



THE STATE OF ARIZONA
GAME AND FISH DEPARTMENT

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October 25, 2013

Mr. Jim Upchurch
Forest Supervisor
Coronado National Forest
300 W. Congress Street
Tucson, AZ 85701

Re: Agreement in Principle Between the Arizona Game and Fish Department and Rosemont Copper Company, with the Department Agreeing to Provide Certain Conservation Services Relevant to the Rosemont Copper Project EIS

Dear Mr. Upchurch:

We write to advise you that the Arizona Game and Fish Department (Department) and Rosemont Copper Company (Rosemont) have reached an Agreement in Principle under which Rosemont agrees to provide commitments or funding for the following listed conservation measures, and the Department agrees in principle to implement those measures with the Rosemont funding until that funding is exhausted. The Arizona Game and Fish Department assumes no other obligation for implementation of federally-required conservation measures, Reasonable or Prudent Measures or Terms and Conditions of any federal permit for the Rosemont Copper Project other than as a party to a separate written agreement between the Commission and Rosemont. This Agreement in Principle is anticipated to be embodied in a detailed agreement between Rosemont and the Arizona Game and Fish Commission setting forth the contractual commitments of the Parties, and the Parties further agree that the Agreement in Principle is to be considered for inclusion as a condition for approval in the Forest Service's Record of Decision. None of these terms and conditions is intended by the Parties to contradict or redefine any non-discretionary requirements in the Biological Opinion or in any permit..

The projects are:

1. Purchase of Sonoita Creek Ranch (1200 acres and 590 acre feet of certificated water rights) by Rosemont and transfer of ownership to the Commission.
2. Rosemont will complete demolition and start-up work at the ranch at a cost of approximately \$149,000 prior to transfer to the Commission.

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3. Funding of \$1.5 million, at \$150,000 per year over 10 years, provided by Rosemont to the Department for long-term fencing and routine operation and maintenance of Sonoita Creek Ranch.
 - a. Rosemont will complete one-time maintenance on the concrete channel that brings the 590 acre-feet of water to the ranch; or, in the alternative, provide funding for the long-term maintenance of that channel in an escrow account.
4. Funding of \$400,000 provided by Rosemont to the Department for the renovation of two perennial ponds to provide habitat for Arizona native, threatened and endangered species. This funding covers initial construction costs only, and does not commit the Department to conduct any additional measures for threatened and endangered species management under any federal permit issued to Rosemont. Such additional measures for stocking or maintenance of populations may be a subject of a future negotiated agreement with Rosemont (or its successors) and the Department.
5. Purchase and transfer of 150 acre feet of certificated water rights by Rosemont to the commission as In-Stream Flow Rights in upper Cienega Creek. These resources will be used to maintain flows and to enhance the aquatic and riparian ecosystem in the upper Cienega Creek watershed for the benefit of Arizona native species of fish, wildlife, plants, and federally-listed species. Rosemont will bear all administrative and legal costs for both the transfer of the water rights to the Commission, and the sever and transfer of such water rights from the current use to an In-stream flow use. The Department agrees to bear its own internal administrative costs for the transfers.
6. Funding of \$2.0 million provided by Rosemont to the Department for the Cienega Creek Conservation Fund at \$200,000 a year for 10 years to provide projects designed to preserve and enhance aquatic and riparian ecosystems in the Cienega Creek watershed. The location and design of the projects will be determined by the Department with input from BLM, Forest Service, USFWS and other stakeholders in the watershed. This funding is to be utilized to improve habitat conditions for federally-listed species in the watershed, including Chiricahua leopard frog, Gila chub, Gila topminnow, Huachuca water umbel, southwestern willow flycatcher, western yellow-billed cuckoo, as well as other state trust species.
 - a. The Department's sole responsibility is to use the Cienega Creek Conservation Fund for the enhancement of the Cienega Creek watershed for the benefit of federally-listed species and Arizona species, until that funding is exhausted.
 - b. The Department may also use the Fund to cover the Department's direct costs for salaries, ERE, travel, meals, incidental costs and Fund management.

The Department does not guarantee that administrative costs will be limited to 15% of fund expenditures.

