ROSEMONT COPPER
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December 13, 2013

Colonel Kim Colloton
District Engineer, Los Angeles District
U.S. Army Corps Engineers
P.O. Box 532711
Los Angeles, CA 90053-2325

Re: EPA Evaluation of Rosemont Mine Compensatory Mitigation

Dear Colonel Colloton:

Rosemont Copper Company (Rosemont) is converting a copper mine in southeastern Arizona into a copper mining operation. While doing so, we intend to take as corporate and those actions required for Rosemont to meet environmental standards under the various environmental rules, regulations, and appropriately and correctly applied.

Attached to this are Rosemont's initial comments regarding an evaluation by the Environmental Protection Agency (EPA) of the Rosemont Evaluation (Project Impacts to the Aquatic Ecosystem and Proposed CWA Compensatory Mitigation for the Rosemont Mine in Pima County, Arizona; EPA Evaluation) that was sent to Rosemont by letter dated November 7. The EPA Evaluation concerns the 404 permit that Rosemont requires from the Corps of Engineers (Corps) to fill ephemeral washes in a single functional unit in connection with the proposed copper mine and processing facility. Arizona EPA Evaluation concludes that Rosemont's "proposed mitigation [is] grossly inadequate to compensate for Project impacts." EPA Evaluation, 3, 4. As below explained, the Evaluation reaches this conclusion based on a misapplication of the 404(b)(1) Guidelines (Guidelines) to misaccounting of the relative "secondary effects" of Rosemont's proposed discharge for which mitigation is required; (2) the mischaracterization of many of proposed project impacts; and (3) the mischaracterization of the mitigation proposal. Conclusions therefore are in error. When the effects are characterized by the Corps, and as the mitigation proposed by Rosemont has developed proposal that, when finalized, will meet the requirements for compensatory for the unavoidable impacts to waters of the United States.

The discussion of the EPA Evaluation is divided into several sections:

I. Introduction;
II. A discussion of what constitutes secondary impacts of the discharge
III. A discussion of EPA's mischaracterization of impacts including those not part of the 404 regulatory process;
IV. Rosemont's 404 mitigation package and proposal
V. Conclusion.

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EPA Evaluation of Rosemont Mine Compensatory Mitigation
December 31, 2015

I. INTRODUCTION

In connection with the Rosemont Project, which is a copper mine proposed by Rosemont Copper Company (Rosemont) has applied to the Corps for a permit to fill waters of the United States in the Santa Rita Mountains area impacted by the Project. The Project consists of first and second Phases, and covers approximately 3400 acres. The Project site is dominated by the Coronado National Forest. The Project's tailings facility and waste storage area are the Project components include open pit, utility corridors, access roads, ore processing facilities.

This Project has undergone a year-long process of public participation and review under the National Environmental Policy Act (NEPA), which requires an Environmental Impact Statement (EIS). The EIS includes the Project can meet environmental requirements and subject to appropriate conditions and mitigation requirements. Rosemont has not yet received approval for all permits required by the state of Arizona water management, and surface and groundwater protection, including approvals reclamation plan, aquifer protection permit, water quality standards, and Section 404 and 401 approvals have yet to be issued.

To obtain 404 permits, Rosemont must have an adequate plan in place impacts to jurisdictional waters that may result from its usage, as required by the 404(b)(1) Guidelines (Guidelines) the Corps regulations at 40 CFR Part 230, Subpart B. Rosemont has developed a conceptual proposal that would include the following features include:

- An in-lieu fee (ILF) project at Pantano Dam, made possible by holding in the Cienega Creek Natural Preserve and the accomplishment annum (AFA) of senior surface water rights associated with that pa
- A permittee-responsible (or potential ILF), 200-acre project on the Creek Ranch, comes with its own 590 AFA surface water right and tren restoration and enhancement
- Conservation parcels within the Davidson Canyon watershed along corridors along Davidson, and Mustang Canyons.

