

February 24, 2007

**Oversight Hearing
Subcommittee on National Parks, Forests and Public Lands
Subcommittee on Energy and Mineral Resources
Our National Forests at Risk: The 1872 Mining Law and Its
Impact on the Santa Rita Mountains of Arizona**

Testimony Submitted by: Chuck Huckelberry, Pima County Administrator

Chairman Grijalva, Chairman Costa, and subcommittee members, I would like to thank you for holding this hearing on the 1872 Mining Law and its impact on our Santa Rita Mountains, and for inviting Pima County to testify. This is a significant issue to the residents of and visitors to Southern Arizona, and therefore I greatly appreciate this opportunity to formally convey concerns on behalf of Pima County.

Through implementation of the Sonoran Desert Conservation Plan, Pima County is successfully balancing an often divisive issue without Federal regulation: high population growth and the need to conserve important natural areas and ecological systems. However, the current 1872 Mining Law is threatening this balance by permitting mining to occur, subject to review and Federal permitting, in unique natural areas such as the Santa Rita Mountains within the Coronado National Forest. The legacy of mining under the 1872 Mining Law has left Pima County with scarred landscapes and little or no chance of meaningful reclamation. Impacts from mining to air, water, and soil quality, continue to cause public health concerns.

The population of Pima County recently reached 1 million people and continues to grow rapidly. There needs to be recognition by the Federal government that urban counties, such as Pima County, are no longer compatible with mining. With a strong and diversified economy, Pima County no longer needs to be dependent on the boom and bust cycles of mining. Furthermore, the amount of revenue from mining contributed to Pima County's tax base, and thus to local residents in the form of services, has declined drastically. From 1977 to 2007, mine contributions to the Pima County tax base declined from 15 percent to 1 percent. The first step towards recognizing this is the withdrawal from mining of the Santa Rita Mountains within the Coronado National Forest in Pima County.

I. Background

Like many western counties, Pima County has experienced and is still experiencing tremendous population growth. Recently it was announced that Arizona is the fastest growing state in the country. Also like many western counties, Pima County has been faced with the dilemma of how to continue accommodating such population growth, while conserving the unique natural open spaces that attract so many of us to this place. But unlike many western counties, Pima County has successfully developed and is implementing a largely locally funded plan, the Sonoran Desert Conservation Plan (SDCP), which balances this issue without the need for Federal regulatory actions that so often divide us. We now have a guide, based on the best science available, for which lands are suitable for development, and which lands are needed for conservation. With this guide, we are directing growth to areas suitable for development, and conserving sensitive areas through purchase and development set-asides, among other tools.

Public support for the Sonoran Desert Conservation Plan has been high, as evidenced by voter approval of \$174 million of bond funds in 2004 to purchase lands for conservation. The County's current natural reserve system stands at more than 85,000 acres, not including Federal, State and other local government reserves. In 2000, President Clinton and Congress recognized the importance of our unique natural landscapes by creating the Ironwood Forest National Monument and the Las Cienegas National Conservation Area. Other Federally-owned natural reserves in Pima County include the Organ Pipe

National Monument, Saguaro National Park, Buenos Aires National Wildlife Refuge, Cabeza Prieta National Wildlife Refuge, Goldwater Gunnery Range, the Coronado National Forest, Pusch Ridge Wilderness Area, Rincon Wilderness Area, Mt. Wrightson Wilderness Area, Baboquivari Peak Wilderness Area, and Coyote Mountain Wilderness area, totaling over 1.5 million acres.

Almost all of the Federal reserves listed above are closed to mineral entry, notwithstanding mining claims that were valid at the time of their designation. The exception to this is the Coronado National Forest, outside of wilderness areas. Over 200,000 acres of the Coronado National Forest in Pima County, including the Santa Catalina Mountain Range and the Santa Rita Mountain Range, are open to mineral entry.

The Santa Rita Mountains have been designated as both an Important Bird Area by the Audubon Society and a World Biodiversity Hotspot by Conservation International. The Santa Rita Mountains provide water to the Cienega watershed, which includes the Las Cienegas National Conservation Area, the County's Cienega Creek Natural Preserve, and the proposed Davidson Canyon Natural Preserve, and is a significant high-quality water source for the Tucson basin. Cienega Creek is designated as a Unique Water of the State of Arizona and is home to Federally-listed threatened and endangered species. The Unique Water designation confers the State's highest level of protection from degradation of water quality. Riparian areas containing perennial streams such as Cienega Creek and Davidson Canyon are extremely rare in Southern Arizona.

