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Rosemont Copper Project EIS Cooperating Agency Coordination Meeting November 18, 2010 Agenda

Location: Federal Building, 300 W. Congress, Tucson, Arizona, Room 1K

Facilitator: Mindee Roth, Project Manager

AGENDA

9:30	Welcome, Project Update	Roth, Laford
9:45	NEPA Process Overview	Roth
11:00	Break	
11:15 – 12:00	Working Draft EIS review instructions	Everson

INVITED COOPERATING AGENCIES

Tribes: Tohono O'odham Nation

Federal: Air Force, Army COE, BLM, Smithsonian Astrophysical Observatory

State of Arizona: AZDEQ, AZMMR, AZDWR, AZGFD, AZGS, AZSMI, AZSLD, AZSP, ADOT

Local: Pima County, City of Tucson, Town of Sahuarita

INVITED GUESTS

Rosemont Copper Company (Cheniae & Associates - Gordon Cheniae)

**Rosemont Copper Project EIS
Cooperating Agency Meeting
November 18, 2010**

Attendance Record

Cooperating Agencies	Participant(s)
Tohono O'odham Nation	Rosalynde Alexander
Air Force, 162 nd Fighter Airwing	E Kurt Tek - by phone
Army Corp of Engineers	
USDI BLM	Londy L. Wang
Smithsonian Astrophysical Observatory	Jan Brown
AZ Department of Environmental Quality	Dennis Turner - by phone
AZ Department of Mines and Mineral Resources	Jadean Singh

Cooperating Agency	Participant(s)
AZ Department of Transportation	
AZ Department of Water Resources	Laura Grignano -by phone
AZ Game and Fish Department	Linda Pollock AZ ATTY GENERAL Mike Demlong Habitat Spec.
AZ Geological Survey	JON SPENCER
AZ State Land Department	David Jacobs
AZ State Mine Inspector	Garrett Fleming - by phone
AZ State Parks	
City of Tucson	
Pima County	Newa Connolly Mark Krieski Linda Mayes Loy NEFF Julia Fonseca

Rosalynde Alexander Tohono O'odham Nation - Office of Attorney General

Cooperating Agency	Participant(s)
Town of Sahuarita	Joe Marques Orlanthia Henderson

Guests	Affiliation
G L Cheniae	Cheniae + Assoc

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KNOW HOW TO COMMUNICATE WITH YOU.**

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**Rosemont Copper Project
Cooperating Agency Meeting
November 18, 2010**




NEPA OVERVIEW

National Environmental Policy Act

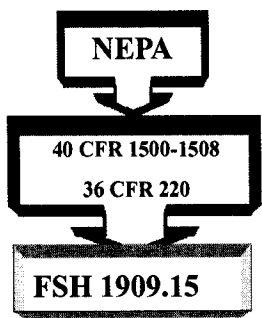
Purpose

- "...encourage productive and enjoyable harmony between man and his environment..."
- "...attain the widest range of beneficial uses of the environment without degradation, risk to health and safety, or other undesirable and unintended consequences."



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11/18/2010

Law, Regulations & Policy

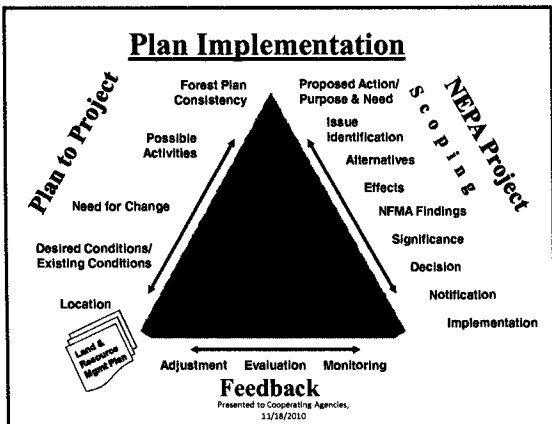


National Environmental Policy Act (NEPA)