The November EPA Evaluation concludes that proposed mitigation is grossly inadequate to compensate for mine impacts," EPA Evaluation, EPA recommended that Rosemont's 404 permit application should be denied for the Project. EPA's proposed as As discussed below, EPA's Evaluation's conclusion is based on a misapplication they pertain to the identification of the "secondary effects" for w mischaracterization of many Project's impacts. The Evaluation also mischaracterizes and discounts the mitigation proposal. Rosemont's conclusions of the EPA Eva therefore in error.

When the "secondary effects" are correctly identified and characterized Rosemont's mitigation proposal is given consideration, the proposal, once finalized, will more than adequate to compensate for the unavoidable impacts waters.

[1] See Rosemont, ES1. Executive summary, Table ES1.1. Alternative comparisons table: elements, page xxiv

II. THE EVALUATION INCORRECTLY IDENTIFIES THE IMPACTS FOR WHICH COMPENSATORY MITIGATION IS REQUIRED

As discussed in the Rosemont EIS, the Project will approximately 40 acres of ephemeral washes and five springs. Most of these direct impacts will result from the tailings facilities and Barrel Canyon, Wasp Canyon, and which relatively broad, flat, gradient ephemeral washes. The impacts also include for the pit, crushers, conveyors, roads, utilities, and associated infrastructure. The five springs to be directly impacted by the Project (Rosemont Spring) occurs in its natural state (with flows of less supports even modest riparian vegetation. Of the remaining features identified (Unnamed Springs and Bee) are seeps that likely provide seasonally, but not of vegetation. The remaining two (Bee Spring and Unnamed) are water sources for livestock and wildlife, the Project will less of a downstream surface flows to Barrel Canyon. A algorithm developed for the Project estimate downstream loss of Waters is an additional 3 miles of ephemeral washes. The gradually diminishes downstream of the Project impacts simply will not reach the riparian areas will remain.

The EPA Evaluation finds that Rosemont's proposed mitigation plan is because it fails to compensate for all of the unavoidable "secondary effects" characterized by Region 9's Wetlands Office, which we believe is the primary authority for the EPA Evaluation). The EPA Evaluation focuses, in particular, on the potential impacts to have on groundwater in the bedrock formations pit, surrounding the Project, those could affect surface flows in the Project site "secondary effects" too broadly by assuming the "secondary effects" of the proposed discharge States" are the same as cumulative and indirect impacts to waters from the Project as a whole. The EPA has chosen to ignore "secondary effects" are Guidelines.

"Secondary effects" are defined by the Guidelines as the "effects associated with discharge of dredged or fill materials, but do not res the dredged or fill material." 40 CFR 230.11 (h)(1). A correc of a proposed discharge is obviously the relevant inquiry for evaluation plan to those effects. Without such a determination, it is impossible to mitigation is "commensurate with the amount and type of impact discharge. 40 CFR 230.93(a)(1). The Wetlands Office appears ignore this fact and fails to explain its evaluation how the impacts to the Project compensatory mitigation is, if required within the Guidelines secondary effects.

To insure that the concept of "secondary effects" is not those authorized to regulate those affected by the discharge specific examples to the effects. The first example is "fluctuating water levels impoundment and downstream associated with the operation of a dam "septic tank leaching and surface runoff from residential or commerci

[2] EIS Volume 5, Appendix A U.S. Army Corps of Engineers' Section 404(

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example is "leachate and runoff from a sanitary landfill located in these examples that to qualify as a "secondary effect" of a result of water moving across, through, or by, or being structures or features been created by the discharge. In the first example, the dis affects the water levels both in the impoundment and downstream; discharge results in dry land on which a residential or commercial devel development on the land then results in leaching into the ground placed in the fill and surface runoff from discharge into the sar landfill, and the storm water that falls on the landfill then p passes through the landfill and runoff from its surface.