Not only are the Santa Rita's important from a biological and hydrological standpoint, they also serve as an important recreation area and respite for Southern Arizonan's who live in the warmer, lower elevations. The Santa Rita Mountains are also highly visible from the Tucson urban area, and the communities to the east, west, and south. Sonoita Highway is a designated Scenic Highway that passes through the Cienega Valley along the eastern slopes of the Santa Rita Mountains.

II. Proposed Rosemont Mine

On July 31, 2007, Augusta Resource Corporation submitted a draft plan of operations to the U.S. Forest Service for the proposed Rosemont Mine south of Tucson within the Santa Rita Mountains. The Forest Service did not accept the draft plan for review due to insufficient information in the plan. Pima County completed a review of the plan of operations and provided Augusta with the opportunity to respond to County concerns.

Pima County's comments included performance criteria that should be met by any development, mining or other, proposed for this area. The performance criteria dealt with concerns that the County has regarding permanent destruction of habitat for wildlife and vulnerable species, conformance to Pima County's Sonoran Desert Conservation Plan, prevention of water quality and quantity impacts on both sides of the mountain range but especially to Davidson Canyon and Cienega Creek, air quality impacts, visual impacts, concurrent reclamation, and an environmental enhancement endowment.

This mine, as proposed, calls for the damming up of Barrel Canyon, a major water source for Davidson Canyon and Cienega Creek. This would have a devastating impact on the rare riparian habitat found along these areas by reducing flows. It would also impact flows to the Las Cienegas National Conservation Area. These riparian areas are so unique that Pima County has spent over \$30 million conserving land along Cienega Creek and Davidson Canyon. We do not yet know how the proposed Mine will address conformance to the Clean Water Act, Stormwater and Section 404 permit requirements regarding the deposition of dredge and fill materials into waters of the United States.

Pima County has questioned the validity of Augusta's mining claims on Forest Service land. Lode claims are not valid unless the claimant can prove that the lode claims can be mined for the recovery of valuable

minerals. The minerals have to be valuable enough that a reasonable profit can be expected to be made after subtracting the costs to mine the minerals and the costs to comply with required governmental rules, regulations, and mitigation. In this case, Augusta is not proposing to mine the minerals associated with the Forest Service claims, but instead to dump mine waste on the public lands from mining activities on their private lands. This has brought into question whether or not the minerals attached to the lode claims are indeed valuable and valid.

On December 12, 2006, Pima County asked the Forest Service to request that Augusta prove the validity of these claims before countless more time and money are spent on reviewing future plans of operations. On February 11, 2007, the Forest Service responded by stating, "it is not current practice, nor is it Forest Service policy, to challenge mining claim validity, except when a) proposed operations are within an area withdrawn from mineral entry, b) when a patent application is filed, and c) when the agency deems that the proposed uses are not incidental to prospecting, mining, or processing operations." Pima County respectfully disagrees. Current practice and policy do not preclude the Forest Service from requesting such a validity exam. It makes little sense for countless taxpayer dollars to be spent on a lengthy Federal review of a plan of operations that may be flawed due to invalid mining claims. Withdrawal of this area from mining would result in a validity examination.

Residents of Pima County have successfully opposed mining on this site in the past. Land exchanges with the Federal government for the purpose of facilitating mining on this property were pursued to different extents in 1970 and 1997. In 1997, ASARCO proposed a land exchange in this location to facilitate development of a copper mine. ASARCO held unpatented mining claims, as Augusta does now, but ASARCO sought to bring further validity to their right to use the land for mining via a land exchange. In May of 1997, the Pima County Board of Supervisors passed a resolution in opposition to the land exchange. The Santa Cruz County Board of Supervisors and Tucson City Council passed similar resolutions. In early 1998, ASARCO dropped the effort to pursue the land exchange and develop the mine.

