From: Kermish, Laurie
To: Brush, Jason; Bose, Laura; Jessop, Carter; Goldmann, Elizabeth
Cc: Goforth, Kathleen; Campbell, Rich
Subject: RE: Revised language for comment on Rosemont draft FEIS page 25
Date: Wednesday, August 14, 2013 6:14:00 PM

What's the time frame? Rich is back next week and would be best to include him.

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From: Brush, Jason
Sent: Wednesday, August 14, 2013 6:10 PM
To: Bose, Laura; Jessop, Carter; Goldmann, Elizabeth
Cc: Goforth, Kathleen; Campbell, Rich; Kermish, Laurie
Subject: Re: Revised language for comment on Rosemont draft FEIS page 25

Let's talk in person before this goes out.

From: Bose, Laura
Sent: Wednesday, August 14, 2013 6:07:40 PM
To: Brush, Jason; Jessop, Carter; Goldmann, Elizabeth
Cc: Goforth, Kathleen; Campbell, Rich; Kermish, Laurie
Subject: RE: Revised language for comment on Rosemont draft FEIS page 25

Jason: Okay, can you clarify what specifically worries you? If ADEQ believes (Mike and Linda) that they can look at the downstream impacts from the fill, I think that is great. It is a distinct change in thought. Or are you concerned about the linkage I decided to draw at the end between a collaboration between ADEQ, EPA and the ACOE?

From: Brush, Jason
Sent: Wednesday, August 14, 2013 5:57 PM
To: Bose, Laura; Jessop, Carter; Goldmann, Elizabeth
Cc: Goforth, Kathleen; Campbell, Rich; Kermish, Laurie
Subject: Re: Revised language for comment on Rosemont draft FEIS page 25

This worries me. Not ready to sign off w/o discussion live. ORC?

From: Bose, Laura
Sent: Wednesday, August 14, 2013 5:51:31 PM
To: Jessop, Carter; Goldmann, Elizabeth
Cc: Brush, Jason; Goforth, Kathleen
Subject: Revised language for comment on Rosemont draft FEIS page 25

As you know, ADEQ has indicated they believe they may have more flexibility under the 401 program than previously thought, that is they could consider the impacts of the fill on the downstream waters (good!), but means we need to revise our comment. ADEQ is considering a condition for replenishment of water. But they are not there, so unfortunately, the comment can no longer point out a misconception, but I did not want to put in a conflicting statement. This is the modification I am suggesting, but would look to you to improve it as it does not really lend itself to a big "statement"; however, it does reiterate the need to meet the anti degradation requirements.

The AFEIS concludes that "…in the case of the Outstanding Arizona Waters (OAW), the (401) regulatory permitting process will also provide a safeguard against degradation of existing water quality…if the certification is issued, then the ADEQ by definition is determining that Outstanding Arizona Waters will not be degraded." (Chapter 3, Seeps Springs and Riparian Areas, p. 4, lines 14-21, and 22-23).

ADEQ has the ability to certify, certify with conditions or deny certification based on the impacts. In deciding to issue the 401 certification, ADEQ must evaluate the impacts from the fill to ensure anti degradation standards and policies are met; and to protect designated uses and prohibit any lowering of water quality in OAW. Arizona's anti degradation rules provide that the "[d]egradation of an AOW ... is prohibited." ACC R18-11-107. This provision is consistent with federal anti degradation requirements, which provide that "water quality shall be maintained and protected" in Tier III waters, and that the water quality in Tier III waters may not be lowered to accommodate economic or social development in the area where the waters are located. 40 CFR 131.12(a). EPA and ADEQ will continue to work closely together with the ACOE to fully understand the impacts of the proposed action on the Outstanding Arizona Waters.

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