* FEIS at 338.) The FEIS states that the pumping of an additional 5,400 acre feet of groundwater each year represents a six to seven percent increase over estimated groundwater pumping within the Upper Santa Cruz Subbasin and a two percent increase over estimated groundwater pumping within the entire Tucson AMA. (*Id.*) We were unable to find in the FEIS any USFS analysis or discussion of Rosemont's additional groundwater pumping and its impact on achieving safe yield goals in the Tucson AMA.

**Objection:** The USFS failed to respond to our comments regarding the impact that groundwater pumping for the Rosemont Copper Project will have on groundwater overdraft and achieving the goal of safe-yield within the Tucson AMA. The Arizona Department of Water Resources (ADWR) defines "safe yield" as a groundwater management goal which attempts to achieve and thereafter maintain a long-term balance between the annual amount of groundwater withdrawn in an active management area and the annual amount of natural and artificial recharge in the active management area. The USFS acknowledges in the FEIS that Rosemont's groundwater pumping represents an increase in groundwater withdrawals within the Tucson AMA, an active management area that currently is not achieving safe yield. We were unable to find in the FEIS any discussion of Rosemont's additional groundwater pumping and consistency with the Third Management Plan for the Tucson AMA. Obviously, additional

groundwater withdrawals within the Tucson AMA will make it much more difficult to achieve the goal of safe yield within the management plan time frames outlined in the Third Management Plan.

The bottom line is that Rosemont is taking drinking quality groundwater out of the Tucson AMA to use in its mining activities. This thwarts the purpose of Arizona's Groundwater Management Law, which is intended to ensure that groundwater pumping occurs at sustainable levels in more populated, growing areas of state such as the Tucson AMA.

**Suggested Remedy:** The USFS must revise its analysis to include a complete discussion of additional groundwater pumping for the Rosemont Copper Project and how that additional pumping affects achievement of the goal of safe yield within the Tucson AMA. The agency must provide this information in a revised DEIS that is released for public review and comment.

**The Mine Life of the Proposed Rosemont Copper Mine is Significantly Understated** DEIS comments noted that Rosemont Copper's assertions that it will only have a 20-year lifespan is understated when considering the operational history of other regional mines. With the examples of other mines, we have very little reason to believe that the Project will last only 20-years. Thus, all the project impacts, especially water use, have been understated in the DEIS. (See FICO Letter, page 2)

The USFS states, "[t]he life span for the Rosemont project is the best information currently available. If the life of the project is proposed for extension, additional analysis would be triggered which would include public participation." (FEIS at Appendix G-567.) Additionally, the FEIS contains new information that the mine life is now going to be "24.5 to 30 years", a 22.5% to 50% increase from what was reported in the DEIS. (FEIS Executive Summary at xviii.)

**Objection:** The USFS included significant new information in the FEIS that was not included in DEIS. Extending the mine life with resulting cumulative impacts by 22.5% to the 50% is significant and warrants an opportunity for the public to review and comment, pursuant to NEPA. More importantly, the analysis contained in the FEIS is deficient in that it still does not accurately reflect the expected mine life of the project. It appears that the agency has accepted the proponent's representation on face value without any critical review of the production life of other US open pit copper mines. Existing mines on West side of Sahuarita are in excess of 55-years old and there are other operating mines in the US that are over 100-years old.

Clearly the analysis contained in the FEIS is wholly inadequate compared to the operating history of other US open pit copper mine. As a result of this significantly understated mine life in the FEIS, the analyses of the impacts of this project are correspondingly understated.

**Suggested Remedy:** The USFS must revise its analysis to include more realistic projections of mine life that correspond more to the experience of the other US open pit copper mines. The USFS must include this information in a revised DEIS and make it available for public review and comment.

**Subsidence of Local Lands** As noted in previous comments, the DEIS gives scant attention to land subsidence that has already been identified as areas of concern in the Sahuarita area by the Arizona Department of Water Resources (ADWR) in the immediate vicinity of the two sites the Project has identified as well sites for groundwater pumping to the mine. The data cited on p. 234 of the DEIS

regarding groundwater pumping amounts by FICO, ASARCO and Freeport McMoRan is outdated and inaccurate. The usage data cited for FICO does not account for the 25% groundwater recharge naturally occurring in the orchards recognized by ADWR. No proof or models are cited that guarantee that Rosemont Copper will only use "5,400 acre feet per year" for the first eight years and then "4,700 acre feet per year for the remaining 12 years of operation." As previously noted, Rosemont is under no legal obligation to limit its water use to this amount, or to 20 years duration. (See FICO Letter, page 5)