III. Legacy of Mining in Pima County

The concerns of Pima County regarding the proposed Rosemont Mine are more than reasonable, and by the high attendance levels at Board of Supervisors meetings where this issue was discussed, it is obvious that many members of the public share some of these concerns. Many of us have seen firsthand the legacy left behind by mining. The costs and adverse impacts placed on the local residents and taxpayers of Pima County far outweigh the few local tax benefits received from these mining projects.

Arizona has a long history associated with the mining of our mineral resources. Pima County has been the State's largest producer of copper from time to time, and numerous other mining activities that have occurred throughout the State in the last 200 years. It is readily apparent that Arizona's rapid population expansion and urban growth, now the fastest growing state in the country, are not compatible with historic or continuing mining activities.

A. Past Mitigation and Reclamation Inadequate

One of the largest issues associated with past mining activities is the lack of any meaningful reclamation or mitigation of adverse impacts experienced by local communities from these practices. Over 35,000 acres, an area almost twice the size of Tucson Mountain Park, have been or are being used for mineral extraction purposes in Pima County. Much of this land is idle open pits or tailings ponds not now producing any valuable minerals. To my knowledge there are no plans by any inactive or active mine, particularly an open pit copper mine, to attempt to restore the natural landscape through the removal of tailings, depositing the same in the existing open pit, and restoring the general natural landscape. There has been almost no meaningful reclamation of any open pit copper mine, or for that matter, any former large sand

and gravel operation in Pima County.

Pima County is assisting with reclamation efforts. Since 1998, Pima County has worked with ASARCO to build soil and revegetate the Mission Mine waste piles through the use of high-quality biosolids. The University of Arizona's Water Quality Center has been monitoring and evaluating the environmental and health impacts related to the mine tailings reclamation with biosolids. Rapid revegetation of mine tailings is possible with a combination of biosolids and native grass seedings, even without irrigation. Sites revegetated in 1998 and 2000 still have a higher percentage of cover under non-irrigated conditions than is typical for undisturbed Sonoran desert scrub¹.

While the County's biosolids might help, they are but a "drop in the bucket" of unfunded mining reclamation and mitigation needs. ASARCO's estimated liability for the Mission mine reclamation and cleanup is around \$415 million, and the land surface from which native cover has been greatly disturbed or removed entirely covers around 11,300 acres².

ASARCO started the Mission Mine near Sahuarita in the 1950s. By 1959, ASARCO had received a lease issued by the Bureau of Indian Affairs (BIA) to extend their operations onto the San Xavier District of the Tohono O'odham Nation. Many environmental laws were passed by Congress in the last 40 years, but the Federal government has not successfully imposed these laws upon this mining operation. To date, there is no approved mining plan or reclamation plan, as we believe is required by State law, for the portion of the mine on tribal land, nor is there an aquifer protection permit³. The Tribe is concerned about the sulfate groundwater contaminant plume and movement of tailings downstream by air and surface water.

B. Impacts to Water Quality and Quantity

Mining can have a profound affect on aquatic ecosystems. Although the extraction of minerals has a negative impact on the landscape, it is the processing of ore that greatly impacts aquatic resources. Most of the mining in Pima County is performed using open pit mines, which process the ore through a flotation process using water. The rejected materials from this process are then discarded into tailings ponds where the water evaporates, leaving a large pile of mineralized materials. Possible impacts on aquatic habitats from mining include the reduction of water resources from increased groundwater pumping and the siltation of streams and reduced water quality due to runoff from the tailings piles. Furthermore, a recent study of 70 Environmental Impact Statements for modern-era hard rock mines found that impacts to water quality are continually underestimated, which causes mitigation to consistently be inadequate.

The loss of an entire native fish population along Cocio Wash in Avra Valley is a good example of the potentially damaging effects that mining can have on aquatic ecosystems. In 1967, an Arizona Game and Fish Department (AGFD) biologist discovered the Federally-endangered Gila topminnow in the Cocio Wash, about 1.5 miles downstream of the Silverbell Mine. Several years later, in 1973, Arizona State University biologist W.L. Minckley informed the BLM that the endangered Gila topminnow occurred on a mix of Federal and private lands. Dr. Minckley also found longfin dace and leopard frogs at the Cocio Wash site. The owner of the mine commissioned Dr. Minckley to study the effects of mine seepage on the downstream riparian community. Dr. Minckley noted that copper and lead were highly concentrated at the

¹ Pima County Wastewater Management Department, 2006. Pima County Green Valley BNROD Biosolids Land Application, Mine Tailings Reclamation at ASARCO's Mission Complex, April 2006.