- c. This Fund shall not be used to defray the costs of any of the following: remedial measures as a result of stormwater permit exceedances, aggradation or scour from mine site releases; regulatory obligations of any state or federal water quality permit; costs of monitoring the success of replacement or enhanced water features constructed for federally-listed species; costs of offsetting unanticipated effects resulting from groundwater drawdown from the mine; costs of mitigation if seep or spring water levels are decreased/dewatered in the regional aquifer in the vicinity of the mine; administrative or legal costs in connection with the sever and transfer of certificated water rights in the Cienega Creek Watershed.
 - d. The Department's reporting obligations to Rosemont commence in the year the first payment occurs; and terminate 24 months after the final Rosemont payment is made; or when the funds have been exhausted - whichever is later. The *Annual Conservation Measure Implementation and Monitoring Report* described in the Draft Biological Opinion remains the responsibility of Rosemont.
 - e. The Department shall have the complete discretion to make expenditures to implement the purposes of the Fund after it has considered the comments of BLM, Forest Service, USFWS, and other stakeholders.
 - f. The Department does not assume any obligation for the expenditure of the \$2.0 million fund, except as articulated in this Agreement in Principle, and any subsequently agreed to provisions.
 - g. The Department shall neither assume Rosemont's ESA responsibilities nor underwrite and subsidize the implementation of those responsibilities.
 - h. Funding for Game and Fish reporting to Rosemont, along with coordination of conservation services, will be funded by Rosemont as set forth in Paragraph 21, and is intended to fund a ½ FTE employee funded over 11 years at the grade of a Wildlife Specialist II. This funding is in addition to the Department's personnel and administrative costs described in Paragraph 6(b) above.
7. Funding of \$3.0 million by Rosemont to the Department designated specifically for the Department to expend at its discretion to protect and maintain habitat for Arizona trust species including native and game species.
 8. Funding of \$450,000 for an integrated study of the impacts to wildlife connectivity surrounding the project. This funding includes \$150,000 by Rosemont to the

Department to conduct camera studies for large predators including the jaguar and ocelot and also includes \$300,000 in funding for the Road Kill surveys along Highway 83 as referenced in FS-BR-20 that will be conducted in the first four years of mining and will measure and document whether there may be traffic related mortality to jaguar, ocelot and the jaguar prey base such as white-tailed and mule deer, collared peccary and white-nosed coati in particular. Rosemont remains responsible for annual reporting to the FWS; the reporting of all sightings of jaguar and ocelot to the Forest Service; and any additional road-kill monitoring as may be required by the FS or the FWS.

9. Funding of \$1.25 million by Rosemont to the Department to be expended at the Department's discretion to build and maintain Constructed Waters to benefit Arizona Trust species Rosemont remains responsible for the management and construction of all water features required by the FWS for the benefit of federally-listed species as described in FS-BR-05.
10. Purchase and preservation by Rosemont by deed restriction or restrictive covenant of the 1780 acre Fullerton Ranch for habitat, open space and recreational opportunities. The Commission would be granted management prerogatives to advise Rosemont of future management planning for the property.
11. Inclusion of the 2000 acre Rosemont Ranch in the Department's conservation landowner relations program to maintain hunter and recreational access to the lands at the conclusion of mining activities.
 - a. One thousand five hundred (1500) acres of offsetting high-value biological core value lands contained in the 2000 acres of Rosemont Ranch and other Rosemont lands will be either placed into permanent non-development status by Rosemont or, if utilized for mining operations, will be supplemented or replaced by other high value biological core lands as agreed to by the Parties, such that the commitment towards 1500 acres of biological habitat for state trust species would still be maintained.
 - b. Conservation of this site ensures the lands will be kept open rather than developed, conserving and enhancing wildlife habitat, preserving public views, and providing public access for hunting and wildlife associated recreation. The Commission would be granted management prerogatives to advise Rosemont regarding management planning for the property.
12. If the Department determines that wildlife connectivity studies funded under Paragraphs 7 and 8 demonstrate a potential benefit for wildlife movement, Rosemont agrees to fund the first \$500,000 toward construction of such a facility in addition to the funding provided in Paragraphs 7 and 8.

