COUNTY ADMINISTRATOR'S OFFICE
PIMA COUNTY GOVERNMENTAL CENTER
130 W. CONGRESS, FLOOR 10, TUCSON, AZ 85701-1317
(520) 724-8661 FAX (520) 724-8171

C.H. HUCKELBERRY
County Administrator

May 9, 2017

Mr. Kerwin Dewberry
Coronado Forest Supervisor
US Forest Service
300 W. Congress Street
Tucson, Arizona 85701

Re: **Environmental Impact Statement (EIS) No. 20130360 Final EIS for Rosemont Open-Pit Copper Mine**

Dear Mr. Dewberry:

On May 2, 2017, the US Forest Service re-opened the review period for the Rosemont Copper Mine EIS. On May 8, the Forest Service announced it intends to issue the Record of Decision (ROD) for the project in early June. This decision would be premature for several reasons. I encourage you to consider the following and delay the ROD until these matters conclude.

As you know, the US Army Corps of Engineers South Pacific Division is currently considering new information relevant to its decision of whether to issue a Clean Water Act (CWA) Section 404 Permit for this project. There is no timeframe for the conclusion of the Corps' review; but the Corps' decision, and/or the supplementary information admitted to the record, could result in a need for the Forest Service to amend the EIS or ROD.

More recently, the Sawmill and Mulberry Fires have burned a substantial portion of the analysis area for the EIS. Collectively, these fires have burned over 48,000 acres, including portions of the Rosemont project area, as well as the Empire Gulch, Barrel Canyon and Davidson Canyon watersheds (see attached figure). These fires have likely altered the baseline conditions for federally listed species and other resources within the scope of the EIS and the US Fish and Wildlife Service's biological opinion.

Resource agencies should be given the opportunity to evaluate the changed conditions prior to concluding this EIS and finalizing the ROD. This type of evaluation was performed for previous, smaller fires and the results were highlighted in two Supplemental Information Reports. To omit the same review process for these larger, recent fires seems imprudent. In all likelihood, the Federal Register notice announcing the Forest Service's intention to issue

the ROD in early June was prepared well in advance of the Sawmill Fire; and certainly no one anticipated the Mulberry Fire.

An additional reason to delay finalizing the ROD is that Pima County and the Pima County Regional Flood Control District (collectively, Pima County) are currently challenging Arizona Department of Environmental Quality's (ADEQ) issuance of a CWA Section 401 Water Quality Certification for the Rosemont mine. Specifically, Pima County asserts ADEQ violated Arizona law by including conditions in the Section 401 Water Quality Certification that were derived from information (i.e., Rosemont's Surface Water Mitigation Plan) submitted to ADEQ after the close of the public comment period.

Pima County asserts the Section 401 Water Quality Certification is fatally flawed due to this statutory violation. Over the past two years, ADEQ and Rosemont have vigorously opposed Pima County's efforts to raise the statutory violation issue by putting forth various jurisdictional arguments that distract from the substance of the County's argument. That legal battle continues. In addition, it is not clear that Rosemont's proposed mine runoff mitigation measures will protect downstream Outstanding Waters and thereby comply with CWA requirements. We intend to submit new and important information for your record in relation to the Forest' responsibilities prior to the issuance of the ROD.

In closing, I ask that your agency 1) wait for the Corps' decision regarding the project's CWA Section 404 permit, 2) allow resource agencies to evaluate the effects of recent fires, and 3) fully consider new, forthcoming information regarding whether the ROD will meet the Forest Service's obligations under the National Environmental Policy Act.

