

**OUR NATIONAL FORESTS AT RISK:  
THE 1872 MINING LAW AND ITS  
IMPACT ON THE SANTA RITA  
MOUNTAINS OF ARIZONA**

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**OVERSIGHT FIELD HEARING**

BEFORE THE

SUBCOMMITTEE ON ENERGY AND  
MINERAL RESOURCES

JOINT WITH THE

SUBCOMMITTEE ON NATIONAL PARKS, FORESTS  
AND PUBLIC LANDS

OF THE

COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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Saturday, February 24, 2007, in Tucson, Arizona

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**OVERSIGHT FIELD HEARING ON “OUR  
NATIONAL FORESTS AT RISK: THE 1872  
MINING LAW AND ITS IMPACT ON THE  
SANTA RITA MOUNTAINS OF ARIZONA.”**

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**Saturday, February 24, 2007**

**U.S. House of Representatives**

**Subcommittee on Energy and Mineral Resources, joint with the  
Subcommittee on National Parks, Forests and Public Lands  
Committee on Natural Resources  
Tucson, Arizona**

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The Subcommittees met, pursuant to call, at 10:00 a.m., in County Board of Supervisors Hearing Room, Pima County Administration Building, 130 West Congress Street, Tucson, Arizona, Hon. Raúl M. Grijalva [Chairman of the Subcommittee on National Parks, Forests and Public Lands] presiding.

Present: Representative Grijalva.

Also Present: Representative Giffords.

Mr. GRIJALVA. Thank you. The Subcommittee on National Parks, Forests and Public Lands will now come to order.

Good morning, and it's good to be home. In a previous life, I never got to play in this room and it's good to be here. Welcome to the joint hearing. It's a joint hearing of the Subcommittee on National Parks, Forests and Public Lands, and the Subcommittee on Energy and Mineral Resources.

Today, we will hear testimony on a proposed mine affecting both private land and the Santa Rita Mountains within the Coronado National Forest.

My good friend, and colleague, Jim Costa, Chairman of the Energy and Mineral Resources Subcommittee, had planned to be here today to join me in taking this very important testimony. However, he is unable to be here, and without objection, I will submit his opening remarks for the record.

[The prepared statement of Mr. Costa follows:]

**Statement of The Honorable Jim Costa, Chairman,  
Subcommittee on Energy and Mineral Resources**

I wish to express the importance of today's hearing on "Our National Forests at Risk: The 1872 Mining Law and Its Impact on the Santa Rita Mountains of Arizona." This hearing marks the first step in this 110th Congress to overhaul the 1872 General Mining Law under the leadership of Natural Resources Committee Chairman, Nick Rahall. This archaic statute, still on the books 135 years after

President Ulysses Grant signed it, governs the disposition of “hardrock” minerals, such as gold, silver, and copper, on federally-owned public lands.

There are many reasons this law should be replaced with a modern, comprehensive hardrock mining law. The proposed “Rosemont” mine, the subject of today’s hearing, presents a good example of some of the problems caused by the 1872 Mining Law. Concerns related to water quality, air quality, and waste disposal, are just some of the issues that will be addressed by the witnesses today.

I regret that due to the untimely death of a close friend and constituent, I am unable to attend this hearing. However, I have full faith and confidence that my colleague, The Honorable Chairman of the Subcommittee Parks, Public Lands and National Forests, Raúl Grijalva, will take this important testimony, weigh carefully the significant issues and potential effects of the proposed mine on the citizens and environment of Tucson and Pima County, Arizona.

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Mr. GRIJALVA. Without objection, we will have Representative Gabrielle Giffords, who represents the area at issue, participate in today’s hearing.

Ms. GIFFORDS. Thank you very much, Congressman.

**STATEMENT OF THE HONORABLE RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA**

Mr. GRIJALVA. The 1872 Mining Act is a relic of the 19th Century, that still has profound impacts on the public lands in the West. Passed at a time when Congress was encouraging citizens to populate and develop the West, the law allows anyone to file a claim of mining on public lands, unless the lands have been specifically withdrawn by an act of Congress or Executive Order. The Mining Act is long overdue for reform.

The values of manifest destiny implicit within this bill are no longer the values of this society or the West. While we do need minerals for modern life, our current value system favors protecting our public lands and forests, and ensuring the protection of endangered species, water quality and open space.

The Mining Act allows claimants to mine on public lands without paying any royalties to the American taxpayer. Anyone can stake a claim on public lands, pay a nominal fee each year, and conduct mining operations. These operations bring in millions of dollars in private revenue without paying one dime in royalties to the American taxpayers. Some estimate that the mining industry has extracted \$245 billion worth of the public’s hard rock minerals without paying a royalty or a fee to the public.

The impacts of mining in the West have been profound. More than 500,000 abandoned hard rock mining sites litter the United States, yet the 1872 Mining Act does not require them to be cleaned up. Hard rock mining is a source of toxic pollution in more than 1000 miles of Arizona’s rivers and streams. All over the West, mining has left behind Superfund sites and other undesignated toxic waste sites.