The USFS noted that land subsidence caused by withdrawal of groundwater is analyzed in Chapter 3, Groundwater Quantity. The analysis acknowledges that land subsidence is occurring in the area, and that it is expected to continue in the area. However, the Forest Service believes it would be speculative to assign a specific amount of increased subsidence to the groundwater pumping for the mine water supply, which represents about an increase of 14 to 18% of the net groundwater pumping from the Green Valley areas reported for 2006. "Groundwater pumping in the Santa Cruz Basin for the mine water supply is regulated by the Arizona Department of Water Resources. Under state regulations, Rosemont is required to obtain a permit for groundwater withdrawals, and is restricted to the water use allowed under that permit. The amount and duration of water supply pumping proposed by Rosemont and analyzed in the FEIS is consistent with the permit issued by the Arizona Department of Water Resources."

(See FEIS, Appendix G, #855)

**Objection:** As stated above, the USFS based its assumptions on land subsidence on Rosemont's representations about its water use. Arizona law permits mines to pump essentially an unlimited amount of groundwater. While it was noted in the FEIS "[r]egardless of the ability of Rosemont to apply for and receive rights from the Arizona Department of Water Resources to pump water above and beyond what their permit currently allows, any substantial change in water use could trigger a review of the applicability of the current NEPA analysis by the Forest Service." (FEIS Appendix G #916.) However, the USFS failed to provide any analysis of the potential impacts of this increased groundwater pumping as related to land subsidence.

The USGS has identified the area immediately around the Rosemont production well site as an area of highest local land subsidence in area. Adding a new potentially unlimited groundwater user will prevent sustainable groundwater yield and further exacerbate subsidence in this area.

**Suggested Remedy:** The USFS should require additional NEPA analysis should Rosemont propose to increase its groundwater pumping anytime during the life of the mine, or if it makes any other changes to any other Federal, state or local permits, or the proposed Mine Plan of Operations, and include this requirement in a revised DEIS that is made available for public review and comment.

**Alternative Water Sources** As noted in previous comments, the DEIS identified two alternative water sources that were eliminated from detailed study because, among other reasons, there is "no guarantee that available excess effluent or reclaimed water would be available" and "there is no indication that Rosemont Copper could obtain the necessary rights or permits to use such water." DEIS, at 88. By the same logic, both of these reasons quoted above for eliminating an alternative water supply from detailed study (i.e., (1) no guarantee that the source of water would be available; and (2) there is no indication that Rosemont Copper could obtain the necessary rights or permits to use such water) equally applies to Central Arizona Project water as a source for recharge in the DEIS. Therefore, to be consistent throughout the DEIS, and based on the fact that Rosemont Copper is not bound to pursue its volunteer

measures of recharging or otherwise utilizing a source of water that is no longer available to it, the DEIS must either eliminate from discussion Rosemont Copper using Central Arizona Project water as a mitigation measure or include the previously eliminated alternatives for full analysis in a revised or supplemental DEIS for public review and comment. (See FICO Letter, page 5)

The USFS responded that all details of proposed mitigation related to water resources is included in the FEIS in Chapter 2, Chapter 3, Groundwater Quantity, and the Mitigation and Monitoring Plan appendix. This includes the proposed CAP recharge mitigation, which includes details on the mechanisms for obtaining CAP water under various contracting mechanisms other than declared excess CAP water, and delivering water to the Green Valley area. The effects of the pumping in the Sahuarita area and the effectiveness of the proposed recharge of CAP water for mitigation are described in Chapter 3, Groundwater Quantity. This includes full disclosure of the current and possible locations of that recharge; the uncertainty with respect to the location of recharge is one reason why such recharge was not included in the modeling of pumping impacts. Mitigation has been better organized and defined in the FEIS to more clearly identify mitigation that it is committed to, versus mitigation that has not yet been fully detailed by Rosemont. Direct use of CAP water is analyzed in Chapter 2 – Alternatives Considered but Eliminated. (See FEIS, Appendix G, #874)

**Objection:** Availability of CAP water to mitigate Rosemont’s groundwater pumping is questionable. There is not enough CAP water legally or physically available to the Rosemont Copper Project to offset Rosemont’s groundwater mining in the Sahuarita area and it is highly unlikely that CAP water will become available for groundwater recharge purposes in the foreseeable future. Given ongoing drought conditions in the Colorado River Basin, the predictions by climate scientists that drought conditions are likely to continue in the Southwest, current water demands in the Tucson AMA, and the recent Bureau of Reclamation (BOR) Colorado River Basin Water Supply and Demand Study that predicts continuing future imbalances between water supply and future water demand, it is highly unlikely that any CAP water will be available for groundwater recharge to mitigate groundwater mining by the Rosemont Copper Project.