² Kuipers, Jim. 2003. Financial Assurance and Mine Reclamation and Closure. The Mineral Policy Center: Center For Science in Public Participation.

³ There is an IGA between BLM and the State, which in theory allows the state to require an APP on tribal lands.

site, and that the seepage from the Silverbell Mine tailings may present long-term damage to the animals found at Cocio Wash.

In 1980, the longfin dace and leopard frogs had disappeared from the site, but the Gila topminnow remained. At the same time, green sunfish from a tailings pond at the mine had been washed downstream into Cocio Wash and topminnow numbers seemed low. Subsequent floods washed out the sunfish in 1981, and while the topminnow survived the floods, they could not survive the gray clay and siltation from the mine tailings that were washed into the Cocio Wash pools. BLM biologist Bill Kepner reported, "Our 1982 studies indicate that the Cocio Wash topminnow population is now extinct in that habitat due to recurrent mine spill and inundations by mine tailings." From 1973 to 1982, the site was heavily managed by BLM and AGFD. Despite having been protected by Federal law, and having survived for thousands of years as a relic population, the combined management actions were not enough to protect the Cocio Wash drainage from the mine seepage and tailings deluge from the Silverbell Mine.

In 2005, water use for metal mining accounted for 10 percent of the total water use in the Tucson Active Management Area (AMA) or enough water to serve about 45,000 households for one year⁴. The agriculture sector used 30 percent, while the municipal sector used 55 percent and other industrial sectors used 5 percent of the water in the Tucson AMA⁵. A significant portion of the water extracted for metal mining comes from Phelps-Dodge's wells at Canoa Ranch. The groundwater pumping in the area lowers the water table, and affects the long-term viability of the riparian habitat.

Unlike the municipal sector, mines are not required to use or recharge CAP water or reclaimed water in the Tucson AMA to offset their groundwater pumping. State laws do not impose restrictions upon their groundwater use to protect nearby wells from excessive rates of depletion.

C. Endangered Pima Pineapple Cactus

The Pima pineapple cactus is a Federally endangered species found in southern Pima County. Mining has resulted in the loss of hundreds of acres of potential habitat for this species. The various mines near Green Valley cover thousands of acres of formerly potential habitat. When the Mission Mine was expanded in the 1980s, dozens of Pima pineapple cactus were destroyed as mine tailings covered the cactus and the surrounding landscape⁶. Actions associated with mineral extraction, such as constructing roads, tailings piles, and settling or leaching ponds can also contribute to habitat loss and are expected to continue or increase throughout the range of the cactus.

D. Invasive Species

As a result of the changed and disturbed surfaces of mining operations, many mining sites are colonized by invasive non-native species. Once established on-site, invasive species can spread into the natural surrounding areas. One species of particular concern in Pima County is buffelgrass. Buffelgrass chokes out native plants, and for ten months of the year, provides fuels for devastating fires that can destroy desert vegetation. The desert is not a fire-adapted ecosystem. Originally planted to stabilize slopes, buffelgrass is found on roadsides and on the tailings slopes of many of the Green Valley mines. The first

⁴ An acre-foot is 325,851 gallons, enough to serve two average households for one year. For 22,400 acre-feet, this is enough water to serve about 45,000 households for one year.

⁵ http://www.azwater.gov/WaterManagement_2005/Content/AMAs/TucsonAMA/TAMA_documents/2005_TAMA_Water_Use_Summary.pdf

⁶ U.S. Fish and Wildlife Service. August 20, 1993. "Endangered and Threatened Wildlife and Plants: Determination of the Endangered Status of the Plant Pima Pineapple Cactus." Federal Register. Final Rule. Vol. 58, No. 183. pp. 49875.

known buffelgrass fire was in 1994, at the Duval Mine⁷.

E. Bankruptcy

Mining is inherently risky, not only due to the nature of the global metals market, but also because contamination risks have been consistently underestimated by the industry. These risks sometimes mean even large mining companies can go bankrupt. In 2005, 106-year old ASARCO filed for bankruptcy, blaming environmental liabilities, including asbestos-related litigation⁸. The move allowed parent company Grupo Mexico to isolate the most profitable parts of the company from about \$1 billion in liabilities, including 19 Superfund sites. The Government Accountability Office said U.S. Environmental Protection Agency officials expect more such bankruptcies⁹.