40 CFR 1500-1508
36 CFR 220


FSH 1909.15

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11/18/2010



Responsible Official Roles

FSH 1950.41



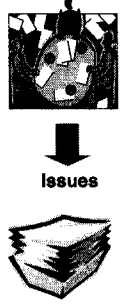
1. Establish the scope of the environmental analysis
2. Ensure that an appropriate level of scoping occurs
3. Identify an interdisciplinary approach
4. Ensure the public is kept informed of the progress
5. Identify issues to be analyzed in depth
6. Identify the preferred alternative (EIS)
7. Ensure the effects analyses address all requirements
8. Review the NEPA document before making a decision
9. Consider environmental documents, comments, and responses
10. Include all documents in the administrative record
11. Consider alternatives before rendering a decision
12. Make a decision encompassed within the range of alternatives
13. Provide for monitoring and ensure mitigation is implemented

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The CEQ Regulations' Scoping Definition

(40 CFR 1501.7)

There *shall* be an early and open process for determining the scope of issues to be addressed, and for identifying the significant issues related to a proposed action. This process shall be termed Scoping.



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Forest Service Handbook

1909.15, Chapter 10, Chapter 10, Section 11,

Section 12.6 1909.15, Chapter 10, Section 11, Section 12.6, 909.15, Chapter 10, Section 11, Section 12.6
In addition to presenting a proposal, scoping includes:

- refining the proposed action,
 - determining the responsible official and lead and cooperating agencies,
 - identifying preliminary issues, and
 - identifying interested and affected persons
- The methods and degree of scoping effort for a given project varies depending on the scope and complexity of the project
 - Use appropriate methods to reach interested and affected parties.
 - Comments and other input received during scoping should be managed and documented.

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40 CFR 1501.7

As part of the scoping process the lead agency shall:

- Invite participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons, including those who might not be in accord with the action on environmental grounds. . . .
- Determine the scope (1508.25), and the significant issues to be analyzed in depth in the environmental impact statement.
- Identify, and eliminate from detailed study, the issues which are not significant or which are been covered by prior environmental review. . . .

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Responsible Official Scoping Duties

36 CFR 220.4(e); FSM 1950.41, FSH 1909.15, Sections 11.3 and 12.2


- 1** Establish the scope of the environmental analysis, including the scope of the actions, alternatives, and effects.
- 2** Ensure the appropriate level of scoping occurs, including with other Federal, State or local agencies.
- 3** Identify systematic interdisciplinary approach, with a team, team leader, formal plan of work, and project initiation letter, as needed
- 4** Ensure the public is kept informed of progress of analysis commensurate with public interest



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Issue: A point of disagreement, debate, or dispute about the proposed action based on effects identified through scoping.




Non-Issue: General concerns received through scoping that are not related to the current proposed action's effects, and, therefore, cannot be resolved through an alternative or mitigation.

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Significant Issues

Significant Issues are used to formulate alternatives to the proposed action, or prescribe mitigation and monitoring measures. They also may be used for analyzing environmental effects.



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40 CFR 1500-1502

Regarding issues, NEPA documents must:

- **1500.1(b)** "... concentrate on issues that are *truly significant* to the action in question, rather than amassing needless detail."
- **1500.4(c)** "... *Discussing only briefly issues other than significant ones.*"
- **1500.4(g)** "... identify significant environmental issues deserving of study, but also to *de-emphasize insignificant issues ...*"

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Summary

Issue Screening Process

- Screen 1: Identify possible issues received through scoping.
- Screen 2: Is it a significant or non-significant issue? If significant,
- Step 1: Write significant issue statements;
- Step 2: Group if possible.
- Step 3: Get Responsible Official Approval on list of issues
- Step 4: Identify measures of change

Issue Statements Should be Written:

- As cause-effect relationships
- Detailed and without bias
- Write as specific as possible: cause-effect relationships and site-specific locations.

Issue Measures Should :

- Be quantitative, where possible
- Show change
- Be linked to cause-effect relationships
- Be predictable and understandable

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Alternatives

40CFR 1502.14

- Evaluate all reasonable alternatives and explain reason for eliminating some alternatives from detailed study
- Give substantial treatment to alternatives considered in detail
- Include alternatives outside our jurisdiction
- Include the no action alternative
- Identify the preferred alternative
- Include mitigation

Note: The no-action alternative **MUST** be included, even if it fails to meet the purpose and need or is illegal.