**Suggested Remedy:** The USFS must prepare a revised DEIS that either eliminates from discussion Rosemont Copper using Central Arizona Project water as a mitigation measure or includes enough detail about the availability of CAP water for recharge, the proposed well protection plan, and the Rosemont United Sahuarita Well Owners agreements to allow for a credible assessment of their effectiveness as mitigation measures. Effective mitigation measures will include legally enforceable, unqualified, and unconditional requirements that bind Rosemont Copper and that require either a reduction or cessation in mineral production and associated groundwater pumping for the proposed mine at if existing well owners are adversely affected. The FEIS must consider real requirements to provide “wet” water to recharge depleted regional aquifers or include requirements to provide alternative water supplies for existing well owners and local communities if mining-related groundwater pumping depletes the regional aquifers they depend on for their life needs. The agency must provide this information in a revised DEIS that is released for public review and comment. The Rosemont Copper Project should be denied if the proposal cannot meet these mitigation requirements.

**Availability of Central Arizona Project Water for Recharge** The voluntary recharge of CAP water to mitigate Rosemont groundwater pumping is based on the availability of this water for physical recharge. Heretofore, any recharge that Rosemont Copper has participated in utilized Excess Central

Arizona Project Water as the source of Central Arizona Project water. Excess Central Arizona Project Water is the only source available to Rosemont Copper if it intends or is attempting to accrue Central Arizona Project storage credits. At the November 2011 Board of Directors meeting of the Central Arizona Water Conservation District (Central Arizona Project), Central Arizona Project announced that, due to increased Central Arizona Project water use by Municipal and Industrial Central Arizona Project Subcontractors, Excess Central Arizona Project Water is no longer available for subcontractors such as Rosemont Copper. Consequently, any future recharge relying on Central Arizona Project water is speculative at best. In any event, Rosemont Copper's ability to mitigate its groundwater pumping through annual recharge in the Sahuarita and Green Valley area has never been demonstrated or fully analyzed in the DEIS. All this must be clearly explained in a revised or supplemental DEIS. (See FICO Letter, page 5)

The USFS responded that all details of proposed mitigation related to water resources is included in the FEIS in Chapter 2, Chapter 3, Groundwater Quantity, and the Mitigation and Monitoring Plan appendix. This includes the proposed CAP recharge mitigation, which includes details on the mechanisms for obtaining CAP water under various contracting mechanisms other than declared excess CAP water, and delivering water to the Green Valley area. The effects of the pumping in the Sahuarita area and the effectiveness of the proposed recharge of CAP water for mitigation are described in Chapter 3, Groundwater Quantity. This includes full disclosure of the current and possible locations of that recharge; the uncertainty with respect to the location of recharge is one reason why such recharge was not included in the modeling of pumping impacts. Mitigation has been better organized and defined in the FEIS to more clearly identify mitigation that is committed to, versus mitigation that has not yet been fully detailed by Rosemont. Direct use of CAP water is analyzed in Chapter 2 – Alternatives Considered but Eliminated. (See FEIS, Appendix G, #874)

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regional aquifers they depend on for their life needs. The agency must provide this information in a revised DEIS that is released for public review and comment. The Rosemont Copper Project should be denied if the proposal can't meet these mitigation requirements.

**Groundwater Pumping Mitigation is Voluntary** As noted in DEIS Rosemont Copper is not "bound to ever implement any of these measures. As such, touting these measures in the absence of any enforceable requirement is misleading and inaccurate. Besides making it clear that these measures are voluntary, the Forest Service must identify mitigation measures, if any, that address the impacts and would be enforceable. If there are no such available mitigation measures, that must also be addressed." (See FICO Letter, page 4)