So we understand about the meaning examples, happen followed by an explicit statement that "activities to be conducted of dredged or fill material in waters of the within waters which should be considered in evaluating the impacts of creating statement is specific to activities conducted on a structure or fea Significantly, the Guidelines discussed impacts of activities subject to section 40 jurisdiction but may have been facilitated by activities that might take place elsewhere "but for" the action of that fast land

Unfortunately, activities not subject to 404 jurisdiction were included in its Evaluation. considered the "secondary effects" of Rosemont's proposed discharge the effects on aquatic resources potential effects on mine groundwater levels resulting from Project activities anywhere within the Project area, rather effects to Waters of the activities conducted on the "fast land" created the effects in "waters of the United States" or on the facilities Wetlands Office simply because Rosemont's proposed discharge is part that will be facilitated by permit, pursuant to Section 404. have on aquatic resources are "secondary effects" of the discharge, and therefore overreaching is contrary to the Guidelines, and there explicit guidance p

In describing "secondary effects" that it claims must be considered the W repeated references "project impacts" or "Evaluation." 5, 8, an example. The Wetlands Office employees the not "secondary effects" itself. The disch Additionally on page A's Evaluation, the Wetlands Office erroneously concludes the "project does not comply with the... the Guidelines. Project is, that comply with the permit Guidelines; it is equivalent discharge. the Project Guidelines plainly the Wetlands Office not fully define that distinction, it to disregard it together its Evaluation.

The Wetlands Office does not how it it cannot reconcile with the illustrative examples of such effects that are identification the Guid of impacts attributable to the proposed discharge with guidance provi issue of "secondary effects" by EPA's General Counsel. The guida response to a question that was asked by the Assistant Administr preparing the Guidelines. The Assistant Administrator asked, "Must the impacts?" In response, the General Counsel stated:

> By "secondary impacts," I am assuming that you mean reasonably

discharge itself that occur away from the immediate site of impacts or impacts from the altered circulation as stated above, to the discharged material. Such secondary impacts must be con

When one moves beyond secondary impacts, as defined above, subsequent operation of a project or by associated development, difficult. While it is hard to answer in the abstract, considered would appear to depend on the directness of the predictability of the impacts, interpreted reasonably in light of the discharged to build *purposes* stated to which manipulate water flow, the per in evaluating the impacts of the fill, may reasonably take will be manipulated. On other hand, involves some fill, the water quality impacts of the factory guidelines, even if they are, in a sense, a "result" of

Like the Guidelines, allows guid for the possibility that some downstrea structure or feature created by a discharge are properly considered discharge. In the guidance, as in the Guidelines, the is exam created by the discharge, and storage concludes that "the permitting authority may reasonably take into acc will be manipulated." as a result, and the effects of the manip be considered a "secondary effect" of the discharge. On the example of a discharge that is necessary to construct a "factory illustrate effects that would not properly be considered "secondary ef apparent that General Counsel reasons that because the upland factory the discharge itself, "[w]hile impacts of the factory Guidelines, outside the even if they are, in a sense, even a result of the factory the might" not permit is not issued.

This latter example analogous situation presented by Rosemont's propose To facilitate the operation of a project the "upland factory" in example, Rosemont needs to construct, maintain, and operate a "barge loading facility" in the General Counsel's example, and the constructio "some fill." While the water quality impacts of the Project a sense, "result" of the fill," in that they might not take place [nonetheless] outside the scope of the "direct" are not effects itself; they are the effects of Rosemont's proposed activity, the which is not regulated under section 404.

Based on the examples given in the Guidelines and in the gu aquatic resources to be considered "secondary effects," to the effect result of water interacting with the structure or feature must be result of water running across or through, or being manipulated created by the discharge. This is what is meant by the r "effects that are associated with a discharge of dredged or fill the actual placement of the material. "dredged or fill material" overlooked or dismissed the regulatory definition and erroneously concluded that the discharge would "re

loss, conversion and functional degradation of aquatic and terrestrial acres" (see EPA Evaluation, p. 42). The result of this "minimization" by the the limits of Section 404 authority, the evaluation stating that Rosemont's mitigation inadequate is in error.