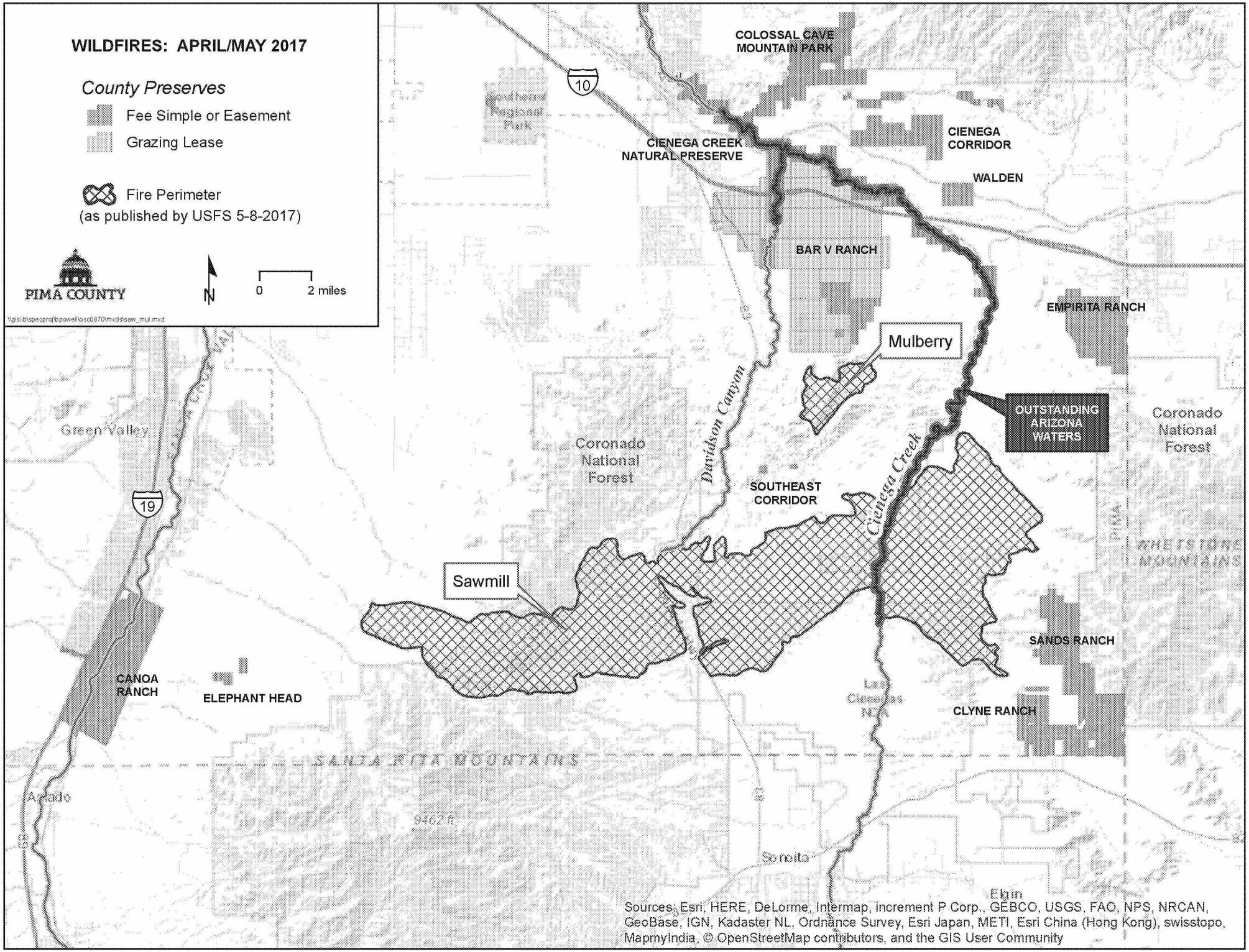
Sincerely,

C.H. Huckelberry
County Administrator

CHH/anc

Enclosure

c: Colonel Peter Helmlinger, South Pacific Division Commander, US Army Corps of Engineers
Alexis Strauss, Region 9 Acting Regional Administrator, Environmental Protection Agency
Steve Spangle, Field Supervisor, Arizona Ecological Services, US Fish and Wildlife Service
Cal Joyner, Regional Forester, Southwestern Region, US Forest Service


WILDFIRES: APRIL/MAY 2017
County Preserves
Fee Simple or Easement
Grazing Lease
Fire Perimeter
(as published by USFS 5-8-2017)
PIMA COUNTY
N
0
2 miles
COLOSSAL CAVE MOUNTAIN PARK
CIENEGA CREEK NATURAL PRESERVE
CIENEGA CORRIDOR
WALDEN
BAR V RANCH
EMPIRITA RANCH
Mulberry
OUTSTANDING ARIZONA WATERS
Coronado National Forest
Davidson Canyon
Cienega Creek
SOUTHEAST CORRIDOR
Green Valley
WHETSTONE MOUNTAINS
Sawmill
SANDS RANCH
CANOA RANCH
ELEPHANT HEAD
CLYNE RANCH
SANTA RITA MOUNTAINS
Arado
9462 ft
Sonita
Elgin
Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community