UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Colonel Julie A. Balten
Commander and District Engineer
U.S. Army Corps of Engineers, Los Angeles District
915 Wilshire Boulevard, Suite 930
Los Angeles, California 90017-3489

Re: Federal Coordination Regarding the Approved Jurisdictional Determination for Rosemont Copper Mine in Arizona

Dear Colonel Balten,

I am writing to express concern regarding the lapse in U.S. Army Corps of Engineers Los Angeles District (USACE) communication and coordination with the Environmental Protection Agency (EPA) on the recently approved jurisdictional determination at the Rosemont Copper Mine in Arizona.

As you know, EPA and the USACE worked in tandem leading up to and after the issuance of the Navigable Waters Protection Rule (NWPR). Both agencies worked extensively to develop and issue a joint Coordination Memo to ensure consistent implementation of the NWPR, including detailed coordination and elevation procedures pertaining to jurisdictional determinations. With respect to the Rosemont Site, the USACE not only failed to follow the Coordination Memo but ignored EPA's explicit request in December 2020 for notification prior to the issuance of the final jurisdictional determination.

This is particularly troubling given our long-standing federal partnership and engagement on Clean Water Act (CWA) Section 404 permitting matters for more than two decades, and the many years EPA has engaged with the USACE on the Rosemont Copper Mine. Notwithstanding, in its March 24, 2021 Memorandum for the Record, the USACE asserted that it was not required to coordinate under the Coordination Memo. While EPA strongly disagrees with this determination, it is clear that there is a breakdown in how our staff are implementing and interpreting the Coordination Memo which does not serve the interests of either of our agencies or the public.

Consequently, I seek your support in directing our staff to work cooperatively to develop a memorandum of agreement that outlines clear communication and coordination principles consistent with the Coordination Memo.

I look forward to your thoughts on improving our mutual partnership in the spirit of teamwork and collaboration moving forward. Please feel free to call me if you would like to discuss further at (415) 972-3337 or your staff may contact my Assistant Director, Ellen Blake at (415) 972-3496.

Sincerely,

TOMAS TORRES

Digitally signed by TOMAS TORRES
Date: 2021.04.08 17:43:12 -07'00'

Tomás Torres
Director, Water Division

Enclosure: Coordination Memo

cc: David Castanon, USACE

ED_013507_00000104-00002