Yet the courts have interpreted the Mining Act to prevent federal land managers from disapproving a mine. In short, the Mining Act is a free-for-all on public lands. It’s outdated and this process is the beginning process to reform it.

As for the specific case before us today, Augusta Resource Corporation proposes to mine on private lands on the Rosemont Ranch, while disposing of the mining waste on the Coronado National Forest adjacent to the ranch.



I am deeply concerned about this proposal that will use the irreplaceable forest lands as a dumping ground.

I look forward to hearing the perspectives of the witnesses today on the implications of the proposed mine.

[The prepared statement of Mr. Grijalva follows:]

**Statement of The Honorable Raúl M. Grijalva, Chairman,  
Subcommittee on National Parks, Forests and Public Lands**

Good morning and welcome to the joint hearing of the Subcommittees on National Parks, Forests and Public Lands, and Energy and Mineral Resources. Today we will hear testimony on a proposed mine affecting both private lands and the Santa Rita Mountains within the Coronado National Forest.

Without objection, we will have Representative Gabrielle Giffords, who represents the area at issue, participate in today's hearing.

The 1872 Mining Act is a relic of the nineteenth century that still has profound impacts on the public lands in the West. Passed at a time when Congress was encouraging citizens to populate and develop the West, the law allows anyone to file a claim for mining on public lands unless the lands have been specifically withdrawn by an act of Congress or Executive Order.

The Mining Act is long overdue for reform. The values of Manifest Destiny implicit within the bill are no longer the values of this society. While we do need minerals for modern life, our current value system favors protecting our public lands and forests and ensuring the protection of endangered species, water quality, and open space.

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The impacts of mining in the West have been profound. More than 500,000 abandoned hard rock mining sites litter the United States, yet the 1872 Mining Act does not require them to be cleaned up. Hard rock mining is the source of toxic pollution in more than 1000 miles of Arizona's rivers and streams. All over the West, mining has left behind Superfund sites and other undesignated toxic waste sites.

Yet, the courts have interpreted the Mining Act to prevent federal land managers from disapproving a mine. In short, the Mining Act is a free-for-all on public lands—it's outdated and we must reform it.

As for the specific case before us today, Augusta Resource Corporation proposes to mine on private lands on the Rosemont Ranch while disposing of the mining waste on the Coronado National Forest adjacent to the Ranch.

I'm deeply concerned about this proposal that will use irreplaceable forest lands as a dumping ground.

I look forward to hearing the perspectives of the witnesses today on the implications of the proposed mine.

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Mr. GRIJALVA. And as we go on, I see a number of members of the audience are carrying signs today, and that's fine. But as long as no one uses a sign to block somebody else's view or attention to this meeting, that would be very much appreciated.

At this point, I'd like to turn it over to Congresswoman Giffords, the opportunity for opening remarks.

Ms. Giffords.

**STATEMENT OF THE HONORABLE GABRIELLE GIFFORDS, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF  
ARIZONA**

Ms. GIFFORDS. Well, I would first of all like to thank all of you for coming out today to this hearing, on an issue that has direct impacts to our county and our community.

I also would like to thank Congressman Grijalva for having this hearing, and also to publicly congratulate him for his new subcommittee chairmanship of National Parks, Forests and Public Lands.

It is important that we are gathering here to have a discussion and to learn about the impacts of this proposal.

Let me be straight up front. I have some grave concerns about an 800-acre open pit mine in one of the most scenic areas of southern Arizona. The potential environmental impacts of this mine in the Santa Ritas are profound.

Water pollution, air pollution, noise pollution, traffic hazards. The list goes on. In my view, the residents who are worried about these impacts have some very legitimate reasons to be concerned.

I believe that the Santa Ritas are a national treasure. Anything that might threaten them must be taken seriously.

I would also like to commend the Pima County Board of Supervisors for taking a very public position and a stance on this issue as well.

But this specific mining proposal is only part of the reason why we are having this hearing today, and again, that's why I would like to commend Congressman Grijalva.

Another aspect is the 1872 Mining Law. I think it's astounding, that this law was already 40 years old when Arizona just achieved statehood. It is telling, in my view, that the 1872 law has no environmental, public health or safety provisions.

As we all know, those of us from Arizona a long time, or recently arrived, that mining has a long history here in Arizona, particularly in Pima County. Its contributions to our economy, our political development and culture are well-known. But it's precisely because of the inability of the 135-year-old mining law to respond to the needs of our communities today, that congressional oversight and review of the law is necessary and important.

So I look forward to hearing testimony from all sides, and again, I appreciate the opportunity to be here today. Thank you.

Mr. GRIJALVA. Thank you very much. And today, the process will be like this. We are going to have three panels. Our first panel will include Harv Forsgren, Regional Forester for Region Three of the U.S. Forest Service, and Mr. Chuck Huckelberry, Pima County Administrator.

