

DOCUMENT REVIEW COMMENT FORM—(TOHONO O’ODHAM NATION)

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| TON | General comment – Chapter 1 | | | | <p>This Chapter does not address the important impact of land being at the center of the Tohono O’odham, as well as other tribes’ belief systems. Tohono O’odham and many other tribes with a history of past use of Ce:wi Duag (Santa Rita Mountains) believe that the land is alive and that it provides for the people by sharing power. As tribal elders say “nobody owns the land, we watch over it, because that is our responsibility, you take care of the land and it cares for you.”</p> <p>This Chapter still fails to fully comprehend the spiritually devastating impact that this Project will have on the Tohono O’odham and other tribes. Along this vein, the FEIS should discuss the impingement upon religious practices (which are protected by the First Amendment) that this Project will have upon tribal members. The FEIS should analyze this project under Executive Orders 13007 and 11593, which apply to all federal agencies.</p> <p>In order to avoid these impacts and comply with federal policy and the agency’s trust responsibility, the Forest Service should choose the “no action” alternative.</p> |

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| TON | General Comment – Chapter 1 | | | | The FEIS fails to address the trust relationship that the Forest Service has with Indian tribes and how that relationship fits with this Project. Additionally, the FEIS fails to address the United Nations Declaration on the Rights of Indigenous People. The United Nations Declaration on the Rights of Indigenous People, which was signed by the United States in 2010, is instructive in this Project. Article 8 provides that indigenous peoples have the right not to be subjected to the destruction of their culture. If this Project is approved, portions of tribal culture will be destroyed. Further, Article 11 provides that “indigenous people have the right to practice and revitalize their cultural traditions and customs - includes the right to maintain, protect and develop the past, present and future manifestations of their cultures such as archaeological and historical sites, artifacts, designs, ceremonies.” |
| TON | General Comment – Chapter 1 | | | | The FEIS fails to analyze the Project under auspices of the World Archaeological Congress Code of Ethics. The Code of Ethics states that its members agree that they have an obligation to indigenous peoples to acknowledge the importance of indigenous cultural heritage including sites, places, objects, artifacts, and human remains to the survival of indigenous cultures. |
| TON | Chapter 1 | Purpose and Need | 5 | 33 | The Purpose and Need Statement is crafted too narrowly. |
| TON | Chapter 1 | Purpose and Need | 5-6 | 36-37 | The FEIS relies heavily upon the General Mining Law to essentially argue that the Forest Service has no choice but to approve an action alternative which would allow the MPO to move forward. The FEIS needs to analyze whether the rights and benefits extended under the General Mining Law should apply to Rosemont Mining Corporation, a foreign-owned entity. |

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| TON | General Comment | | | | The Forest Service should consider changing the FEIS to a Supplemental EIS. There have been substantial changes in the mine plan between the DEIS circulated for public comment and the Draft Administrative DEIS. Of course, the major change was the withdrawal of the oxide heap leach and accompanying solvent extraction/electrowinning plant facilities. Although the removal of these facilities appears to be environmentally preferable, the purpose of NEPA is to ensure that the public and the decisionmakers are fully informed about the project and its impacts. The public has not been provided an opportunity to comment on this new configuration, which is likely to leave gaps in the decisionmakers' analysis. The FEIS should be changed to a SEIS and re-circulated to the public for comment to comply with NEPA. |
| TON | 2 | General Comment | | | The No Action alternative is not given proper consideration. The FEIS focuses almost exclusively on the action alternatives. |
| TON | 3 | Socioeconomics and Environmental Justice | 69-71 | | The Environmental Justice section in the FEIS has been improved over the DEIS. However, it still downplays and does not fully analyze the full impact of this action upon the Nation and other tribes. |
| TON | 3 | Socioeconomics and Environmental Justice | 69 71 | | The word "potential" should be removed from page 69 table 238 in the cultural box and page 71, line 21. The paragraph on page 71 goes on to acknowledge that these resources are "known," so the use of "potential" is confusing to the reader. Since any action alternative will result in the destruction of ancestral villages, human remains, sacred sites, and traditional resource collecting areas, the use of "potential" is unwarranted and misleading. |
| TON | 3 | Socioeconomics and Environmental Justice | 76 | 3-5 | It should be added that additional items were recommended by the tribes, which were not acceptable to the Forest Service. The tribes do not believe that the items set out here at all "compensate" for the destruction of tribal cultural resources. |