ASARCO promised the San Xavier District of the Tohono O'odham Nation that reclamation of the Mission Mine would be done. There is a \$10 million bond for reclamation on the reservation. The San Xavier District has tried to increase the bond to get adequate financial assurance that reclamation will be done, but they have not succeeded. ASARCO's bankruptcy means that the promises to the tribe are just one liability among many that the bankruptcy courts and banks are negotiating across the country. Filing for protection under bankruptcy could mean that ASARCO will walk away from their obligations to the tribe and others.

F. 1872 Mining Law

The landscape of the western United States is littered with mining claims that survive indefinitely, whether mining occurs or not. The free access to minerals on State, private, County and Federal lands under the 1872 Mining Law makes it very difficult to assure land is protected or managed. The 1872 Mining Law also makes it possible for individuals to "lock up" access to the mineral estate, even when there is no real intent to mine.

There is a long history of abuses of the 1872 Mining Law by individuals who have no intention to mine. For instance, in the 1970s, a person named Merle Zweifel filed claims on 600,000 acres of land along the future route of the Central Arizona Project. While he reportedly acknowledged that he would never actively explore for minerals there, Zweifel did apparently make money filing nuisance claims¹⁰. The Federal government had to sue Zweifel to clear the claims placed on the five billion-dollar Central Arizona Project.

In a similar manner, claims were placed for iron ore in the 1970s on Casas Adobes Estates, a subdivision in Tucson. After a costly court battle with the surface owning residents, the claims were successfully contested. Eventually Congress withdrew large areas around Tucson and Phoenix from mineral entry to

⁷ Doster, Stephanie. No date. "Battling Buffelgrass." Institute for the Study of Earth. Accessed: <http://www.ispe.arizona.edu/news/articles/buffelgrass.html>

⁸ Stauffer, Thomas, Joseph Barrios and Andrea Kelly, 2005. "Asarco seeks bankruptcy protection", Arizona Daily Star, August 11, 2005.

⁹ Blumenthal, Les, 2006. Asarco leaves legal heartburn. The News Tribune. March 20th, 2006. Accessed at <http://www.wncja.org/documents/news/2006-3-20%20News%20Tribune%20-%20Asarco%20leaves%20legal%20heartburn.doc> on January 30, 2007.

¹⁰ B. Newman, "Never Mined: Merle Zweifel Claims Acres of Mineral Land, But What is He Up To?" Wall Street Journal, Jan. 20, 1972, in Leshy, John. The Mining Law. Resources for the Future. Washington, D.C. p.79

prevent a recurrence of spurious claims on otherwise valuable lands¹¹.

G. Management Challenges

Abandoned mines pose a number of challenges for our management of County-owned lands. First, they present immediate public hazards. In almost every case the public routinely ignores signage, fencing and even gate barriers to explore the shafts. Open exploration pits pose hazards for cross-country hikers, equestrian riders or mountain bikers.

In some cases the mine waste associated with exploration sites may pose environmental hazards. We have situations on several open space properties, including Rancho Seco, where after environmental testing the area around a site has been fenced to restrict public use as a precautionary action. This also can lead to impacts to localized watersheds and watercourses. If there is milling or processing activity associated with abandoned mines, the potential for airborne, surface and subsurface contamination increases. Costs for testing and fencing can easily run over \$15,000 to \$20,000 for an area of mining activity of less than two or three acres. Formal remediation can run into the hundreds of thousands of dollars, or more.

When trying to close mine shafts we also encounter significant costs. All shafts need to be evaluated for historical and biological values, especially for bats, and special status species under the Sonoran Desert Conservation Plan. A simple shaft can require \$5,000 to \$7,000 just for the baseline survey needs. Depending on the results, the shaft may be fenced, gated, filled in, or other approaches to closure appropriate for the location and hazard. Formal gating of a shaft could run \$10,000 to \$15,000, depending on size, complexity of the gating system and necessity to accommodate bat/wildlife use. If gating items and personnel need to be flown in, the price can double.