On our second panel, we will hear testimony from Augusta Resource representative James Sturgess, and Roger Featherstone from EARTHWORKS.

On the third, we will hear from Lainie Levick from Save the Scenic Santa Ritas, and Cynthia Lunine, a local landowner.

Each of our witnesses will have five minutes of oral testimony and will also submit written testimony for the record.

I encourage our witnesses to make their best efforts to keep their remarks to the five minutes allotted. There will be additional time for discussion during the question-and-answer period, in which Ms. Giffords and I will participate.

After the invited guests speak, there will be an hour for public comment. Members of the public may have three minutes to speak. Speaker cards are available at the clerk's table. We will

accommodate as many people as we can. I will recognize the elected officials in the audience first.

If you do not have the opportunity to speak today, you may submit written testimony to the Natural Resources Committee within ten days of this hearing.

Our first witness today is Mr. Harv Forsgren, and welcome to the Subcommittee, sir, and we look forward to your testimony. Please proceed.

**STATEMENT OF HARV FORSGREN, REGIONAL FORESTER,  
U.S. FOREST SERVICE**

Mr. FORSGREN. Mr. Chairman, Representative Giffords, thank you for this opportunity to present the Department and Agency views on the impacts of the 1872 Mining Law on this Rosemont Mine proposal on the Coronado National Forest.

The 1872 Mining Law, and its amendments, confer a statutory right to enter public lands, to search for, develop minerals, and engage in reasonably necessary associated activities. Whether those activities take place on or off mining claims, Department of Agriculture and Forest Service policy fully protects these statutory rights.

The Federal Government's policy for mineral resource management is expressed in the Mining and Minerals Policies Act passed by Congress in 1970, which, in essence, directs agencies such as mine to foster and encourage private enterprise in the development of economically sound and stable industries, and the orderly and economic development of domestic resources to help meet industrial, security and environmental needs.

The Department of Agriculture's long-standing policy regarding regulating mining operations on National Forest System lands, open to mineral entry, was reiterated in a 2003 memorandum. The memorandum includes four key points.

First. The Forest Service's locatable mineral regulations apply to operations on or off mining claims.

Two. The Forest Service is not required to conduct mining claim validity exams before processing and approving proposed plans of operation.

Three. The Forest Service will conduct a timely review of proposed operations and ensure proposed activities are required for and reasonably incidental to prospecting, mining or processing operations.

And finally, four, the Forest Service will ensure operations comply with the regulations and minimize adverse environmental effects to the extent feasible.

The Forest Service's mineral policy recognizes our role in contributing to an adequate and stable supply of mineral and energy resources while sustaining the land's capability to provide for other uses and its capability to support biodiversity goals.

We have adopted regulations to guide implementation of these statutes and policies. Our regulations provide rules and procedures that all prospectors and miners must follow when operating on Forest Service System lands. The regulations are intended to identify and apply reasonable conditions which do not materially interfere with mining activities authorized by the 1872 Mining Law,

and which prevent or minimize and mitigate, or reclaim adverse environmental impacts to surface resources.

With that background, let me address the proposed Rosemont mine. The Rosemont property is part of a historic mining district which began producing copper in the late 1880's. Small underground workings and diggings in the district yielded copper and other metals, continuously, from 1915 to 1951. Over the last several decades, various large mining companies conducted mineral exploration in the mining district and two companies proposed land exchanges to facilitate mining in Rosemont Valley. Those proposals were subsequently dropped.

However, in December of 1995, ASARCO, Incorporated was granted patents on 347 acres of National Forest Service System lands. The area Augusta Resource Corporation has proposed developing at the Rosemont mine includes these patented claims, adjacent private land patented in the late 1800's and early 1900's, and unpatented mining claims on the Coronado National Forest. The Coronado National Forest received a preliminary mine proposal from Augusta on the 1st of August 2006.

The proposal lacks sufficient detail to initiate the National Environmental Policy Act, or NEPA analysis, and was withdrawn by the company on October 20th of the same year.

A proposal for exploratory drilling was subsequently submitted in December of 2006. It was necessary for the Forest to respond with a request for additional information. Augusta has revised the proposed drilling plan and resubmitted to the Coronado National Forest the day before yesterday.

The Forest Service will evaluate their drilling proposal under our mineral regulations and NEPA. If the Forest subsequently receives a proposed plan of operations for development of the Rosemont mine from Augusta, we will also evaluate it under our mineral regulations and NEPA.

There would likely be significant impacts from the proposed mine, so we anticipate the project evaluation would require an environmental impact statement.

That represents the current status of the proposed mine. Thank you.

[The prepared statement of Mr. Forsgren follows:]

**Statement of Harv Forsgren, Southwestern Regional Forester, U.S. Forest Service, United States Department of Agriculture**

Mr. Chairman and Members of the Committee, thank you for the opportunity to present the Department's views on the impacts of the 1872 Mining Law on National Forest System lands, in particular in relation to the Rosemont Mine proposal on the Coronado National Forest.