40 CFR 1502.14

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Development of Alternatives

- Begin with purpose and need
- Examine significant issues
- Alternatives must fulfill purpose and need, and address significant issues
- Include no action alternative



- Describe alternatives eliminated from detailed study and reasons why
- Describe the remaining alternatives in equal depth ("substantial treatment")
- Include mitigation in alternative descriptions
- Compare alternatives

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Reasonable Alternatives to the Proposed Action

All reasonable alternatives to the proposed action will:

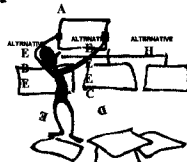
- ➡ Fulfill the purpose and need
- and
- ➡ Address significant issues



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Reasons to Eliminate Alternatives from Detailed Study

- Illegal
- Failure to meet purpose and need
- Technologically infeasible
- Clearly unreasonable
- Duplication within the existing range of alternatives
- Decision already made
- Unreasonable environmental harm
- Cannot be implemented
- Remote or speculative



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Regulations and Advice From Council on Environmental Quality

1(a) The phrase "range of alternatives" ... includes all reasonable alternatives which must be rigorously explored and objectively evaluated as well as those other alternatives which are eliminated from detailed study, with a brief discussion of the reasons for eliminating them (section 1502.14).

1(b) When there are potentially a very large number of alternatives, only a reasonable number of examples covering the full spectrum of alternatives must be analyzed and compared in the EIS.

CEQ Forty Most Asked Questions

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Alternative Comparison


- What the decision maker needs for a reasoned choice
- What the public needs to understand the choice

- Response to Purpose and Need
- Environmental effects (required by 40 CFR 1502.14)
- Response to significant issues
- Forest Plan consistency
- Production of goods and services
- Achievement of Forest Plan goals
- Compliance with legal obligations
- Economic and social effects
- Any other items the decision maker wants compared

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Project Effects

- Direct & indirect
- Key concepts



- ✓ For all alternatives
- ✓ Cause-effect relationships
- ✓ Site-specific locations
- ✓ Measures of change
- ✓ Magnitude: duration, extent, direction, and speed

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Incomplete Information

40 CFR 1502.22

Is information relevant to significant impacts essential to a reasoned choice among alternatives?

No → Make clear such information is lacking and make assumptions to fill voids if needed.

Yes ↓

Is the cost of obtaining the information exorbitant or the means of obtaining it are unknown?

No → Gather the information and include in the analysis.

Yes ↓

The agency shall include in the environmental impact statement:

- 1 A statement that such information is incomplete or unavailable.
- 2 A statement of the relevance of the information to evaluating impacts.
- 3 A summary of existing credible scientific evidence relevant to evaluating significant adverse effects.
- 4 The agency's evaluation of such impacts based on theoretical approaches or research methods generally accepted in the scientific community.

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Cumulative Effects . . .

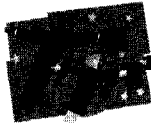
Key concepts...

- Cumulative effects are an important aspect of effects analysis. Ignoring them deprives the responsible official and public of the total picture of a project's effects
- Result from incremental impact of the action when added to past, present, proposed, reasonably foreseeable future actions
- Regardless of ownership (Federal and non-federal)
- Overlap of proposed project effects in *both* space and time with other past, present, proposed, reasonably foreseeable future actions within the cumulative effects boundary
- Will need to make some assumptions about future effects

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What are Reasonably Foreseeable Actions

- *"Those Federal or non-Federal activities not yet undertaken for which there are existing decisions, funding, or identified proposals."* 36 CFR 220.3



An identified "proposal" exists when all the following criteria are met: 36 CFR 22.4 (a)

- We are actively preparing to make a decision
- It is subject to FS control and responsibility
- It would have an effect on the environment
- It is not statutorily exempt from NEPA

Courts have found general discussions of effects to be adequate for speculative foreseeable actions.

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Meaningful Interpretation...