III. THE EVALUATION MISCHARACTERIZES MANY OF THE IMPACTS OF THE PROJECT

Even if Wetlands Effects had properly identified the "secondary effects" of mischaracterized the nature, severity and extent of those effects, including which do even require 404 mitigation (i.e., groundwater drawdown) is three types what it terms "Indirect/Secondary Impacts" 404 permit. This claim that In order of their significance, they are: "Groundwater Reductions in Surface Downstream of the Mine," and "Lost Functions and Values to Wetlands Upstream mischaracterizes the effects of groundwater resources (which are not a of the discharge in any event); (b) mischaracterizes effects on downgr are being accounted for and addressed through compensatory mitigation); that loss of waters upgradient of the mine is not a being addressed through compensatory mitigation). of impact is discussed

Groundwater Drawdown

The EIS reveals that the Project will drawdown groundwater levels in the regional underlying the Project during active mining operations. The EIS also acknowledges claims that this groundwater drawdown will result in

> "….dramatic and persistent changes to the surface hydrologic regimes driven groundwater hydrology," particularly in Davidson Canyon and the lower reaches Creek, that it "will reduce streamflows, increase water temperatures, spawning, rearing and migratory habitat for other critical life history requi and wildlife resources,"

and that it

> "….will add to a baseline trend of decreasing groundwater, cau water in streams and wetlands along Empire Gulch, Davidson Canyon, Mattie Can Cienega Creek with potential adverse impacts to over 30 seasc threatened and endangered aquatic habitat dependent plants, fish

EPA Evaluation, however, this characterization considerably exaggerates the potential and cannot be reconciled with the conclusions reached on page 53 of the EIS, that

1) "[w]ith respect to drawdown in the vicinity of the Project, available suggests that it is unlikely that flows in the Davidson Canyon that will be impacted by the mine site

For perspective on the statement, Empire Gulch is approximately 5 miles Mattie Canyon is approximately 10 miles due east of the Project site, Project site, and Cienega Creek is approximately 3 miles to the Project site. The watershed Project site drains from the Project location approximately 3 miles to David then approximately 13 miles before reaching Cienega Creek

2) even if a connection between the regional aquifer and Davidson models shows drawdown at the confluence of Cienega Creek and Davidson Canyon and 150 years, and only 0.1 a foot drawdown at 1,000 years

3) such small levels "are beyond the reasonable capability of the models not suggestive of likely changes" in the reduction of surface flow "even assuming that the springs and underflow in Davidson Canyon regional aquifer.

On page 4, FEIS describes uncertainties associated with modeling groundwater

> "The models used to group water impacts have certainty level that must be considered when interpreting the results. While the groundwater drawdown to thousandths of a foot, is of no refinement meaningless. The models were designed for low level purpose of groundwater to the nearest foot, in general drawdown that would occur aquifer; however, the farther the predictions distance from the mine farther out in time the predictions occur, the less certain modeling experts contracted by the [Forest Service] determined certainty to the groundwater in the 5 to 10 foot drawdown contour, the groundwater models would be able to reasonably and streams. Below this threshold are beyond the capabilities accurately predict."

Further, on page 4 FEIS notes the discussion regarding temporal and dis

> "[A] common opinion among experts is groundwater models groundwater models not have the impacts of distant groundwater such Cienega Creek [and] Davidson Canyon ... where these impacts groundwater changes ... at remote periods in the future (hund from now)."

The studies conclusions in SFEIS based on three different groundwater of which were subjected to peer review the best science models available. assumptions and with no scientific validation, that surface flows in Davidson Canyon and Cienega Creek sensitive to changes in groundwater inches, the applicability of even the best available modeling with about probable questionable. Evaluation, these statements are not supported the thorough technical analysis and studies are simply speculation.

Reductions in Surface Water Flow Downstream of the Mine

The EPA Evaluation cites evaluation performed by Rosemont shows a reduction in s at the confluence of Cienega Creek and Davidson Canyon as the that reduction "a signal that impacts [to surface water flows] are this confluence" into the lower reaches of Cienega Creek, and are given the cumulative effects of predicted reductions in groundwater

Again, this is simply the Rosemont's speculation supported by technical study and analysis. The FEIS contains an potential impact evaluation of mine operations on surface flows in perennial the lower Cienega Creek of the principal

contributor to perennial stretches of surface expression of groundwater sources, the FEIS flags the same uncertainty with respect to perennial reaches below connection with the discussion of impacts to springs and seeps, that:

> "While the analysis [of reduction in surface flow impacts from relatively small amounts of groundwater drawdown, occurring decades, hundreds, or even a thousand years in the future] are beyond the ability of these groundwater models, or any predict .... It is important to note that the detailed predictions [provided meant to inform the decision] are not a prediction of what the model predictions were to occur as modeled; however, this does not

In page 525 FEIS, the that "[t]here are other trends and exa in the watershed that add to the uncertainty of predicting impac operations. In other words, whatever the effects, the operations model only one of several contributing factors.