13. Funding of \$150,000 by Rosemont to the Department to re-establish Gould's Turkey populations in mountain ranges in Southern Arizona.
14. Actions similar to an Avian protection and Mitigation plan are required by conservation measure FS-BR-14 for the western yellow-billed cuckoo, and Rosemont is required to fully comply with the Migratory Bird Treaty Act. Rosemont and the Department agree to conduct a non-binding consultation process during the development of any plan required by the Migratory Bird Treaty Act to extend its potential reach to address non-migratory state trust birds.
15. Rosemont has included resources in Paragraph 7, to be used, at the Department's discretion, to develop Talussnail Conservation plans.
16. Purchase and protection by deed restriction or conservation easement of the Davidson Canyon parcels (574 acres) will provide wildlife habitat benefits and in particular, Mulberry Canyon provides connectivity because it is bordered by CNF on two sides and State Land on two sides. Mulberry Canyon became private lands as an historic homestead, chosen by the homesteader because of a flowing spring. Conservation of these sites ensures the lands will be kept open rather than developed, preserving public views, public access for hunting and wildlife associated recreation, cultural resource sites, and the reach of the ephemeral Davidson Canyon Wash just upstream of the reach that was designated as an Outstanding Arizona Water.
17. Purchase and preservation by deed restriction or covenant of Helvetia Ranch North property connecting Arizona State Land Department Santa Rita Experimental Range lands directly to the Coronado National Forest and to a BLM inholding. This provides particular wildlife habitat benefits that completes wildlife corridor connections, and maintains public access to the northwestern Santa Rita Mountains. The Ranch provides habitat for Arizona Trust Species, and endangered species like the Pima Pineapple Cactus, the Mexican Long-Tongued Bat, and the Lesser Long-Nosed Bat. Conservation of this site ensures that the lands will be kept open rather than developed; conserving and enhancing wildlife habitat; preserving public views; and provides public access for hunting and wildlife associated recreation.
18. The Department recognizes the wildlife and wildlife habitat value of regional environmental and habitat mitigation conducted by others on Rosemont Copper Company's behalf (i.e., EIS-required mitigation, Clean Water Act permitting requirements, etc.), including Cienega Creek and Pantano Dam conservation measures containing surface water rights, riparian enhancements, and restoration of natural flows within the Cienega Creek-Pantano watershed.
19. The Department recognizes the wildlife and wildlife habitat value of construction of at least 7, and up to 23 Chiricahua Leopard Frog waters as described in Mitigation Measure FS-BR-05.

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20. Rosemont will provide a Flexible Conservation Fund of \$250,000 for Department Projects in need of funding.
21. Coordination of Rosemont-related conservation services and reporting on annual performance to Rosemont Copper Company will be supported with \$480,000 over 11 years to support a ½ time FTE dedicated to these services. The Funding for Game and Fish reporting to Rosemont and coordination of the Conservation Measures described in this Agreement in Principle, is \$480,000 payable over 11 years as follows: \$60,000 in the first year labeled Premining to provide start-up funding to pay a person one-half time during mine construction and until the payments for the Cienega Creek Conservation Fund commences. Payments of \$42,000 per year commence in the second year of copper production, and continue until copper production year for a total of \$420,000.
22. The Department recognizes that the Lands, Waters and Habitat Conservation Program developed by Rosemont, including those elements required under federal permits and those negotiated here, address the 4454 acres disturbed directly by the Rosemont Copper Project commensurate with Commission and Department Policy (see paragraphs 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20 and 21).

While this letter is not intended to imply the Department's endorsement of the Rosemont Copper Project, it recognizes Rosemont's mitigation and compensation program. The Arizona Game and Fish Commission and Department seek under their Policies A2.16 and I2.3 compensation for actual or potential wildlife and wildlife habitat losses resulting from land and water development projects. Rosemont has addressed the Commission's policy expectations in this Agreement in Principle.

The duties of both Parties described in this Agreement in Principle shall be memorialized in a binding, legally enforceable agreement, containing appropriate financial assurance guarantees acceptable to the Department, between the Department and Rosemont Copper Company (and/or any Rosemont Copper Company successor(s) or subsequent purchaser(s) of the Rosemont Mine Project). The Parties commit to executing this binding and enforceable agreement within nine (9) months of the date of this Agreement in Principle, unless this deadline is extended by mutual agreement of the Parties. The Parties recognize that this Agreement in Principle may be amended by mutual agreement upon issuance of final agency permits and approvals required prior to construction of the Rosemont Project.

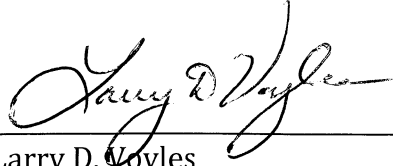
The Department and Rosemont have agreed to work together to implement the proposed land, water and habitat conservation measures in such subsequent detailed contract(s). The Parties agree that the actions described in this Agreement in Principle, combining both negotiated and federally-required measures, can be characterized as proportionate to the scope, scale, and nature of the impacts projected for the Rosemont Copper Project. The Parties agree to work together to further wildlife management, habitat conservation and enhancement, and compatible recreational use of Arizona's lands and water.

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This Agreement in Principle may be executed in counterpart.



Larry D. Woyles
Director
Arizona Game and Fish Department

Jamie Sturgess
Senior Vice President
Corporate Development
and Government Affairs
Rosemont Copper Company

cc: Arizona Game and Fish Commission
Steve Spangle, AESO Field Supervisor, US Fish and Wildlife Service
Marjorie Blaine, US Army Corps of Engineers

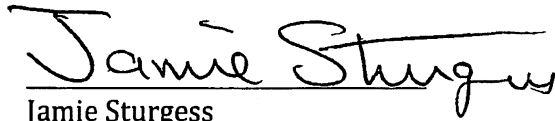
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