- Explain cause-effect relationships
- Use the No Action as the baseline
- Avoid relying on numbers exclusively
- Be sure to draw conclusions where appropriate
- Avoid technical jargon
- Use graphic displays
- Be objective
- Be site specific



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Rosemont Copper Project



**Cooperating Agency Instructions
for Internal DRAFT DEIS Review**

Presented to Cooperating Agencies
November 18, 2010

Key Clauses of MOUs




MOU purpose

- Provide the framework for a *mutually beneficial, cooperative, and productive intergovernmental relationship* between the Forest Service and Cooperating Agencies with regard to the development of the Forest Service's environmental impact statement for the Rosemont Copper Project.
- Affirm the *commitment of the Forest Service to fully consider the views of the Cooperating Agencies* in the development of the environmental impact statement for the Rosemont Copper Project.
- Establish the parties' agreement and commitment to jointly *review the environmental impact statement* developed under NEPA for the Rosemont Copper Project.

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Cooperating Agencies 11/18/2010

Key Clauses of MOUs



Forest Service Responsibilities

- Include, to the extent feasible, *sufficient documentation in the environmental impact statement and supporting record to allow use by Cooperating Agencies* to meet their compliance requirements or other responsibilities.
- Request Cooperating Agencies' *review of internal working drafts of select portions* of the environmental impact statement.
- Provide Cooperating Agencies with *copies of the internal working drafts* of the "Rosemont Copper Project Draft Environmental Impact Statement" and "Rosemont Copper Project Final Environmental Impact Statement" *for review* prior to printing of such for public distribution, and negotiate a reasonable amount of time for review.
- Ensure that *contributions by Cooperating Agencies are considered and appropriately incorporated* into the project.

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Key Clauses of MOUs



Cooperating Agency Responsibilities

- Perform duties of a cooperating agency under NEPA ...
- Participate only in those areas under its special expertise...
- Share with the Forest Service, data and other information within its special expertise that are or may be relevant to the development of the environmental impact statement.
- Review and provide written comments on the internal working drafts of the "Rosemont Copper Project Draft Environmental Impact Statement" ... prior to the Forest Service printing of such for public distribution...
 - Review is to ensure technical accuracy and conformance with laws, regulations, and policies within special expertise.
 - Review is to provide recommendations for improvement of reviewed internal working draft material where the materials are found to be incomplete, inadequate, or inaccurate.
- Proceed with work as expeditiously as possible to comply with the project schedule.

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Definitions



"Cooperating agency" means any federal agency other than the lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or reasonable alternative) for legislation or other major federal action significantly affecting the quality of the human environment. A state or local agency of similar qualifications or, when the effects are on a reservation, an Indian tribe, may by agreement with the lead agency become a cooperating agency. (40 CFR 1508.5)

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Definitions



"Jurisdiction by law" means agency authority to approve, veto, or finance all or part of the proposal.

"Special expertise" means statutory responsibility, agency mission, or related program experience.

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Lead Agency Responsibilities



- Identify and write the purpose and need statement, including its links to the agency legal mission.
- Describe the proposed action and assess its potential impacts.
- Evaluate and prioritize scoping information.
- Develop a range of reasonable alternatives based on the purpose and need and scoping information.

Rosemont Copper Project, Presented to
Cooperating Agencies 11/18/2010

**Permits and Authorizations Table
Rosemont Copper Project
October 2010**

Permit	Lead Agency and Description	Submittal Date	Status	Issue Date	Term
PERMITS ALREADY ISSUED FOR CURRENT ACTIVITIES					
Federal Permit					
Drilling Plan of Operations	Forest Service	February 8, 2008	Conditions received on March 10, 2008	4/11/08	One-year
State Permit					
Well Drilling Permit	Arizona Department of Water Resources (ADWR) – Issued anytime drilling may intercept water table	On-going submittals for mineral exploration, geotechnical, and hydrologic investigation activities	Issued for current, still needed for future activities		Until well or borehole closed
Construction Stormwater General Permit	Arizona Department of Environmental Quality (ADEQ) – Issued for construction activities	The Notice of Intent (NOI) was received by ADEQ on 4/25/2008. AZPDES Permit 35106. Requires a SWPPP.	Approved for coverage on 4/25/2008, may need to be reissued (renewed)	4/25/08	Five years
Arizona Pollutant Discharge Elimination System (AZPDES) De minimis permit for discharges	ADEQ – Permits discharges from well development activities into washes	NOI submitted August 22, 2008 NOI submitted November 7, 2007 NOI submitted October 28, 2008 NOI submitted November 7, 2008 NOI submitted November 7, 2008	All closed. Rosemont followed terms and conditions. De minimis discharges permit AZDGP-01191 AZDGP-01215 AZDGP-01209 AZDGP-012014 AZDGP-01213	Issued on: 10/8/08 11/19/08 11/19/08 11/26/08 11/26/08	30-days