Against that background, the FEIS discloses that "the lowest estimates of drawdown" produced by the models "would not change the general conclusion "even up to 1,000 years after closure," and that "the highest estimates the perennial nature of the stream up through 50 years after become intermittent 150 years after closure and would become ephemeral 1,000 years after closure." The FEIS may tempt EPA case to jump to conclusions, but the worst longest time period years after the future, of the FEIS hardly legitimate basis on which to challenge the thorough analysis performed during the

It is important when discussing possible impacts to Lower Davidson Canyon the physical setting Cienega Creek is located approximately 13 miles the Project. Modeled flow reductions from downstream activities from the Project) are above the Davidson Canyon with Cienega Creek estimated to Cienega Creek, Davidson Canyon 51.3 square miles of drainage while the entire Cienega Creek drainage square miles. Davidson accounts for 11% of the drainage at is approximately 7.2 square miles. Davidson Canyon 1.5% of the drainage Pantano Dam. Calculations these are of shows that the change in flows is indiscernible from background flow be Canyon and Cienega Creek. to assert, as EPA does, that "to extend some beyond" the confluence of Davidson Cienega Creek" data supported by contradicted flow modeling, numerous investigations provided by Rosemont permit and FEIS, and comments analysis is inherent FEIS page 355.

In FEIS goes to discuss potential reductions in flow and the reality, flows from the project site would need to flow downstrea ephemeral stream channel (where water) pockets of highly transmissive those flows would contribute recharge to lower Davidson Canyon. from closer tributaries, although largely flowing events, contribution from Barr would occur FEIS, p. 355)

Lost Functions to Waters Upstream of Mine

The EPA Evaluation claims that there will be "secondary impacts to drainage patterns and hydrology, including connectivity, decreasing quality of wildlife fragmentation of animal movement corridors," and that these impacts are quantified and ultimately EPA Evaluation, in fact, the agency's claim is that the ephemeral washes that exist above the operations are the that the ephemeral washes. Proponents of the EPA Evaluation overlooks is that the "acre" to be impacted already been quantified and included 40 acres of direct impacts of the Moreover, preferred alternative for Rosemont's result in the alternatives analysis included consideration of Environmentally Damaging Practical Alternative (LEDPA) Guidelines process criteria were chosen to insure that as many upstream macroinvertebrates were remain open, connected, flowing and free that the impacts to any particular minimized.

ROSEMONT'S 404 MITIGATION PROPOSAL WILL, WHEN FINALIZED, COMPENSATE FOR ALL UNAVOIDABLE IMPACTS TO WATERS OF THE UNITED STATES ROSEMONT'S PROPOSED DISCHARGE

Rosemont's 404 mitigation proposal

Rosemont is proposing three projects to compensate for its unavoidable impacts to Waters of the United States from its proposed discharge.

- A potential in-lieu fee (ILF) project at Pantano Dam, a decades-old possible in-holding in the Cienega Creek Natural Preserve located on accompanying 122 acre per annum (AFA) of senior surface water associated with that parcel.
- A permittee-responsible (potential ILF) project on 1 Cross Ranch which comes with its own 590 AFA surface water right and enhancement.
- Conservation parcels within the Davidson Canyon watershed along corridors along Davidson Canyon and two tributaries (Mulberry and Barrel the "Davidson Canyon parcels

The projects above are part of a package that will be combined with final the Mine plan of operations. These mitigation measures are in B of the This broader package effort includes to minimize and offset impacts to a va for example, endangered species habitat.

In selecting the proposed 404 Rosemont mitigation projects, be cognizant of the mitigation approaches preferred by the established mitigation hierarchy: (1) ILF project and/or (3) Permittee-responsible mitigation. However, there are no current approved banks available to Rosemont. Therefore, the next approach, an ILF ILF sponsoring entities and Corps staff have been working to develo mitigation. However, this juncture there is not an approved ILF

upon for mitigation projects cannot be timely approved, Rosemont will need to complete a permittee responsible plan.