**Forest Service policy for administering the 1872 Mining Law**

Forest Service regulations provide rules and procedures for using the surface of National Forest system lands in connection with locatable mineral operations authorized by the 1872 Mining Law. This law and its amendments confers to a citizen a statutory right to enter upon public lands to search for and develop minerals and engage in activities reasonably necessary for such uses. Operations covered by these regulations include all reasonable activities, regardless of whether such operations take place on or off mining claims on National Forest System lands. All prospectors and miners whose proposed activities could result in significant environmental impacts must comply with these regulations through submittal and agency approval of plans of operation.

All proposed activities are conducted to minimize, prevent or mitigate and reclaim adverse environmental impacts to surface resources. Reasonable conditions, which do not materially interfere with such operations, are required to ensure environmental impacts to surface resources are minimized. In evaluating a proposed plan of operations, the Forest Service considers the environmental effects of the mineral operation, including whether the proposed operation represents part of a well-planned, logically sequenced mineral operation. On lands that are open for entry under the 1872 Mining Law, the statutory right of the public to prospect, develop, and mine valuable minerals is fully honored and protected.

The Forest Service Minerals Program Policy signed by Forest Service Chief Jack Ward Thomas in 1995 states that the Forest Service will “foster and encourage private enterprise in the development of economically sound and stable industries, and in the orderly and economic development of domestic resources to help assure satisfaction of industrial, security, and environmental needs.” This national policy was affirmed by Chief Dale Bosworth in 2004.

Likewise, the Department of Agriculture has a long-standing policy regarding mining operations on National Forest System lands open to mineral entry. In a portion of a 2003 informational memorandum to the Chief of the Forest Service, Under Secretary Mark Rey stated:

1. The Forest Service’s locatable mineral regulations 36 CFR 228 Subpart A have not been amended or limited and remain fully in effect for operations on or off mining claims.
2. The Forest Service is not required to conduct mining claim validity exams before processing and approving proposed plans of operation.
3. The Forest Service will conduct a timely review of proposed operations and continue to ensure proposed activities are required for and reasonably incidental to prospecting, mining, or processing operations.
4. The Forest Service will continue to ensure operations comply with the regulations and minimize adverse environmental effects to the extent feasible.

For National Forest System lands that are open to entry under the 1872 Mining Law, the Forest Service is not required to inquire into claim validity before processing and approving a plan of operation.

#### **Mining on the Coronado National Forest**

The Rosemont property is part of the historic Helvetia Mining District, which began producing copper in the late 1880’s. Small underground workings and diggings in the district yielded copper and other metals continuously from 1915 to 1951. Until 1950, total production from the Helvetia District included 227,300 tons of ore which yielded 17,290,000 pounds of copper, 1,097,980 pounds of zinc, and 180,760 ounces of silver. Over the last several decades, various mining companies conducted mineral exploration in the Helvetia Mining District, and two companies proposed land exchanges to facilitate mining in Rosemont Valley. These proposals were subsequently dropped when copper prices declined. In December 1995, ASARCO, Inc. was granted mineral patents on 347 acres of National Forest lands that were later sold in 2004. Shortly thereafter, Augusta Resource Corporation purchased the patented land and is currently interested in developing their mineral deposit. The Rosemont mine includes the land patented in 1995, adjacent land which had been patented in the late 1800s and early 1900s, and unpatented claims on National Forest System lands.

#### **Coronado National Forest Land Management Plan**

The current management direction for minerals in the Coronado National Forest Land Management Plan is to support environmentally sound energy and mineral development and reclamation.

The proposed Rosemont Mine is within Management Areas 1 and 4 in the existing Coronado National Forest Plan. Management area designation provides overall management direction for the area based on the resources and uses occurring in the area. Management emphasis in Area 1 is for visual quality and semi-primitive dispersed recreation opportunities including those related to wildlife. There is no management direction for Area 1 that is specific to minerals. The emphasis for Management Area 4 is to manage for a sustained harvest of livestock forage and fuelwood while maintaining and improving game animal habitat. Visual quality objectives in this management area should be met or exceeded and dispersed recreation activities may occur, with the exception of those that adversely affect the productivity of the land or resources. Watershed and soil conditions will be improved or maintained. Direction for minerals management in Area 4 addresses mineral materials only, specifically, that permits will be required for common materials for personal or

commercial use, and borrow pits will be located in areas such that resources or facilities will be enhanced.

Concerning the Forest Plan revision, Phase I of the Comprehensive Evaluation Report for the plan revision will be completed in March, 2007, and the revision itself is scheduled to be completed by December 2008.

**Rosemont Project**

The Coronado National Forest received a preliminary mine proposal from Augusta Resource Corporation on August 1, 2006. The proposal lacked sufficient detail to initiate National Environmental Policy Act analysis, and was retracted by Augusta Resource Corporation on October 20, 2006. A proposal for geotechnical and hydrogeologic drilling was submitted to the Forest in December, 2006. The Forest responded with a request for additional information. The company is currently revising the proposed drilling Plan of Operations, and expects to resubmit it soon. The Forest Service will evaluate the drilling proposal under the National Environmental Policy Act with public involvement and disclosure and the appropriate analysis, documentation, and decision documents.