Permit	Lead Agency and Description	Submittal Date	Status	Issue Date	Term
Agricultural Land Clearing Permit	Arizona Department of Agriculture – Permit to clear land	Submittal prior to construction of facilities or disturbance of state-protected native plants	Submitted and accepted for test plots		
County Permits and Authorizations					
Air Activity Permit	Pima County Department of Environmental Quality (PCDEQ) – These permits are for activities leading up to mining and well development	<p>Activity permit application submitted on November 26, 2007 for on-site activities up to 10 acres.</p> <p>Activity permit applications submitted on November 20, 2007 for two well sites with activities at each site of up to 2 acres of disturbance and 1,00 feet of roadway</p> <p>Activity permit applications submitted on May 5, 2008</p> <p>Activity permit applications submitted August 12, 2008</p> <p>Activity permit application submitted June 2010</p> <p>Activity permits(2) applications submitted August 2010</p>	<p>Activity permits issued. Permit 5380, for on-site activities</p> <p>Permit 5404 and 5405 issued for well-site activities</p> <p>Permit 5589 issued for hydrologic wells</p> <p>Permit 5590 issued for geotechnical wells</p> <p>Permit 5734 issued for 40+ acres of activities on-site</p> <p>Permit 6444 issued for 40+ acres of activity on-site</p> <p>Permits 6488 and 6489 issued for 40+ acres of activity on-site</p>	<p>November 26, 2007</p> <p>December 14, 2007</p> <p>May 5, 2008</p> <p>May 5, 2008</p> <p>August 19, 2009</p> <p>July 1, 2010</p> <p>August 31, 2010</p>	<p>Activity permits good until 11/25/2008 (on-site) and 12/13/2008 (well-site)</p> <p>May 4, 2009 (geotech and hydrologic)</p> <p>August 18, 2009</p> <p>June 30, 2011</p> <p>August 30, 2011</p>

Permit	Lead Agency and Description	Submittal Date	Status	Issue Date	Term
Grading Permit	Pima County Development Services – Lot development for well sites, grading and fencing	Permit application and lot split with set aside filed during 2008	Completed. (9/23/10 letter: Pima County unable to confirm this information)	Final	None
PERMITS FOR MINE DEVELOPMENT AND OPERATION					
Federal Permits and Authorizations					
Mine Plan of Operation	Forest Service/BLM – This authorization is needed to operate mining operations on public lands. (If water/power lines serve other users than Rosemont, BLM would authorize utilities per 43 CFR 3715 for a Right-of-Way)	Plan was submitted in sections: <ul style="list-style-type: none"> ▪ Mine Plan of Operations and supporting documents – July 11, 2007 ▪ Reclamation Plan – August 7, 2007 ▪ Infrastructure Plan – July 25, 2007 ▪ Response to information request by completed November 2007 	Sufficient for NEPA Analysis. NOI issued in FR March 13, 2008 Other major coordination needs include USFWS Biological Opinion, SHPO, NHPA Sec 106		Life of mine
Field work authorizations	For any archeological field surveys, ie water, power line alignments				
404 permit	Army Corps of Engineers – Allow operations in Waters of the U.S.	Preliminary Jurisdictional Delineation submitted in May 2009 Application for 404 permit submitted July 31, 2010	404(b)1 Alternatives Analysis submitted on Sept 7, 2010 Corps approval of preliminary jurisdictional delineation is pending		
Hazardous Waste Identification Number	Environmental Protection Agency (EPA) – Issued so that hazardous waste can be generated and transported off site if quantities exceed 100 kilograms per month. .	Submittal will be dependent upon construction schedule but number should be in place prior to construction start. Must follow the general response procedures outlined in 40 CFR 262.34(d)(v).			