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| TON | 3 | Socioeconomics and Environmental Justice | 76 | 28 | Remove apostrophe. |
| TON | 3 | Socioeconomics and Environmental Justice | 76 | 34 | The Nation does not recall that there was an agreement reached that Rosemont would be transplanting critical plant resources. The tribes proposed that Rosemont transplant these plants to an on-site nursery for use by tribal members, but that proposal was rejected. |
| TON | 3 | Socioeconomics and Environmental Justice | 76 | 37 | This concept is unnecessarily vague and could mean anything. If something concrete is being proposed, then put it in there. Otherwise, leave it out as it's meaningless. |
| TON | 3 | Socioeconomics and Environmental Justice | 77 | 9 | The line "The only alternative that will not have a disproportionate impact upon the Tohono O'odham Nation and other tribes is the no action alternative" should be added. |
| TON | General comment | | | | The FEIS continues to fail to fully analyze the destruction of cultural resources in terms of scale of the project. A thorough analysis would include comparisons of other recently-approved Forest Service projects so that the public can fully comprehend the scale of destruction that is associated with this project. A full analysis would include how many cultural resource sites have been destroyed by Forest Service projects, on average, in the last five years with a comparison of how many cultural resources will be destroyed by this project. A chart would be helpful to fully inform the public of these impacts. |

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| TON | 1 | Purpose and Need | 3 et seq. | 14 | The use of the phrase “responsible official’s decision space” is less than clear. If the Forest Service is going to insist that it must allow the project to move forward, the FEIS should clearly explain why the chosen alternative is “reasonable” and why a smaller footprint would be “unreasonable” and thus could not be approved by the Forest Service. It appears that the FEIS repeats what the Nation has heard previously, that its hands are tied, however there is no analysis finding why a smaller project, with fewer impacts on cultural resources or the “no action” alternative would be “unreasonable” under applicable law. |
| TON | 1 | Purpose and Need | 9 | 35 | The Nation questions the Forest Services’ assumption here that the Project is “reasonable and legal mineral operations under the law.” A smaller mine with a footprint that minimizes or eliminates impacts to cultural resources would be more reasonable in light of Executives’ intent to protect Indian religious practices under Executive Orders 13007 and 11593, as well as the NHPA. |
| TON | 1 | Purpose and Need | 10 | 1-2 | This phrase seems to imply that the Forest Service must allow development of mineral resources. It should be re-phrased. |
| TON | 1 | Purpose and Need | 10 | 10 | This concept does not allow the public to comment on the amount or sufficiency of the reclamation bond. As the Nation noted in its DEIS comments, the documents do not do a good job of explaining to the public the lifetime commitment that this mine will be. The active life of the mine is merely the beginning. A mine may go into and come out of care and maintenance or be partially or fully reclaimed. These issues are still not adequately addressed in the FEIS. Further, the issue of mine maintenance post-closure should be addressed. |

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| TON | 1 | Purpose and Need | 10 | 10 | The public should be given reasonable expectations, including models, of how the reclaimed project site will look. Models should also be provided to show what care and maintenance might look like. |
| TON | 3 | Affected Environment and Environmental Consequences | 13 | 35 | Change “nevertheless” to “despite opposition to the project, tribes...” |
| TON | 1 | Purpose and Need | 20 | 15-20 | The section discusses TCPs at the same scale as individual sites, which minimizes the assessment of adverse effect on TCPs. |
| TON | 2 | Alternatives | 4 | 18 | Perhaps a footnote could be added that better explains how/which archaeological sites were avoided. |
| TON | 2 | Ancillary Facilities and Activities | 17 | Figure 5 | Lacks detail of alignment and does not show Santa Rita Road. |
| TON | 2 | Utility Maintenance Road | 23 | 21-22 | Additional explanation requested regarding “crossing” of Santa Rita Road. |
| TON | 2 | Arizona National Scenic Trail | 26-27 | 1-44 | No discussion on effects on cultural sites. |
| TON | 2 | Reclamation and Closure | 28 | | Closure must consider impacts to cultural sites. |
| TON | 2 | Mitigation and Monitoring | 66 | 11-18 | Discussion of mitigation and monitoring for different effects inconsistent, sometimes omitting cultural resources. |
| TON | 2 | Mitigation and Monitoring | 68 | 14-28 | Tribes not included in Task Force. |
| TON | 3 | Cultural Resources | 1 | 3-8 | Add springs. |