Development of Rosemont's 404 mitigation proposal

Rosemont arrived at its proposed mitigation parcels through an extensive effort. It was part of the larger mitigation package development. Recognizing watershed based approach to compensatory mitigation parcels and projects within the potentially impacted by the Project. Barrel Canyon lies in Davidson Canyon watershed, which is in turn part of the Cienega tributary to the Basin. Cruz Arroyo, the Cienega Creek watershed are public (federal, state, or county) and available to acquire in the Davidson Canyon and are proposed part of mitigation package. Due to their relatively undisturbed condition (limited to, grazing) proposed primarily for preservation purposes. Again, given the predominance of public lands, the opportunities in the Barrel Canyon/Davidson Canyon watershed of the Rosemont Project

An opportunity to secure and restore flows in Cienega Creek watershed was associated with Pantano Dam), a storage impoundment located on lower Cienega surrounded by the Cienega Creek Preserve. Dam is currently used to divert water for a golf course and surface water irrigation. County has long had interest in acquiring the rights to this water Preserve. While out's impacts and Rosemont's ability to acquire systems), from a Clean Water Act standpoint extremely opportunistic. Southern Arizona water resources. Dam and lower Cienega Creek ultimately discharge the downstream reach Santa Cruz navigable.

In addition, the adjacent watershed, Cienega Creek watershed, Rosemont has acquired the Sonita Ranch (SCR) property consisting approximately 1,200 acres of appurtenant water rights to Cienega Creek between Sonita and Patagonia, Santa Cruz County, Arizona (Figure 1). Sonita Creek is a major tributary Cruz River. Ultimately discharges upstream of abandoned Santa Cruz River near Green Valley to Rosemont acquiring the right to purchase Arizona Game & Fish Department this land has high conservation value sensitive wildlife and fish species due to the presence of significant water rights (over 590 acre-feet's potential well has as the corridor link between and the Santa Rita Mountains.

However, Rosemont believes the conservation value of the parcel and associated water rights are greatly enhanced by 404 mitigation requirements. In fact, based on Rosemont's plans, the Project will be fully mitigated through the purchase of mitigation credits from under the Rosemont has agreed to contribute water rights Associated Partners sponsor Pima County Regional Flood Control District Tucson Audubon Society agreement also includes the conveyance acres of Pantano Dam diversion facilities, and a nearby grant, as well as funding to implement maintain the project

EPA Evaluation of Rosemont Mine Compensatory Mitigation
December 31, 2019

In the event that Pantano Dam ILF project will not fully mitigate the Rosemont Project, SCR offers considerable mitigation potential, either project or as another ILF project, or as a value that is more preservation parcel would provide substantial ecological benefit to the composite Davidson Canyon parcels are also in reserve if needed.

Despite EPA assertions that these are "projects" EPA evaluates only (3), in Rosemont believes these parcels are projects fully defined, designed, and developed, unique and valuable mitigation opportunities for Clean Water Act purp are prime to mine operations and represent the best mitigation op

Sufficiency of mitigation offered.

After having applied the Corps' South Pacific Division (SPD) standard Rosemont believes that Pantano Dam potentially on mid-stream or without the upper Davidson Canyon parcels sufficient mitigation SPD developed the SOPs a regional, standardized process to determine compensatory mitigation rati mitigation rules (33 CFR Part 332). This was done in respo mitigation across Corps districts and project managers. Regulatory Public N Program Standard Operating Procedure for Determination of Mitigation Rat December 19, 2012 followed by subsequent updates, and clarifications procedures instructs Corps project managers to complete Steps 2 through 10 SPD Mitigation Ratio Setting Checklist (Checklist), which compares elements proposed mitigation plan (location, watershed temporal loss, etc.) to the impacts, producing a final mitigation ratio for each proposed mitigation

The initial step of the Checklist is to establish a baseline rati comparison between the aquatic functions and values present at the SPD does not currently provide quantitative Corps functional assessment available r Arizona for ephemeral washes, so assessment is required.