If the Forest receives a proposed Plan of Operations for development of the Rosemont mine from Augusta Resource Corporation, it will be evaluated according to the locatable mineral regulations and the National Environmental Policy Act. The analysis and documentation in the National Environmental Policy Act process will be commensurate with the proposed mine activities.

Thank you for this opportunity to address the Subcommittee. I will be pleased to answer any questions that you may have.

Mr. GRIJALVA. Thank you very much, sir, and Mr. Huckelberry, you are now recognized for five minutes. Thank you.

**STATEMENT OF CHUCK HUCKELBERRY,  
COUNTY ADMINISTRATOR, PIMA COUNTY**

Mr. HUCKELBERRY. Good morning, Chairman Grijalva and Congresswoman Giffords. Pima County appreciates your holding this oversight committee hearing in our community today. We are honored with your presence and attention to this matter. Pima County has a long history, as a local Western government, of cooperating with Congress and the Federal Government and its various agencies and entities.

We are the second largest growing urban county in Arizona. Our urban growth has been rapid and continuous. Through our concern for the environment, Western heritage and culture, we have, again, with the Federal Government's full cooperation and funding assistance, developed a blueprint for our urban future.

Former Supervisor, now Congressman Grijalva, was instrumental in moving the planning process for the Sonoran Desert conservation plan into action and our present board has seen it through to completion.

With federal planning funds, the county has completed the Sonoran Desert conservation plan, to ensure that the county remains fully compliant with federal law, particularly the Endangered Species Act, while continuing our population and economic expansion.

The voters of Pima County have emphatically endorsed the conservation plan by authorizing over 200 million in local property tax-supported bonds to purchase open space and preserve important ecological systems, our Western heritage and cultural integrity.

In the past, uncontrolled population growth and expansion have been the greatest threat to our national ecosystem of the Sonoran

Desert. This threat has now been successfully managed through implementation of the Sonoran Desert conservation plan.

Today, mining, as it has been conducted in the past, may pose the greatest single threat to our ability to create and sustain a livable community in Pima County.

The past legacy of mining in Pima County is not good. Permanently scarred landscapes, water and air pollution, threats to public health, is what we presently have to show for decades of open pit copper mining.

While we understand the need for these resources, their method of extraction from our landscape has been devastating. Mining has been an important component in our property tax base in the past. However, today, it represents less than one percent of our total property tax base.

Mining has created direct as well as indirect adverse impacts to our environment. These impacts have been relatively unmitigated. Meaningful mine reclamation has been nearly nonexistent. Something must change. I would suggest that appropriate modifications are amendments to the 1872 Mining Law, to include at least one meaningful and real reclamation, generally concurrent with mining activities.

Mining, once complete, should replicate the landscape in a manner to how it was found before mining commenced.

Financial assurances, for reclamation and mitigation of adverse impacts, must be real, substantial, and accessible. Issues of bankruptcy and inadequate financial assurances must be addressed.

Third. I'd suggest that the process and procedures for utilization of public lands for mining must become more transparent and open for public review and comment.

The filing of mining claims must give substantially more rights to the surface fee simple owners than the current process affords.

While mining companies and ventures now submit a plan for federal review, these plans have little and almost no information regarding reclamation. There is little or no thought given to the use of the land after the mine has been abandoned.

With regard to the proposed open pit copper mine of Rosemont, the county's position has been unmistakable. We oppose this mine. The board of supervisors has passed resolutions in opposition. The mine's impacts on the landscape and environment, in all likelihood, cannot be mitigated. Therefore, the county has requested that all federal lands in the Santa Rita mountain range of the Coronado National Forest within Pima County be withdrawn from mineral entry.

We have further and further requested, by resolution, that the remaining lands within the Coronado National Forest within Pima County be withdrawn from mineral entry.

We further have requested that the county's national resource parks that we've purchased with taxpayers dollars be withdrawn from mineral entry.

We believe that this withdrawal is warranted, for four reasons. First, because of the failure to amend the present mining law. There's no other way to protect land, where there are competing non-mineral interests but through congressional withdrawal.

Secondly, we have worked with the Federal Government to protect our landscape through the conservation plan which creates a long-term vision for conserving cultural and national resources while allowing economic growth.

Congress has been a partner with Pima County in this plan. It's been a partner with Pima County in creating the Las Cienegas National Conservation Area.

The 1872 Mining Law undermines our conservation plan, and, in particular, the Rosemont mine is inconsistent with the formation of the Las Cienegas National Conservation Area.

Third, Congress and the Bush Administration supports local governments having a say in federal land management.

That being the case, a mineral withdrawal would be consistent with our local preference as expressed through our resolutions of our elected officials. We certainly recognize that other parts of Arizona may prefer mineral development. Pima County is an urban, large county. At this point it does not.

