**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
**REGION 9 – PACIFIC SOUTHWEST REGION**
**75 Hawthorne Street**
**San Francisco, CA 94105-3901**

Via Electronic Mail and First Class Mail
Javier Del Rio
HudBay Minerals, Inc.
Vice President, South America and USA
5255 East Williams Circle, Suite 1065
Tucson, AZ 85711
javier.delrio@hudbayminerals.com

RE: Request for Information under Clean Water Act (CWA) Section 308(a)
Unauthorized discharges to waters of the U.S. in Rosemont Copper World, Pima County, AZ
EPA Docket No. CWA-308-9-22-032

Dear Javier Del Rio,

The U.S. Environmental Protection Agency, Region 9 (EPA) is requesting information from you about the work that you and HudBay Mineral, Inc. planned or performed since at least April 2022 at a project site known as Rosemont Copper World in Pima County, Arizona that may have resulted in the placement of material (dirt, rock, or similar material) into water of the U.S., and whether that work complied with the requirements of section 404 of the Clean Water Act (CWA), 33 U.S.C. § 1344. We request this information pursuant to EPA's information-gathering authority under section 308 of the CWA, 33 U.S.C. § 1318. Please provide us your response to the questions in the attached Request for Information by **August 31, 2022**, by email to:

Scott McWhorter
U.S. Environmental Protection Agency, Region 9
Enforcement and Compliance Assurance Division ENF 3-2
Mcwhorter.Scott@epa.gov

Your response to this Request for Information must be accompanied by the following certification signed by you or your duly authorized representative:

*I certify under penalty of law that this document and all attachments were prepared under my direction and the information submitted is, to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

You may not withhold from EPA any information on the grounds that it is confidential business information. However, EPA has promulgated regulations, under 40 C.F.R. Part 2, Subpart B, to protect confidential business information it receives. A legally supportable claim of business confidentiality may be asserted in the manner specified by 40 C.F.R. § 2.203(b) for all or part of

the information requested by EPA. EPA will disclose business information covered by such claim only as authorized by 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies the information at the time EPA receives it, EPA may make it available to the public without further notice. All confidentiality claims are subject to EPA verification.

Failure to comply with this Request for Information can result in an enforcement action for appropriate remedies, including penalties, under section 309 of the CWA, 33 U.S.C. § 1319. Compliance with this Request for Information does not relieve you of the obligation to comply with the CWA or other applicable laws and permits.

This Request for Information is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act because it is directed to fewer than ten persons and is therefore not a "collection of information" under 44 U.S.C. § 3502(3). It is also an exempt activity under 44 U.S.C. § 3518(c) and 5 C.F.R. § 1320.4.

Thank you for your cooperation and prompt attention to this Request for Information. If you have any questions regarding this Request for Information, please contact Scott McWhorter, at 415-972-3584 or at mcwhorter.scott@epa.gov. Your attorney may contact Rich Campbell in our Office of Regional Counsel at 415-972-3870 or at campbell.rich@epa.gov.

Sincerely,

Jamie Marincola, Supervisor
Stormwater, Wetlands, and Oil Section
Enforcement Compliance and Assurance Division

**Request for Information**
**EPA Docket No. CWA-308-9-22-032**

EPA requests that you, Javier Del Rio, provide information about the activities that you and any other persons acting on behalf of HudBay Minerals, Inc. conducted at the Rosemont Copper World site.

## INSTRUCTIONS

1. Separate Response for Separate Question. Provide a separate narrative answer to each question and segregate responsive documents by each question or its subpart. Precede each answer with the number of the corresponding question or its subpart.

2. Best Information Available. Respond to the best of your ability, even if documents are not available. Explain any qualified response. If you do not have the responsive information but know the person from whom the information may be obtained, identify the person.

3. Document Submission. Provide copies of all responsive documents in your possession, custody or control. If a responsive document was, but no longer is, in your possession, custody or control, explain what was done with it. If another person has possession, custody or control of the document, identify the person. If the document was disposed of, explain when and why it was disposed of and who disposed of it.

4. Use of Document in Place of Answer. If a document provides the complete answer to a question, you may use it in place of a written answer by supplying the document and appropriately identifying the applicable portion of the document as answering a specific numbered question.

5. Document Alteration or Deletion. Explain the reason and identify the person responsible for any deleted, altered or redacted portion of a submitted document.

6. Obligation to Correct. If you later discover that any submitted information is incorrect, submit a corrected response as soon as possible.

7. No Effect on Other Legal Obligations. This Request for Information in no way alters or relieves you of other legal responsibilities or restrictions, including under the CWA.

## DEFINITIONS

The following terms have the following definitions:

1. "Document" means all written, recorded, computer generated, or visually or aurally reproduced materials of any kind in any medium in your possession, custody or control or known by you to exist, including all originals, drafts and non-identical copies. The term includes, without limitation, all reports, studies, surveys, plans, transcripts, permits, licenses, deeds, maps, drawings, schematics, specifications, instructions, calculations, monitoring data, rental records, contracts, agreements, bid documents, purchase orders, work orders, invoices, manifests, payment records, spreadsheets, communication records, correspondence, notes, memoranda, photographs, and videos.



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2. "You" shall mean Javier Del Rio, HudBay Minerals, Inc., and any person working for, with, or on behalf of Javier Del Rio or HudBay Minerals, Inc.