H. Public Health Risks

Active copper mines release other toxic substances in the course of crushing and concentrating the ore-bearing rock. The Environmental Protection Agency's (EPA) Toxic Release Inventory indicates that Phelps-Dodge's Sierrita Mine near Green Valley released 1,053 pounds of mercury and 1,243,048 pounds of lead in 2004. The Mission Mine, operated by ASARCO, a subsidiary of Grupo Mexico, emitted 1,211,184 pounds of lead in 2004. It is located near Sahuarita. Over 100 miles of streams in Arizona are considered impaired by excessive copper, which can be toxic to aquatic organisms. Arizona's mines are the largest known sources of impairments for rivers and streams¹².

Processing methods for copper can enhance the concentration of naturally occurring radioactive materials coming from mines. EPA has compiled data regarding the concentration of radioactive substances in the Arizona copper belt. The results show that certain common mining practices can concentrate soluble pollutants such as uranium and thorium in groundwater¹³. Elevated levels of uranium have been detected in groundwater at Phelps-Dodge's mines near Green Valley. EPA and ADEQ are looking into the issue and have requested that Phelps-Dodge respond.

¹¹ John Lacy, "Conflicting Surface Interests: Shotgun Diplomacy Revisited," Proceedings of the Rocky Mountain Mineral Law Institute, vol. 22 (1976) in Leshy, John. The Mining Law. Resources for the Future. Washington, D.C. p.80

¹² National Assessment Database, Environmental Protection Agency.

¹³ U. S. Environmental Protection Agency, 1999. Technologically Enhanced Naturally Occurring Radioactive Materials in the Southwestern Copper Belt of Arizona. Office of Radiation and Indoor Air, EPA 402-R-99-002.

High levels of sulfate and other non-toxic salts have entered groundwater in Green Valley from the Sierrita Mine. There is no enforceable health standard for sulfate, but it can cause problems with taste and digestion. As a result of concern expressed by Green Valley residents, Phelps-Dodge is providing a temporary replacement for two wells in the sulfate contaminant plume owned by Community Water in June 2005 until a permanent solution is developed and implemented.

Many of the mining facilities also have the potential to generate large amounts of dust. Such dust, or PM10, is one of the most serious air quality health concerns in Pima County and can cause a variety of health problems, including breathing difficulties, respiratory pain, reduced lung function, weakened immune system, increased severity of acute bronchitis and asthma, heart attacks, and premature death (1 to 8 years).

Pima County has been interested in acquiring BLM's surplus 540-acre Saginaw Hill property for park purposes since the 1980s because of its excellent location in a growing region of the County, but has been unable to do so because the property includes the toxic remnants of mining activities that began in the late 19th Century and continued into the 1950s. A limited environmental assessment conducted for Pima County in 1988 found problematic levels of a number of metals on the Saginaw Hill property, including aluminum, cadmium, copper, lead, and zinc. Acidic vapors were also noted on the site, and a variety of physical hazards were also present, including adits, shafts, test pits, tailings piles, and slag dumps.

A 2005 study conducted by BLM at Saginaw Hill detected several chemicals of concern on the property, including arsenic, lead, antimony, copper, mercury and thallium. The study found that "Concentrations of these metals in waste material significantly exceed all risk-based guidelines and therefore pose a potential threat to human health and the environment." In addition, groundwater is contaminated in the direct vicinity of one of the property's mining sites, raising concerns about impacts to the surrounding area's drinking water. BLM is actively pursuing the remediation of the site, but even the most bare-bones solution is expected to cost more than \$2 million, and its ultimate efficacy remains in question.

IV. Pima County's Recent Threats from Mining Under the 1872 Mining Law

Pima County has spent a considerable amount of public resources protecting our natural open space reserves from the threat of mining activities and, in particular, the filing of speculative mining claims for mineral exploration on County-owned public lands. Even our Tucson Mountain Park is subject to such threats. In 1981, the Bureau of Land Management received a notice for oil and gas exploration within Tucson Mountain Park. The County clearly opposed such exploration and in a County letter by Gene Laos, then Director of Parks and Recreation, stated "In 1974 the people of this community voted overwhelmingly to outright purchase an additional 2,000 acres for Tucson Mountain Park just so this type of thing would not happen. We have literally spent millions of dollars restoring and revegetating the old mineral scars from the 1920-1950 and we are not about to sit idle and watch this whole sequence of events occur again." Tucson Mountain Park was established in 1929, and the United States Department of the Interior withdrew Tucson Mountain Park from mining and homesteading that same year. In 1959, a portion of the park was reopened to mineral entry by the Department of the Interior. The reopening, and prospect of mining operations in Tucson Mountain Park, caused an immediate explosion of public furor and outcry, which resulted in the withdrawal to mineral entry, and established the Tucson Mountain District of Saguaro National Park.