Finally, Congress has previously withdrawn from mineral development areas around Tucson at the request of local governments. This mineral withdrawal in the Rosemont area is consistent with previous congressional actions to protect our natural landscapes. Thank you very much for your time and attention to this very important matter.

[The prepared statement of Mr. Huckelberry follows:]

**Statement of 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 scrub<sup>1</sup>.

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 acres<sup>2</sup>.

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 permit<sup>3</sup>. 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 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 year<sup>4</sup>. The agriculture sector used 30 percent, while the

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

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

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

<sup>4</sup>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.

municipal sector used 55 percent and other industrial sectors used 5 percent of the water in the Tucson AMA<sup>5</sup>. 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 landscape<sup>6</sup>. 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 known buffelgrass fire was in 1994, at the Duval Mine<sup>7</sup>.

#### 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 litigation<sup>8</sup>. 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 bankruptcies<sup>9</sup>.

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

<sup>5</sup> <http://www.azwater.gov/WaterManagement—2005/Content/AMAs/TucsonAMA/TAMA—documents/2005—TAMA—Water—Use—Summary.pdf>

<sup>6</sup> 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.

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

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

<sup>9</sup> 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.

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 claims<sup>10</sup>. 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 prevent a recurrence of spurious claims on otherwise valuable lands<sup>11</sup>.

#### *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 streams<sup>12</sup>.

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 groundwater<sup>13</sup>. 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.

<sup>10</sup> 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

<sup>11</sup> 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

<sup>12</sup> National Assessment Database, Environmental Protection Agency.

<sup>13</sup> 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.

Attachments

NOTE: Attachments to Mr. Huckelberry's statement have been retained in the Committee's official files.

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Mr. GRIJALVA. Thank you very much. Now to myself and my colleague, Congresswoman Giffords, to ask the first panel some questions, and I would like to begin with Mr. Forsgren, if I may.



In going over your testimony, on the first page you mention all reasonable activities pertaining to mining operations on or off the forests are allowed under the Forest Service regulations.

How do those regulations determine what is reasonable?

Mr. FORSGREN. The standard of reasonableness we're looking at there is their need relative to the proposed mining activity. There has to be a reasonable connection between that activity and the valid mining activity.

Mr. GRIJALVA. So it's pretty wide open in terms of that interpretation of reasonable?

Mr. FORSGREN. There is some gray matter that has to be used in the interpretation, yes.

Mr. GRIJALVA. Okay. Let me go back. Let's say—and one was just submitted, a follow up was submitted, day before yesterday, from the mining company in question today.

But if a mining company cannot come up with a well-reasoned plan, can the Forest Service deny the operation?

Mr. FORSGREN. We have to have a well-reasoned plan or else we're not in a position to go through our required NEPA analyses, and that's why we have gone back to the company on two occasions, with material that they've submitted, and to ask for additional, more detailed information, that would allow us to evaluate those effects.

Our discretion in regulating their activity is limited to the surface uses of Forest Service System lands and we cannot do that without adequate information and a well-thought-through and presented plan.

Mr. GRIJALVA. With regard to that forest plan revision, will that revision be conducted under the old planning regulations, or the new ones, which allows a Forest Service plan to be developed under the categorical exclusion of NEPA?

Mr. FORSGREN. Our current thinking is that the forest plan revisions in the Southwestern region will all be conducted under the new planning regulation, the 2005 planning regulation, which does provide for the use of a categorical exclusion to meet NEPA requirements.

Mr. GRIJALVA. And I think that begs the question that Mr. Huckelberry made about the transparency and the public process with regard to that exclusion.

Mr. FORSGREN. We think that that transparency and public process will be more than adequately provided as we work through the NEPA process, which will fully engage the public in understanding what the proposal is and we engage the public to try and identify alternatives to that proposal and mitigations associated with that proposal to protect the Forest Service System surface resources and future uses of that land.

Mr. GRIJALVA. Is the Forest Service a partner, as we heard from Mr. Huckelberry's testimony, or a party to the Sonoran Desert conservation process? And if it is, does that mean the Agency has to meet the criteria of the plan in terms of protecting wildlife habitats, visual quality objects, protection of critical watersheds, etcetera, that are part of the conservation plan?

Mr. FORSGREN. Mr. Chairman, I apologize. I am not personally familiar with that situation to be able to address the question but would be happy to get back to the committee with an answer.

Mr. GRIJALVA. I appreciate that very much. And let me ask—we will have time, we will go back and forth, and these other questions, we will get to them in a little while.

But I was going to ask, one of the things that we inevitably hear in this discussion relative to mining is the impact of, that it does to employment, i.e., jobs, that as a consequence of a mining operation are created in the community, and what it brings to a community in terms of employment.

No question, as we look at 1872 and the reform of the mining law, that question will be persistent throughout these discussions, and jobs, and it always becomes a “jobs versus.” Jobs versus an open-ended 1872 law with no regulations and no reform, and if we don’t do that, then the consequence is a loss of jobs. Your reaction to that?

