ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

Douglas A. Ducey
Governor

Misael Cabrera
Director

November 27, 2017

Reading File: SWGP17-0333

Katherine Arnold, Director, Environment
Rosemont Copper Company
5255 E. Williams Circle, Suite 1065
Tucson, Arizona 85711

Re: Clean Water Act 401 Water Quality Certification Addendum for Sonoita Creek Ranch Mitigation

Dear Ms. Arnold:

The Arizona Department of Environmental Quality received your application for an addendum to a CWA 401 Water Quality Certification on September 25, 2017. You submitted this document in accordance with Section 401(a) of the Clean Water Act (CWA) (33 U.S.C. §1251 et seq.) and the Arizona Revised Statutes Section 49-202.

Enclosed please find the issued CWA 401 Water Quality Certification Addendum for the Sonoita Creek Ranch Mitigation project to be conducted under the Army Corps of Engineers Individual Permit for Rosemont Copper. Subject to the conditions in the Certification, the proposed activities are not expected to have a negative impact to the chemical, physical or biological integrity of the impacted waterbodies.

This determination is an appealable agency action under A.R.S. § 41-1092. You have the right to request a hearing and file an appeal under A.R.S. § 41-1092.03. To do this you must file a Request for Hearing or Notice of Appeal **within thirty (30) days of receipt of this notice**. A request for Hearing or Notice of Appeal is filed when it is received by ADEQ's Hearing Administrator as follow:

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

The Request or Notice must contain the following:

1. The name of the party that is filing the appeal;
2. The address of the party that is filing the appeal;
3. The action being appealed; and
4. A concise statement of the reasons for the appeal.

Upon proper filing of a Request for Hearing or Notice of Appeal, ADEQ will serve a Notice of Hearing on all parties to the appeal. If you file a timely Request for Hearing or Notice of Appeal, you have the right to request an informal settlement conference with ADEQ under A.R.S § 41-1092.06. This request must be made in writing no later than 20 days before a scheduled hearing and must be filed with the Hearing Administrator at the above address.

Failure to comply with the CWA Section 404 permit, ADEQ's CWA 401 Water Quality Certification and/or other applicable water quality permits or requirements may result in non-compliance with Arizona Surface Water Quality Standards (Arizona Administrative Code, Title 18, Chapter 1, Article 11) and may result in an enforcement action pursuant to Arizona Revised Statutes, Title 49, Chapter 2, Article 4. Thank you for your efforts to comply with Arizona's environmental requirements. Should you have any comments or questions regarding this matter, please do not hesitate to contact me.

Sincerely,

Krista Osterberg
Surface Water Section

electronic copies: U.S. Army Corps of Engineers, Regulatory Branch – Attn: William James
USEPA, Wetlands Regulatory Office

ADEQ Arizona Department of Environmental Quality

CERTIFICATION

STATE OF ARIZONA
Addendum to the
Clean Water Act Section 401 Water Quality Certification
U.S. Army Corps of Engineers File No.: SPL-2008-00816-MB
ADEQ LTF No.: 55425
Addendum ADEQ LTF No.: 68057

1. AUTHORIZATION

This State Water Quality Certification (WQC) Addendum is issued by the Arizona Department of Environmental Quality (ADEQ) under the authority of Section 401(a) of the federal Clean Water Act (CWA) (33 U.S.C. §1251 et seq.) and Arizona Revised Statutes Section 49-202. The conditions listed in Section 5 are in addition to conditions in the pending U.S. Army Corps of Engineers (USACE) Application No. SPL-2008-00816-MB. These WQC conditions are enforceable by the USACE and are subject to civil penalties if violated. Criminal penalties may also be levied if a person knowingly violates any provision of the CWA.

Subject to the conditions in Section 5, ADEQ certifies that based on the information in Section 3, the activities proposed for the Sonoita Creek Ranch Mitigation Project, an addendum to the Rosemont Copper Project, will not violate applicable Surface Water Quality Standards (SWQS) in Sonoita Creek and other impacted washes in the Santa Cruz Watershed.