In 2005, Pima County began retaining outside legal counsel with expertise in mineral rights to object to mining claims filed on property acquired by Pima County. In the case of the 30,000-acre Rancho Seco recently acquired by Pima County, it was determined that individuals locating claims on County property were more of a nuisance than a real threat due to limited mineral values. Staff continues to have to monitor the situation. Mining activities on Federal in-holdings adjacent to our acquired lands at Rancho Seco have caused considerable destruction of the natural landscape and potential environmental contamination.

During the acquisition hearings for Rancho Seco, individuals conducting mining activities on BLM parcels within Rancho Seco alleged that the property was a toxic waste dump. Testing of County lands acquired resulted in fencing off old mine tailings because of contaminants in the soil. The level of these contaminants was significant enough that public contact with the soil could have resulted in adverse health effects. BLM was notified of the statements made by these individuals, and Pima County requested that BLM take appropriate action to ensure that any contamination by these individuals be remediated. These individuals continue to conduct mining activities on Federal lands adjacent to the County land.

More recently, our opposition to State and Federal mining leases within Davidson Canyon has been well documented. We are opposing an application for mineral extraction of mineral rights owned by the Federal government under State Trust land in a significantly sensitive and valuable ecosystem, Davidson Canyon.

We were recently notified by BLM of a potential filing of mining claims and mineral exploration by BHP (the mining company responsible for the copper mine in San Manuel that ceased operations in 1999) on the County-owned Six-Bar Ranch in the San Pedro Valley, along a key tributary to the San Pedro River.

V. Urban Counties Not Compatible with Mining

A recent newspaper article regarding a new copper mine coming online in Safford (Graham County, Arizona) touts the economic benefits to the Town. Rural towns and counties such as this are in need of jobs and tax benefits, which a mine can bring. Almost all of the various residents cited in the article spoke in support of the mine and the benefits the mine will bring to the Town.

Nothing could be further from the newspaper articles surrounding the proposed Rosemont Mine in Pima County. The majority of comments come from residents in Pima County who are concerned about the proposed mine's impacts to air, water, soil, unique natural habitats, wildlife, views, recreation, and the economy. Those in support of the proposed Rosemont Mine and other proposed mines in Pima County are in the minority.

The population in Pima County recently reached 1 million. The majority of residents live in the Tucson metropolitan area in eastern Pima County. For better or for worse, the urban population can reach most areas in eastern Pima County in less than an hour. A mine can no longer be hidden in an area so remote as to not have an impact on the people who live here.

Moreover, mines in Pima County are no longer an economic windfall. Pima County has a stronger and more diversified economy than rural western counties, and no longer needs to be dependent on the boom and bust cycles of mining. The amount of revenue from mining contributed to Pima County's tax base, and thus to local residents in the form of services, has declined drastically. Tax assessment ratios affect the amount of taxes levied on mines relative to other land uses. From 1977 to 2007, the State has decreased the assessment ratio for mines from 60 percent to 25 percent. During this same time period, mine contributions to the Pima County tax base declined from 15 percent to 1 percent. Economically, Pima County no longer needs mines.

There needs to be recognition by the Federal government that mining is no longer compatible with urban counties such as Pima County. In the long term, comprehensive reforms to the 1872 Mining Law are necessary. In the short term, support for Congressional withdrawal from mining of the Santa Rita Mountains within the Coronado National Forest in Pima County is needed.

Reform should not ignore rural counties. No matter how much a rural county may benefit economically from mining, there is still an equal need for reformed mitigation and reclamation measures.

VI. Strategies to Protect the Natural Ecological Resources of County-Owned Property and Protect the Public Health from Adverse Impacts Due to Mineral Exploration and Mining Under the 1872

Mining Law

Filing of mining claims, trespass and mineral extraction or the mineral exploration activities associated with mining claims have become a major threat to our preservation of natural resources, a significant potential threat to public health, and a financial drain on taxpayers. A comprehensive approach is necessary to resolve these threats, manage the filing of speculative mining claims, and to mitigate the adverse effects of mineral extraction.