## REQUEST FOR INFORMATION

Please provide the following Documents by **August 31, 2022**. If no such documents exist, then provide a clear and explicit explanation as to why they do not exist. Please identify your answers as "1", "2", "3.a.", "3.b.", etc., to correspond to the questions.

1. Please provide all Documents that granted you access (e.g., including ownership status) to the project site known as Rosemont Copper World located in Pima County, Arizona ("the Site"), including areas at Latitudes and Longitudes (31.877016, -110.805264), (31.869940, -110.799660), and (31.860868, -110.786564).

2. Please describe, and provide Documents to show, the efforts you made to comply with section 404 of the Clean Water Act for any work resulting in the placement of dirt, rock or other materials in or near waters of the U.S. ("the Project") at the Site.

3. Please describe and provide all Documents related to the Project at the Site including, but not limited to:

    a. The date and time the Project began and ended;
    b. The Project's location and size;
    c. The Project's nature and purpose, including:
        i. The Project proposal and any related Documents. If no such proposal exists, describe the nature and purpose of the project. If you developed the proposal in coordination with another entity, provide the name of that entity and describe its relationship to You;
        ii. Any Documents relating to the funding of the Project;
        iii. A description of all alternatives that were considered or evaluated, as well as any associated Documents;
    d. The identity of all persons involved in approving the Project;
    e. The identity of all persons involved in conducting the Project
    f. The type of equipment used for the Project;
    g. A list of all materials (e.g. dirt, rock, cement, culverts) used for the Project and where they originated from. Identify the type, volume, and location(s);
    h. A list of all persons who operated equipment in completing the Project, including the vehicles that transported the material to the Project area;
    i. Copies of all invoices or work orders related in any way to earth disturbance, blasting, and/or construction conducted since April 1, 2022 associated with the Project;
    j. All reports, evaluations, and/or Site plans that relate to the Site, including soil reports, surveys, farm plans, engineering, and construction reports prepared at any time. If you are not in possession of any of the reports listed above, please indicate the names, addresses, and telephone numbers of the parties who you believe may be, have been, or are in possession of such documents; and
    k. All photographs, videos, and other visual Documents depicting the area before, during, and after work at the Project.

4. Please describe and provide all Documents related to the aquatic resource at the Site, including but not limited to:

   a. All information describing the aquatic resources at the Site, including:
      i. any maps, aerial photos, or diagrams used to identify waters or wetlands including washes, streams, and drainages.
      ii. any wetland mapping or delineations, Ordinary High Water Mark mapping or delineations, and/or description of streams, waters or wetlands for the Site, including Site photos and datasheets.
      iii. any upland background chemistry data including metals (including calcium) concentrations collected from the Site and west side of the Santa Rita Mountains and areas downstream to and including the Santa Cruz River.
      iv. any reports describing the biological, physical, or chemical characteristics of waters or wetlands on the Site and downstream to the Santa Cruz River.
      v. any information on flow, rainfall, stormwater, surface hydrology, and subsurface hydrology from the Site and downstream to the Santa Cruz River.

5. Provide all Documents related to any Clean Water Act permits or authorizations for the Project and all efforts you made to inquire about or obtain authorization and/or permits for the Project, including but not limited to:

   a. Any communication between You (and any other parties that were involved in the Project's development and implementation) and any federal, state, or local government agencies, including the U.S. Army Corps of Engineers, Arizona Department of Environmental Quality, relating to the Project.
   b. Any application for National Pollutant Discharge Elimination System permit coverage, including associated Stormwater Pollution Prevention Plan.

**When responding to the questions below, please see the referenced documents.**

6. Referring to *Figures 2, 3, 4, and 5* in the March 10, 2022 Letter from HudBay to Pima County, provide the following information:

   a. A description of any work activities that have occurred in any type of intermittent or ephemeral wash or drainage.
   b. Photographs of the work areas from 2021 and 2022.
   c. Aerial photos and remote sensing information of the work areas from 2021 and 2022.
   d. Any engineering plans and drawings including grading, road construction, culvert placement, and work pads.

7. Referring to *Figure 6: Site Water Management – Closure* from the March 10, 2022 Letter from HudBay to Pima County, identify the location and description of any work associated with stormwater facilities related to the Project.

8. Referring to the Connectivity Report attached as Exhibit 1.3 to *Rosemont Copper Company's Response to Tribes' Motion for Temporary Restraining Order and Tribes' Memorandum in Support of Motion for Temporary Restraining Order* (Case 4:19-cv-00177-JAS, Document 129-5, Filed 04/29/22) provide the following:

   a. Data collection field sheets or logbooks
   b. Raw data collected during the biological, physical and chemical sampling, including chemical concentrations used to develop longitudinal plots shown in above at pages 12-24.
   c. Analysis reports for soil and plant samples
   d. Analysis reports for water samples
   e. Field photographs

9. Referring to the Transport Analysis attached as Exhibit 1.2 to *Rosemont Copper Company's Response to Tribes' Motion for Temporary Restraining Order and Tribes' Memorandum in Support of Motion for Temporary Restraining Order* (Case 4:19-cv-00177-JAS, Document 129-4, Filed 04/29/22) provide the following:

   a. Data collection field sheets or logbooks
   b. Raw data collected during the biological, physical and chemical sampling
   c. Analysis reports for soil and plant samples
   d. Analysis reports for water samples
   e. Field photographs