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| TON | 3 | Cultural Resources | General Comment | | <p>Full analysis still not provided for full impacts to the Nation's members and members of other tribes for the large scale destruction of culturally significant plants and sites.</p> <p>Regarding analysis on TCPs, the FEIS has improved over the DEIS, but the FEIS still does not address the full panoply of adverse impacts that will befall the Nation, its members, and members of other tribes if this project is approved.</p> |
| TON | 3 | Cultural Resources | General comment | | The FEIS gives more attention to Sobaipuri sites, but more analysis should be in the FEIS. |
| TON | 3 | Cultural Resources | 14 | 19, Table 199 | Silverbell Interval in Early Archaic not completely accepted. |
| TON | 3 | Cultural Resources | 21 | 26-42 | There needs to be a stronger statement here that this is the tribes' preferred alternative and it is the only alternative that will preserve and protect the cultural and natural landscape of this portion of the Santa Rita Mountains and the hundreds of cultural and traditional-use sites significant to the Nation and many other tribes. |
| TON | 3 | Cultural Resources | 29 | 11-23 | Remove the 4% statistic. |
| TON | 3 | Cultural Resources | 30 | 26 | Provides that the Ball Court should not be impacted, should be changed to will not be impacted. |
| TON | 3 | Cultural Resources | 35 | 13-16 | It should be made clear that the tribes believe that no mitigation could be effective. Rather, the measures set out here will have little to no impact on the cultural and religious impacts that the destruction of the project area and associated cultural resources will have on the Nation and other tribes. |

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| TON | 3 | Mitigation | 37 | 1-2 | Definition of “inadvertent discoveries” should be clarified to include burial, associated grave goods, and ceremonial objects. |
| TON | 3 | Mitigation | 37 | 9-11 | Contractors and their employees should be included in discussion of cultural resources protection training. |
| TON | 3 | Required Disclosures | 2 | 24-25 | It should be clarified that impacts to wildlife and the natural landscape will be permanent. |
| TON | 3 | Required Disclosures | 3 | 10-14 | Desecration, destruction, and permanent loss of sacred sites should be added. |
| TON | 3 | Biological Resources | | | This section does not address the cultural significance of the jaguar and other plants and animals to the Nation and other tribes. |
| TON | 3 | Unavoidable Adverse Effects | 6 | 2 | Impacts to Ce:wi Duag and dzil enzho should be disclosed. |
| TON | 3 | Irreversible and Irrecoverable | 11 | 22 | “the area” should be changed to “the traditional cultural place known as Ce:wi Duag to the Tohono O’odham and dzil enzho to the Apache. |
| TON | Appendix B | | 1-5 | | Section should distinguish between the mitigation and monitoring strategies according to resource type. |
| TON | Appendix B | | Table FS-CR-01 | | Does not address indirect impacts. |
| TON | Appendix B | | Table FS-CR-01 | | Does not address or explore mitigation for the loss of integrity of the TCP and associated impacts on the Nation and other tribes. |

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| TON | Appendix B | | | | The project will conclusively lead to the destruction of a population of Coleman's coralroot. Despite this fact, Coleman's coralroot not included in Appendix B Mitigation and Monitoring Plan. Mitigation should be developed for Coleman's coralroot. |
| TON | 3 | Biological Resources | 115-116 | 34-2 | The Draft Biological Opinion relied upon by the FEIS did not include analysis based on revisions to critical habitat designation for jaguar (July 1, 2013). The current revisions should be analyzed in the FEIS. |
| TON | 3 | Biological Resources | 115-166 | 34-2 | Although the Biological Opinion maintains that the proposed action “. . . is not likely to jeopardize the continued existence of the jaguar.” This determination is based on jaguar population numbers “range-wide” from southern US to South America, however, as noted in the opinion, there is still a lack of information on jaguar movement and population within the U.S. that to allow “Only one jaguar . . .to be incidentally taken under the proposed action” (USWFWS draft BO page. 129) would put the one known jaguar in the US at unreasonable risk. The FEIS should clearly indicate to the public that this one and only jaguar may be lost if an action alternative is selected. |
| TON | 3 | Groundwater Quantity | 50 | 14-19 | The FEIS indicates only that potential drawdown is not likely to violate the statutory drawdown of 10 feet, however, an estimate is not provided as to actual drawdown. |