Mr. HUCKELBERRY. Yes. Mr. Chairman, I think you have to look at it in the perspective of Arizona and perspective of our historical population growth. We have seen, over the years, and I had mentioned it in my written testimony, that mining has been historically very important to the economy of Arizona.

That importance is declining, and declining rapidly. We just took a 30 year window and looked back in Pima County, and said what was the percentage of mining’s contribution to the property tax base in 1977, and it was 15 percent.

Today, 30 years later, it’s less than one percent. We are a high immigration center for population shift. Even with that high population shift and growth, our unemployment in Pima County continues to be at record lows.

Obviously, we want high-paying jobs in the county. The issue are: what are the tradeoffs, and what are the prices you have to pay for those? And in this particular case, that price may be too high, without complete and absolutely reclamation.

Mr. GRIJALVA. Let me follow up on that if I may, Mr. Huckelberry. There is an impression that the West is wide open, and that I believe those days are long gone, and I think this part of the process, that our Chairman, Mr. Rahall, and the Natural Resources Committee is going to do, is to not redefine the West but accept the reality of what the West is now.

And with that, you know, the mine would have impacts in the area, and what are the impacts of this mine on other uses in that southern Pima County area?

Mr. HUCKELBERRY. Mr. Chairman, the Homestead Act was for settling the West, the Mining Act was for exploiting the West. What we see in the values of the southern part of Pima County, our conservation plan has set it aside as a low-impact area, low footprint, because of its scenic values, the values that it associates itself with, the Las Cienegas National Conservation Area.

The drainage tributaries from Rosemont mine drain into the Las Cienegas area, and the Las Cienegas carries its name because of water, because of endangered species, because of the open scenic views that you get from the Cienega Valley.

Those would potentially all be destroyed with exploitation.

We also know that a large component of our economy today, that has replaced mining, is tourism, and if we look at the Santa Rita Mountains, we know that it's an important birding area as established by the Audubon Society. The conservation institution has indicated it as a biological "hot spot." It is extraordinarily important in the biodiversity of the Sonoran Desert and it is something that we believe any alteration of significant modification would be detrimental to our future and our economy.

Mr. GRIJALVA. With that, and then we have the luxury of having two of us at this hearing, so we can go back and forth and ask a lot of questions, but now I would like to yield to Congresswoman Giffords for any questions she may have.

Ms. GIFFORDS. I have a couple questions for Mr. Forsgren. First of all, was the quality of the initial submission for the proposed operation planned for this mine up to par?

Mr. FORSGREN. As I mentioned, it lacked the kind of detail we would need to initiate that National Environmental Policy Act analysis, and so without that information, we shared that with the company and they voluntarily withdrew that proposal until a future time.

Ms. GIFFORDS. Okay. If the mining company cannot come up with a well-reasoned plan, can the Forest Service deny the mining operation?

Mr. FORSGREN. Yes. Again, we have to have a well-reasoned, well-documented plan of operations, so that we can evaluate the environmental consequences associated with that, share those with the public and work through the process to try and identify ways of minimizing the environmental effects associated with such an operation, and in the absence of that, we can't move forward.

Ms. GIFFORDS. Okay. You have talked about the area being managed for other purposes, visual quality, recreation. Can you address the effects of the Rosemont mine, if it were to open, and the balance between the other values of the property.

Mr. FORSGREN. Obviously, when you are talking about an operation of the magnitude that has been proposed here, there is no question that there are potential environmental impacts, and we would not disagree with the types of impacts that are associated with mining activities, or can be associated with mining activities.

But that the environmental analysis process is the process that we use to do that kind of specific analysis and look at what the specific impacts would be to water resources, air resources, visual quality resources, wildlife, the full sweep of uses and benefits that the public expect from their national forest lands.

Ms. GIFFORDS. And Mr. Forsgren, how transparent is this process? How do we, as members of the public, how do we access the information and have an ability to understand a little bit more about the decision making process that you go through at the Forest Service?

Mr. FORSGREN. We do the best job that we can, to try and make that process as transparent as possible, and so that includes holding public meetings, and we try and get those public meetings in the communities, the local communities that are most readily affected by a proposal, to explain what the proposal is, to share with them what our analyses would suggest the impacts of that would

be, and to solicit the public's views as to what values are at risk, that are of concern to them.

Ms. GIFFORDS. Okay. Mr. Forsgren, if you can imagine, this is a pretty active community, so far as public hearings, you can see, just on a Saturday morning, you know, we would have a lot of public comment, obviously, if this were to move forward.

Mr. Huckelberry, a couple questions. I was listening to a report on the radio, the other day, that was talking about the Colorado River and what is happening with global warming, and the effects of drought, and I am not an expert on mining but I certainly understand that mining requires an extraordinary amount of water.

We are now the fastest-growing state in the nation. Pima County of course is growing very rapidly. But could you go into depth about if this mining operation were to move forward, what would happen in terms of our water.