Pursuant to A.R.S. 49-202.C. ADEQ's review authority extends only to activities occurring within the ordinary high water mark of waters of the United States (WUS). Not all of the project elements involve discharges of dredged or fill material to WUS requiring Section 401 certification.

APPLICANT INFORMATION

Project Name: Sonoita Creek Ranch Mitigation Addendum
Latitude: 31° 36' 17.46" Longitude: 110° 43' 11.88"

Applicant: Rosemont Copper Company
Katherine Arnold, Director, Environment
5255 E. Williams Circle, Suite 1065
Tucson, Arizona 85711

AUTHORIZING SIGNATURE

Krista Osterberg
Water Quality Division
Arizona Department of Environmental Quality

11/27/17
Date

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2. DESCRIPTION OF ACTIVITIES TO BE CERTIFIED

As part of the CWA 404 permit, the U.S. Army Corps of Engineers is requiring the Rosemont Copper Company to submit an addendum to its original CWA401 Water Quality Certification (WQC). The addendum provides detailed mitigation plans for Sonoita Creek Ranch, which were in the development stage when the original WQC was issued in February of 2015.

The Sonoita Creek Ranch project will be completed as mitigation for the CWA 404 permit for the Rosemont Copper Project. Sonoita Creek Ranch is a 1580 acre parcel containing 39.99 acres of Waters of the U.S. (WUS) that will be actively managed and modified as mitigation for conservation purposes.

The project will rehabilitate the floodplain and re-establish a channel in that floodplain over an area encompassing 322.1 acres. In order to complete this work, Rosemont will fill the channelized portion of Sonoita Creek (8.9 acres) and divert flow into a sinuous ephemeral channel that will be constructed through an existing agriculture field (Sonoita Creek was previously channelized and diverted to create the agriculture field resulting in a non-functioning system throughout its length). Two on-site ponds will also be "re-attached" into the ephemeral channel to further provide recharge and connectivity.

The project will involve fill activities, channel modification and deepening of the Kinder Morgan Pipeline in two locations. The fill material used will be onsite materials that are cut during channel construction.

3. INFORMATION REVIEWED

During the development of this State Certification, ADEQ had access to and reviewed the following documents which are on file with ADEQ:

A. CWA Section 401 Certification application package addendum, including project descriptions and maps, dated and received by ADEQ on September 25, 2017. Permittee: Katherine Arnold, Rosemont Copper Company
B. State of Arizona Surface Water Quality Standards (SWQS), Arizona Administrative Code (A.A.C.) Title 18, Chapter 11, Article 1. Designated uses for Sonoita Creek are: Agricultural - Livestock watering (AgL), Aquatic and Wildlife ephemeral (A&We), and Partial Body Contact (PBC)
C. Rosemont letter to ADEQ dated September 14, 2017
D. Final Habitat Mitigation and Monitoring Plan provided by Rosemont Copper Company, September 14, 2017

4. NOTIFICATION PROVISIONS

For any correspondence regarding this project, the ADEQ mailing address is:
Arizona Department of Environmental Quality
Rosi Sherrill
Surface Water Section / 401 Certifications / mailstop 5415A-1
1110 West Washington Street
Phoenix, Arizona 85007

For questions or general comments:
Email: LS7@azdeq.gov Voice: (602) 771-4409

In any correspondence, reference:
Sonoita Creek Ranch Mitigation Addendum for the Rosemont Copper Project
USACE File No.: SPL-2008-00816-MB
ADEQ LTF No.: 68057
Reading file: SWGP17-0333

5. CONDITIONS FOR STATE 401 WATER QUALITY CERTIFICATION

With the exception of Specific Conditions 1 through 4, which are not relevant to the mitigation amendment for Sonoita Creek Ranch, the applicant is responsible for complying with all of the General Conditions and Specific Conditions 5 through 33 as specified in the CWA 401 Water Quality Certification for Rosemont Copper Project, LTF #55425.