Per Corps direction, Rosemont utilized the Rapid Stream Riparian Appr assess the functions of project and mitigation sites to inform the establis ratios for steps 1 Checklist RSRA model had been developed for wetter Rosemont Project proposed mitigation sites. Substantial modifications were made to the application to ephemeral systems.

To Rosemont and have calculated preliminary mitigation ratio elements of Rosemont's proposed mitigation package (Sonoita Creek Ranch and Davidsc understand that Corps and the ILF sponsor are completing an asses associated with the Pantano Dam project

In making their ratio determination, the Corps was informed by the assessment as well as examples 1-3 for SPD Mitigation Ratio Sett which provided examples of completed Checklists very similar to porti mitigation package permittee-responsible mitigation calculated by Corps 4:1 to 6.1:1 for preservation of wetlands and waters of the upland buffer at the mitigation parcels. Corps calculated 6.2:1 on a ILF project that Sonoita Creek Ranch for establishment of habitat.

Thus, single functional assessment and working checklist through all the that the three projects would collectively have available credits substantially greater than the direct and indirect impacts. Corps is requiring Rosemont to use of SOPs and the functional assessment tool, which were developed under the direction of Corps to vary the current approach to providing the best direction available in light of the standardized functional agency assessment; and (b) to SPD's to standardize the application of mitigation across the state, make the South Pacific Division. If EPA has Corps over which functional assessments proposed be used to determine mitigation ratios, it should address those concerns in the EPA should delay or undermine a permit applicant's attempts to secure a permit

In summary, mitigation credit available at each site

Pantano Dam. Rosemont's initial proposal was to release water currently Dam into the bed of what is now Pantano Wash (now ephemeral) immediately below the Dam release would Rosemont understands that County has been working on more detailed result in enhancement of areas and riparian within the Preserve so obtain additional credits. While County to those discussions, the should be significant and may be

Sonoita Creek Ranch. Rosemont is working revised Mitigation and Monitoring (HMMP) for SCR. Earlier version proposed mitigation which have included significant enhancement of jurisdictional waters, riparian buffer and preservation of wetlands along acres of Sonoita understandable given that includes over 2,000 acres in size located in floodplain of Sonoita crosses approximately a 590-feet reach of year. Even if amounts of proven optimistic HMMP is Rosemont asserts there is available this parcel supplement credits necessary after considering ILF project. In addition, proves ILF at unworkable, SCR could meet all of Rosemont's compensatory mitiga

Davidson Canyon Preservation Lands. Adding these lands through a similar acres of mitigation preservation category. This simply adds weight to that mitigation proposals by Rosemont the sufficient meet requirements.

In summary, some combination of these projects will meet Rosemont's obligations. These are the best and indeed most appropriate purposes in proximity to the offer unique riparian restoration opportunities very little surface water available

V. Conclusion

Rosemont remains committed to meeting and maintaining compliance with for the Project, and understands scale of the process mitigation planning, execution, and agency oversight. believe waters, should also applied, measured, and judged on their true merits, potential meet the individual regulatory requirements. The have requirements. use the best science simply speculation about what could happen hundreds

EPA Evaluation of Rosemont Mine Compensatory Mitigation
December 31, 2015

the future.

The statements EPA's November 17 letter to regulatory guidance, or agency requirements, and are inappropriately exaggerating the impacts of Project without the benefit of consideration of Draft Record of Decision conditions Opinion conservation measures, and conservation and mitigation measures documents available provide understanding of the Project and discussions.

Rosemont looks forward early next week to give us the opportunity with a Project briefing along with a tour site visit would be context regarding the Project, the overall setting of the area, the proposed mitigation sites, and the proximity of the specific areas referenced in the EPA staff to schedule this visit.