Permit	Lead Agency and Description	Submittal Date	Status	Issue Date	Term
Hazardous Materials Transportation Permit	Department of Transportation (DOT) – under 49 CFR. Permit needed to transport or received “hazardous materials” under the DOT definitions.	Submittal will be dependent upon construction schedule but number should be in place prior to construction start. Requires a DOT Security Plan.	Status unknown		1-3 years dependent upon permit
State Permits and Authorizations					
Groundwater withdrawal permits	ADWR – Groundwater withdrawal rights	Mineral Extraction Right 6,000 acre feet/year	Completed See www.azwater.gov/dwr under “imaged records”		20 years
Right-of-Way	AZSLD – For water/power crossings	Line Siting Committee approval first.	Application for water alignment submitted		
Well Drilling Permit	Arizona Department of Water Resources (ADWR) – Issued anytime drilling may intercept water table	Needed for any future mineral exploration, geotechnical, and hydrologic investigation activities. Reviewed by ADWR Well Drilling section.			Until well or borehole closed
Certificate of Environmental Compatibility (CEC)	Arizona Corporation Commission and the Line Siting Committee	Application for power line route will be submitted by Tucson Electric Power once the Draft EIS is issued	In preparation for submittal		Life of facility
Aquifer Protection Permit	Arizona Department of Environmental Quality (ADEQ) – Groundwater discharge permit	Application submitted to ADEQ February 27, 2009, Administratively complete on May 21, 2009	Response to Technical Review complete Sept 1, 2010		Life of facility once issued
Arizona Mined Land Reclamation Plan Approval	Arizona State Mine Inspector – Approval of planned reclamation activities at a site.	Submitted plan May 2008, supplemented with additional information through Oct. 2008	Approved	July 10, 2009	Life of facility –

Permit	Lead Agency and Description	Submittal Date	Status	Issue Date	Term
Stormwater permit	ADEQ – Regulates discharges of stormwater associated with industrial activity	AZPDES MSGP for mining permit is being finalized SWPPP Plan will be required.	AZPDES MSGPs issued for public comment in September 2010. SWPPP must be developed prior to submitting notice of intent to be covered by the new permit.		Five years
401 Certification	ADEQ – Certifies 404 permit will not result in violation of state surface water quality standards.	Will be filed as 404 permit details are finalized			No expiration
Dam Safety Permit	ADWR – Regulates the construction and operation of large containment structures	Submittal is being finalized for discussion with the Agency and should happen in the Third Quarter 2010	Need for permit based on volume of containment. Liquid-bourne material structures exempt		Life of facility
Encroachment Permit	Arizona Department of Transportation	Traffic Impact Assessment (TIA) was submitted in July 2010 and the Design Concept Report (DCR) is scheduled for Third Quarter 2010	Waiting for comments on TIA, DCR will be submitted once comments received		
County Permits and Authorizations					
Air Title V Permit	PCDEQ – Permits for mining operations and regulate emissions.	Title V permit will be required for operations, submittal date July 29, 2010	Administrative Completeness review in 60 day. Application posted to PDEQ website.		Five years
Hazardous Waste Management	PCDEQ – registration with PCDEQ for all EPA ID Numbers	Submittal will be dependent upon construction schedule. ID Nos. should be in place prior to construction start.			Life of facility

Permit	Lead Agency and Description	Submittal Date	Status	Issue Date	Term
Drinking Water System Registration	PCDEQ – system plans need to be approved prior to installation, registration for all non-community non-transient drinking water systems	Submittal prior to construction of system. Sampling and emergency plans required.			
Floodplain Use Permit	Pima County Regional Flood Control District – Required under State law for private and State lands	Permit required for activities that might obstruct, retard, or divert the flow of water in a watercourse. (Tailings dams and waste rock piles are exempt) See www.rfcd.pima.gov/			
Rezoning Conditions	(Zoning rules may not apply to mining)				
Communications Towers					