The USFS responded that all details of proposed mitigation related to water resources is included in the FEIS in Chapter 2, Chapter 3, Groundwater Quantity, and the Mitigation and Monitoring Plan appendix. This includes the proposed CAP recharge mitigation, which includes details on the mechanisms for obtaining CAP water under various contracting mechanisms other than declared excess CAP water, and delivering water to the Green Valley area. The effects of the pumping in the Sahuarita area and the effectiveness of the proposed recharge of CAP water for mitigation are described in Chapter 3, Groundwater Quantity. This includes full disclosure of the current and possible locations of that recharge; the uncertainty with respect to the location of recharge is one reason why such recharge was not included in the modeling of pumping impacts. Mitigation has been better organized and defined in the FEIS to more clearly identify mitigation that is committed to, versus mitigation that has not yet been fully detailed by Rosemont. Direct use of CAP water is analyzed in Chapter 2 – Alternatives Considered but Eliminated." (See FEIS, Appendix G, #874)

**Objection:** The USFS fails completely to address the issue of the voluntary nature of the mitigation measures proposed by the Rosemont Copper Project. As the USFS admits Rosemont has no legal obligation to recharge water to offset groundwater extracted under their groundwater withdrawal permit. Thus, it is not an acceptable mitigation measure.

**Suggested Remedy:** The USFS must prepare a revised DEIS that either eliminates from discussion Rosemont Copper using Central Arizona Project water as a mitigation measure or includes enough detail about the availability of CAP water for recharge, the proposed well protection plan, and the Rosemont United Sahuarita Well Owners agreements to allow for a credible assessment of their effectiveness as mitigation measures. Effective mitigation measures will include legally enforceable, unqualified, and unconditional requirements that bind Rosemont Copper and that require either a reduction or cessation in mineral production and associated groundwater pumping for the proposed mine at if existing well owners are adversely affected. The FEIS must consider real requirements to provide "wet" water to recharge depleted regional aquifers or include requirements to provide alternative water supplies for existing well owners and local communities if mining-related groundwater pumping depletes the regional aquifers they depend on for their life needs. The agency must provide this information in a revised DEIS that is released for public review and comment. The Rosemont Copper Project should be denied if the proposal cannot meet these mitigation requirements.

**Lack of Sulfate Plume Analysis** The DEIS does not analyze or numerically model how Rosemont Copper's mine pumping in the Sahuarita area will impact the migration of the Sierrita sulfate plume. See DEIS, at 294. In the absence of such analysis, however, the DEIS concludes: "It is unlikely that the

minor amounts of drawdown created by the water supply pumping will significantly affect the results of the Sierrita mitigation pumping or result in any additional migration of the Sierrita sulfate plume." DEIS, at 295. (See FICO Letter, page 6)

The USFS responded that "[t]he analysis contained in the FEIS (Chapter 3, Groundwater Quality) regarding the potential impact of mine supply pumping on the Sierrita sulfate plume has been modified. Two changes have been made. First, a more full description has been added of the location of the sulfate plume and the expected remedy to be employed by Sierrita. Second, a further analysis of flow vectors with and without mine water supply pumping has been considered to determine whether the mine supply pumping would have a substantial effect on the sulfate plume. The Forest Service believes the results of the modeling conducted is sufficient to analyze the effect of mine supply pumping on the plume, as it fully describes the changes to gradient and flow direction that are expected to occur." (See FEIS, Appendix G, #876)

**Objection:** The USFS continues to characterize changes in gradients and groundwater levels in the vicinity of Sierrita sulfate plume as "minor" in the FEIS and states in a conclusory fashion that migration of the Sierrita sulfate plume is not expected to be affected by groundwater pumping by Rosemont's mine supply wells. The USFS reaches this conclusion despite acknowledging that "[A]ny change in water levels, gradient, or flow direction has the potential to cause migration of existing areas of groundwater contamination." (FEIS at 391). More telling is the USFS admission that the extent of the sulfate plume originating from the Sierrita Mine has not been fully characterized by Sierrita or the Arizona Department of Environmental Quality. (*See Id.*)

FICO objects to the inclusion of the unsupported conclusion in the FEIS that groundwater pumping from the Rosemont mine supply wells will only have a "minor" impact on the migration of the Sierrita sulfate plume. The USFS cannot credibly reach this conclusion in the absence of a more complete hydrological investigation and/or groundwater modeling that better characterizes the regional groundwater system, the extent of the Sierrita Mine sulfate plume, hydraulic gradients in the area, groundwater flow paths, and aquifer characteristics such as hydraulic conductivity and transmissivity. There is no data or information in the FEIS that supports the USFS conclusion that Rosemont groundwater withdrawals will have a minor effect on the migration of the Sierrita sulfate plume. The USFS unsupported conclusion of only a minor effect on the migration of the Sierrita sulfate plume rests on untested USFS assumptions. This USFS response is inadequate and it should be removed from the FEIS in the absence of hydrologic data to support a determination of "minor" effect. Also, additional hydrologic analysis must be done to better model and predict possible interactions between intersecting cones of depression created by groundwater pumping at Rosemont's mine supply well field and mitigation pumping for the Sierrita Mine.

