ARIZONA MINING REFORM COALITION
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Objections to Arizona Pollutant Discharge Elimination System (AZPDES) Permit No. AZ0020389 and request for an anti-degradation hearing

Via email: guzman.martha@epa.gov

May 31, 2022

Martha Guzman
Region 9 Administrator
Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

Dear Ms. Guzman,

We would like to bring to your attention a permit being improperly renewed by the Arizona Department of Environmental Quality (ADEQ) pursuant to the Federal Clean Water Act. We ask you to object to this draft permit. It is our understanding that the EPA has 90 days to object to the draft permit with specific objections and that your agency has final oversight and enforcement authority over ADEQ decisions.

As you know, the state of Arizona was granted primacy over the implementation of the Clean Water Act in Arizona.

The permit, the Arizona Pollutant Discharge Elimination System (AZPDES) Permit No. AZ0020389 for Resolution Copper Mining (RCM) would facilitate new mining facilities and activities and new sources of discharge associated with its mining project near Superior, Arizona.

The comment period for this proposed action ends today and we believe, as our attached comments demonstrate, ADEQ is planning to improperly renew this permit.

ADEQ cannot issue the proposed AZPDES permit until a TMDL for Queen Creek has been completed. The receiving stream for this permit, Queen Creek, has been listed on Arizona's 303(d) List of Impaired Waters due to exceedances in dissolved copper loading (since 2002), lead (total) (since 2010), and selenium (total) (since 2012). Other reaches of Queen Creek and its tributaries are also listed on the 303(d) List of Impaired Waters due to exceedances in dissolved copper loading. ADEQ has failed to prepare a Total Maximum Daily Load (TMDL) report to bring Queen Creek back into compliance for more than 20 years. Yet, the renewed permit would allow Resolution Copper to add addition copper, lead, and selenium to an already impaired stream.

In addition, since ADEQ has been so negligent in resolving the impaired nature of Queen Creek, we ask that the United States Environmental Protection Agency (EPA) hold an anti-degradation hearing regarding the impacts to Queen Creek in Arizona from the continued intentional delay in addressing the TMDL and that would result from the proposed Arizona Pollutant Discharge Elimination System ("AZPDES) renewal permit.

The headwaters of Queen Creek are in Pinal County Arizona and is part of the Middle Gila Watershed. Exceedances affect uses including livestock grazing, partial body contact (swimming), irrigation, and wildlife habitat.

Section 303(d) of the Clean Water Act requires states to develop Total Maximum Daily Loads (TMDLs) for all the waters identified on their Section 303(d) list of impaired waters. To date, ADEQ has not established TMDL.

Despite this long-standing knowledge, the EPA has not set a schedule of compliance for TMDL. The failure of the EPA to put ADEQ on a schedule to address TMDL in Queen Creek puts the agency in jeopardy of being found in violation of the Clean Water Act. The Arizona Mining Reform Coalition urges the EPA to conduct an anti-degradation hearing to protect current water users from excesses in copper that would likely be made worse through the issuance of the permit.

We urge you to review carefully this dereliction of our Federal Clean Water Act by ADEQ and to hold an anti-degradation hearing in Arizona to help resolve this issue. Please contact me if you need further information. We look forward to hearing from you about how you will be addressing our concerns.

Sincerely,

Roger Featherstone

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CC:
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Attachments:

- Arizona Mining Reform Coalition et al. comments on AZPDES Permit No. AZ0020389 5/31/22
- Arizona Mining Reform Coalition et al. comments on ADEQ draft TMDL for Queen Creek (Included as attachment 03 in our 5/31/22 comments)
- Draft Fact sheet for AZPDES Permit No. AZ0020389
- Draft permit for AZPDES Permit No. AZ0020389
- ADEQ's draft TMDL analysis for Queen Creek (9/18/2017) (Included as attachment 04 in our 5/31/22 comments)

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