Regards,

Katherine Ann Arnold
Vice-President, Environmental and Regulatory Affairs

Attachment: *Figure 1: Surface Ownership*

cc: Marjorie Blaine, U.S. Army Corps of Engineers
Jared Blumenfeld, U.S. EPA Region IX
Jim Upchurch, U.S. Forest Service
Henry Darwin, Arizona Department of Environmental Quality
Mike Fulton, Arizona Department of Environmental Quality
David Baker, Bureau of Land Management
Steven Spangle, U.S. Fish and Wildlife Service

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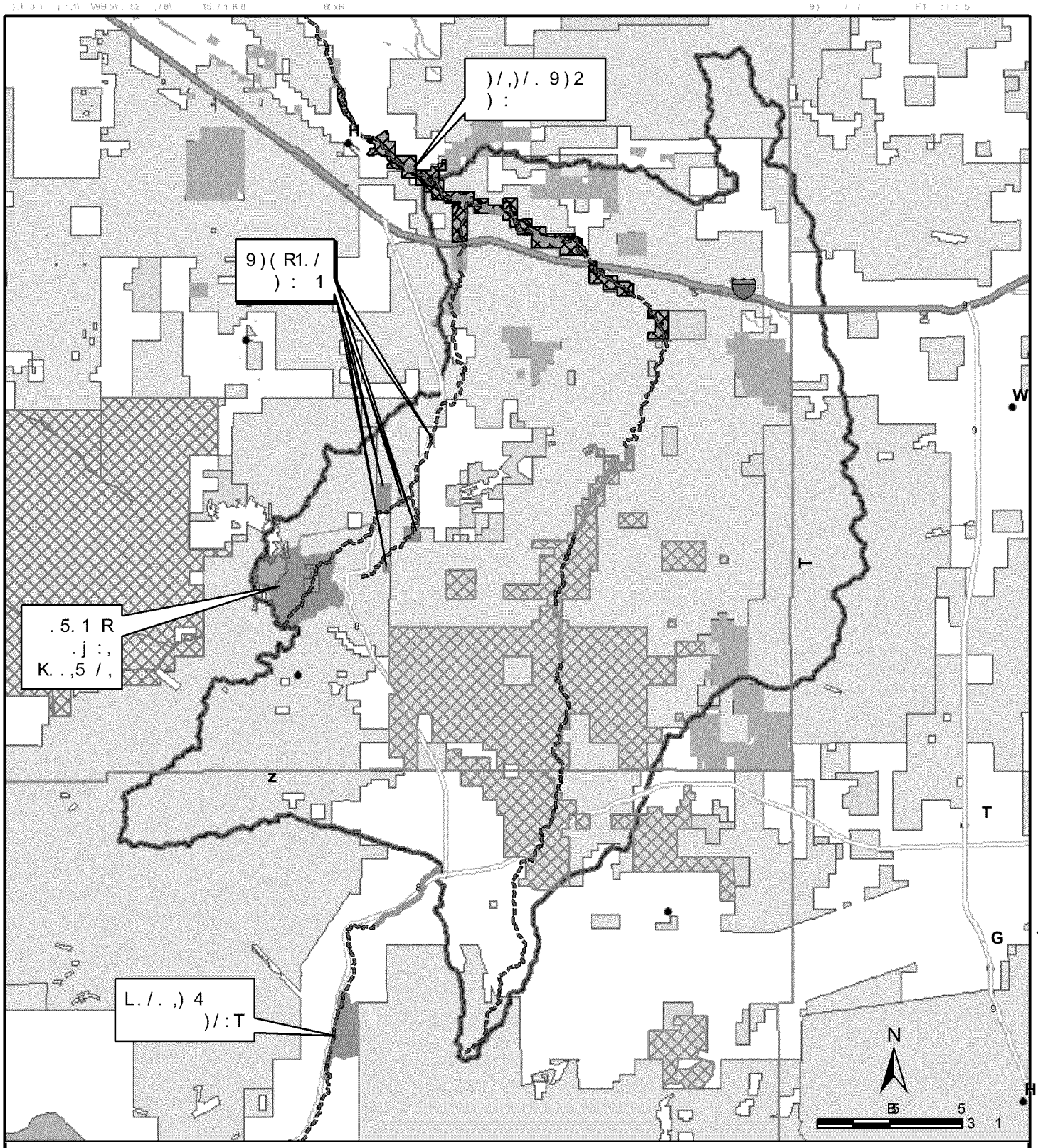

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