**Suggested Remedy:** The USFS must revise its analysis to include more complete hydrologic modeling data. The agency must provide relevant supporting evidence for the conclusion that mine supply pumping will have only a minor effect on the Sierrita sulfate plume. In the absence of supporting evidence, the USFS must withdraw the conclusory statement that mine supply groundwater pumping is not expected to affect the sulfate plume. The agency must provide this information in a revised DEIS that is released for public review and comment.

**Rosemont Groundwater Pumping in the Santa Cruz River Watershed is Inconsistent with Regional Water Sustainability Efforts**

In its DEIS comments, FICO said that it agreed with the Town of Sahuarita that “the Project's mine water supply proposal is inconsistent with the broader, regional goals of water sustainability.” Specifically, the DEIS stated: [t]he Town of Sahuarita has indicated that he [sic] continued pumping of groundwater from region that serves Sahuarita residents does not meet the Town of Sahuarita objective of encouraging water providers to evaluate water demand within the Town of Sahuarita to ensure the rate of use does not exceed a potential future supply. The Town of Sahuarita has also indicated that the planned pumping conflicts with a Town objective of encouraging water providers to use alternative water sources and water conservation methods and strategies by all users requiring large quantities of water. DEIS, at 229.” (See FICO Letter, page 7)

The USFS responded that the Town of Sahuarita's general plan applies to the town's jurisdictional area. However, the FEIS has disclosed instances where aspects of the Rosemont Copper Project may conflict with the objectives described in the general plan in the Required Disclosures section in Chapter 3 of the FEIS. Groundwater pumping in the Santa Cruz Basin for the mine water supply is regulated by the Arizona Department of Water Resources. Under state regulations, Rosemont is required to obtain a permit for groundwater withdrawals, and is restricted to the water use allowed under that permit. The Forest Service has the responsibility to analyze the proposed project and reasonably foreseeable actions. The amount and duration of water supply pumping proposed by Rosemont and analyzed in the FEIS is consistent with the permit issued by the Arizona Department of Water Resources. The authority whether to renew or expand Rosemont's groundwater permit lies with the ADWR. (See FEIS, Appendix G, #910)

**Objection:** The USFS failed to respond to our comments regarding the impact that groundwater pumping for the Rosemont Copper Project will have on groundwater overdraft. We were unable to find in the FEIS any discussion of Rosemont's additional groundwater pumping and consistency with the Third Management Plan for the Tucson AMA. Obviously, additional groundwater withdrawals within the Tucson AMA will make it much more difficult to achieve the goal of safe yield within the management plan time frames outlined in the Third Management Plan.

Also, the FEIS failed to analyze the impacts resulting from the fact that Rosemont can apply for a modification to their Groundwater Withdrawal Permit, and there is no upper limit for groundwater pumping with the approval process. It is the obligation of the USFS to consider potential impacts of the project that would arise from the implementation of Arizona law. Considering the significance of those potential impacts – that Rosemont can pump as much water as they want at any point in the future – the USFS must consider this in its impacts analysis.

**Suggested Remedy:** The USFS should require additional NEPA analysis should Rosemont propose to increase its groundwater pumping anytime during the life of the mine, or if makes any other changes to any other Federal, state or local permits, and include this requirement in a revised DEIS that is made available for public review and comment.

**FEIS Failed to Analyze Potential Increases in Rosemont's Groundwater Pumping** To be clear, Rosemont Copper or its successor in interest can revise its permitted withdrawal volume in the future; the volume of which has no statutory upper limit. Consequently, the DEIS must clarify and examine that although the Project is currently permitted to extract and use up to 6,000 acre-feet per year from the

Tucson Active Management Area, it can amend its permit in the future to pump any volume it desires with no upper statutory limit. (See FICO Letter, page 8)