There are several strategies Pima County is undertaking to protect natural open space reserves owned by Pima County and others in Pima County, that are open to Federal mineral entry, as well as to address public health concerns, and to protect local taxpayers.

1. Pima County continues to be actively involved in reviewing and making recommendations on mining applications at the Federal level. This includes the proposed Rosemont Mine on Forest Service land in the Santa Ritas.
2. Pima County is pursuing Congressional withdrawal from mining of certain lands via our Congressional Delegation.
3. Pima County intends to be more involved in the long-term land use planning of lands associated with mining, so that the lands can be planned for an economically beneficial use post mining.
4. Pima County is cooperatively working with the University on reclamation projects such as the use of bio-solids.
5. Pima County will continue to encourage compensatory acquisition of lands to offset the irreversible losses that come with digging up the land surface through open pit mining. Off-site land acquisitions funded by the mining industry should help build the Conservation Lands Systems for the Sonoran Desert Conservation Plan.

VII. Resolution 2007-15 of the Pima County Board of Supervisors Opposing the Proposed Rosemont Mine

In a packed Board hearing room on January 16, 2007, the Pima County Board of Supervisors approved Resolution 2007-15, opposing the proposed Rosemont Mine (resolution attached). Through this resolution, the Board also resolved to request that the Arizona Congressional Delegation initiate the permanent withdrawal from mining and mineral exploration of all Federal lands within the Santa Rita Mountain Range of the Coronado National Forest, as well as the withdrawal from mineral entry of all Pima County natural reserves.

The Mayor and Council of the Town of Sahuarita passed a similar resolution on January 22, 2007, and also resolved to request that the Arizona Congressional Delegation initiate the modernization of the 1872 Mining Law (resolution attached). Other local governments and agencies in Southern Arizona are considering similar resolutions.

VIII. Resolution 2007-33 of the Pima County Board of Supervisors to Withdraw Areas from Mining and Mineral Exploration

On February 20, 2007, the Pima County Board of Supervisors approved Resolution 2007-33, reiterating and refining Resolution 2007-15 in preparation for this Joint Congressional Subcommittee Hearing, to request that the Arizona Congressional Delegation: first, initiate the permanent withdrawal from mining and mineral exploration of all Federal lands within the Santa Rita Mountain Range of the Coronado National Forest in Pima County (52,000 acres currently open to mineral entry); second, initiate the permanent withdrawal from mining and mineral exploration of the remaining Federal lands within the Coronado

National Forest in Pima County (186,000 acres currently open to mineral entry); and third, initiate the permanent withdrawal from mining and mineral exploration of all County-owned natural reserves where the Federal government owns the subsurface mineral rights.

The Board considered this most recent resolution after a comprehensive review of Pima County's experience in dealing with the negative impacts of the 1872 Mining Law, historically and in the present. This historic law continues to cause contemporary community problems due to the total lack of meaningful reclamation.

IX. Summary and Recommendations

In summary, current mining practices under the 1872 Mining Law are not compatible with the rapidly growing urban population in Pima County, our need to conserve water for such a growing population, and the conservation of our diverse sky islands, rare riparian areas, Sonoran Desert habitats, and strong tourism industry. The legacy of mining in Pima County has negatively impacted our natural open spaces, public health, and the taxpayers financially. The County has been proactive in addressing these issues, to the extent that we can, through comments to agencies that regulate and authorize mining in Pima County.

On the forefront of these efforts is the County's opposition to the Rosemont Mine proposed by Augusta Resources Corporation in the Santa Rita Mountains within the Coronado National Forest in Pima County. The Pima County Board of Supervisors, in support of local residents, are asking that Congress at a minimum please consider withdrawing this area from mining. Other areas in Pima County should also be closed from mining, and comprehensive reforms to the 1872 Mining Law are necessary.

Thank you very much for holding a hearing in Tucson, and inviting Pima County to provide testimony on this most important issue.

Respectfully submitted,

C.H. Huckelberry
County Administrator

CHH/jj (February 20, 2007)

Attachments