The USFS said, “groundwater pumping in the Santa Cruz Basin for the mine water supply is regulated by the Arizona Department of Water Resources. Under state regulations, Rosemont is required to obtain a permit for groundwater withdrawals, and is restricted to the water use allowed under that permit. The Forest Service has the duty to analyze the proposed project and reasonably foreseeable actions. The amount and duration of water supply pumping proposed by Rosemont and analyzed in the FEIS is consistent with the permit issued by the Arizona Department of Water Resources. Regardless of the ability of Rosemont to apply for and receive rights from the Arizona Department of Water Resources to pump water above and beyond what their permit currently allows, any substantial change in water use could trigger a review of the applicability of the current NEPA analysis by the Forest Service.” (See FEIS, Appendix G, #916)

**Objection:** The USFS failed to respond to our comments regarding the impact that groundwater pumping for the Rosemont Copper Project will have on groundwater overdraft. We were unable to find in the FEIS any discussion of Rosemont’s additional groundwater pumping and consistency with the Third Management Plan for the Tucson AMA. Obviously, additional groundwater withdrawals within the Tucson AMA will make it much more difficult to achieve the goal of safe yield within the management plan time frames outlined in the Third Management Plan.

Also, the FEIS failed to analyze the impacts resulting from the fact that Rosemont can apply for a modification to their Groundwater Withdrawal Permit, and there is no upper limit for groundwater pumping with the approval process. It is the obligation of the USFS to consider potential impacts of the project that would arise from the implementation of Arizona law. Considering the significance of those potential impacts – that Rosemont can pump as much water as they want at any point in the future – the USFS must consider this in its impacts analysis.

**Suggested Remedy:** The USFS should require additional NEPA analysis should Rosemont propose to increase its groundwater pumping anytime during the life of the mine, or if makes any other changes to any other Federal, state or local permits, and include this requirement in a revised DEIS that is made available for public review and comment.

**Dry Stack Tailings Unproven Technology** The "dry tailings" method has not been demonstrated or documented to work in a desert climate subject to frequent winds. If this method does not work, Rosemont has no constraints on using more groundwater from these two wells or from drilling additional wells." (See FICO Letter, page 6)

It was noted that the USFS considers the information supporting the Mine Plan of Operation to be sufficiently "accurate to address the proposal in accordance with federal law and regulation. The air quality analysis has been updated for the FEIS. Modeling protocols were coordinated with the U.S. Environmental Protection Agency and other cooperating agencies. In response to comments on the DEIS, a number of mitigation and monitoring measures were added, and several analyses updated. The updated analysis indicates that all air quality thresholds set under the Clean Air Act and other laws, regulations, policies, and plans would be met by the preferred alternative. Full analysis of the water use of the proposed mine and the impact of the proposed mine on availability of water in both the Santa

Cruz Basin and the Davidson Canyon/Cienega Basin is included in the FEIS (Chapter 3, Groundwater Quantity). This includes the current understanding of the aquifers in the area, water budgets, and existing and reasonably foreseeable uses of these aquifer" (See FEIS, Appendix G, #962)

**Objection:** We are unaware of mines anywhere in the world using this technology at the anticipated processing levels envisioned by Rosemont. 20,000 tons per day is the limit of current practice, versus – a projected 75,000 tons per day for Rosemont. Also, Rosemont Copper as a company has never used dry stack tailings technology in mineral production given that it has never engaged in mineral production.

The USFS should have investigated this critical mitigation measure more thoroughly - sought out specific examples where it has been utilized and independently evaluated these applications for suitability to the Rosemont Copper project.

**Suggested Remedy:** The USFS should independently analyze all aspects of the technical feasibility of the dry-stack technology and include this analysis in a revised DEIS for public comment. Incorporating by reference technical reports prepared by consultants to the proponent is not sufficient given the significance of this “mitigation” measure.

**New Issue - Incorrect Reference to FICO's Irrigation** The FEIS suggests that possibility of “increased irrigation of the Farmers Investment Company’s groves” potentially impacting downstream users. (See FEIS p. 1044)

**Objection:** This statement is made without any analysis or other information to support this erroneous conclusion and must be removed. In fact, FICO’s water use has decreased due to increased water monitoring, control, and infrastructure improvements. Moreover, notwithstanding the many other parties the USFS says it consulted in the preparation of the EIS, it is interesting to note that “Farmers Investment Company” was not one of those parties in spite of how many times it was referenced throughout the document. Had the Forest Service consulted with the FICO, it would know that this statement is indeed baseless.

**Remedy:** Given the lack of foundation, this statement should be stricken from the FEIS.