Mr. HUCKELBERRY. Yes, Congresswoman Giffords. The issue of mining and water is one, and generically, the mines have been exempt for recharge and replenishment. In the particular case, we understand that there may be an effort by Rosemont to acquire CAP water and to replenish and recharge it in Santa Cruz Basin as opposed to the Cienega Basin.

The issues there are complex and difficult, and it is unknown as to how that is going to move forward, until there is much more detailed plans.

The biggest issue associated with the present plan of operations is essentially the barricading of Box Canyon, one of the major tributaries into the Cienega Creek, and that has a potential of diverting the clean surface water flows into the Cienega, and that in fact depletes the potential for continued surface flows in the Cienega Creek which is home to four endangered species.

So it would have very direct impacts. Water is very, very important to Pima County. That Cienega Basin provides subflow, natural process water that comes through the natural sediments into the Tucson Basin. It becomes part of the water supply for all of Pima County.

Ms. GIFFORDS. Mr. Huckelberry, in terms of reclamation, have you seen good examples where land is completely restored to as it was in the past, and can you touch on Augusta's proposals for reclamation of this land.

Mr. HUCKELBERRY. Yes. Congresswoman Giffords, I have not seen any meaningful reclamation by any mining activity in southern Arizona. Their attempts are abysmal and their follow-through does not exist. With regard to Augusta and their plan of operations, I have read it, it is 47 pages long, it has—and this is the draft that was originally submitted, not the new draft.

It had six pages dedicated to the reclamation, and my view of it was that it was a "dressed up" version of doing business as usual. In fact, the reclamation proposal for the open pit was to basically try and prevent public access to it. There was nothing about trying to replicate the natural environment, trying to actually spend real money in reclamation, that would try and leave the land much as I indicated in my testimony, as they found it.

And so I believe that the current effort that we have looked at, in the plan of operation that was originally submitted, was woefully inadequate.

Ms. GIFFORDS. I have one final question. How many properties are we talking about in Pima County? I know that again, a lot of the focus today is on this one particular proposal, but can you go into greater detail about the other proposals in the county, that you would like to see removed and that need to be protected.

Mr. HUCKELBERRY. Yes. Congresswoman Giffords, the county is in the process of acquiring a lot of open space, creating what we call working landscapes. It is part of our future urban form as defined by the conservation plan. In many of the cases where we have acquired lands, we have acquired them only to have individuals come in and file mining claims, tactics that we have used very often as harassment, and we have had to spend public money to go out and rectify those claims, to basically determine that they are not valid.

We have had this happen on our Rancho Seco acquisitions in Arivaca. We have had it happen on our Six Bar Ranch acquisitions in the area of Davidson Canyon.

We have had it happen to our acquisitions in the San Pedro Valley. And so it is a constant issue and constant problem, and what we find is that the 1872 Mining Act gives the fee simple surface owner very little rights, and so we are actually reacting, spending public money to protect our natural parks. Everything is really inappropriate, and a waste of public resources.

Ms. GIFFORDS. Thank you.

Mr. GRIJALVA. Thank you. Let me ask you, Mr. Huckelberry, to talk a little bit about as you are going up to get to the site, do you have plans to expand that road for the heavy truck traffic that will come in the future, and if so, what impact is it going to have on all surrounding property owners as a consequence of what would be heavy, intense, major vehicle traffic on that road right now, that could not sustain it as it is.

Mr. HUCKELBERRY. Yes. Mr. Chairman, the roadways leading to the site are actually state highways, and the county obviously, we don't have enough money to maintain our own county highways. The state is trying to divest itself of its state highways because they don't have enough money to maintain and improve their highways.

This particular highway is a rural route. It has been a historic rural route. It requires substantial improvement to accommodate safely heavy truck traffic. If not, we are going to simply expose all the residents who drive on those roads today to very hazardous conditions, and that is something I think is really unacceptable, and frankly, the money that is required to be put into those public highways should not be solely a public cost because of the mining operation.

Mr. GRIJALVA. This is, as you mentioned, Mr. Huckelberry, a high priority conservation area, the site that we are talking about relative to the mine.

When did the county purchase it?

Mr. HUCKELBERRY. Mr. Chairman, the county actually—

Mr. FORSGREN. Before the mine.

Mr. HUCKELBERRY. Before the mine. We were very interested in doing so. We have this process in Pima County that is very open and transparent, and when we promise the voters we are going to do something, we follow through, and in 2004, we simply overlooked the Santa Ritas and what we call the end holding properties, and therefore in our bond prospectuses, in our bond ordinances, we do not include a disclosure to the public that we wanted to acquire land inside the Coronado National Forest, and particularly Rosemont. Therefore, we effectively were prohibited from doing it.

Mr. GRIJALVA. Got it.

Mr. HUCKELBERRY. We have now learned our lesson about end holdings, and I can almost guarantee you, that if there is a bond issue in 2008, all end holdings will be considered.

Mr. GRIJALVA. Thank you. Mr. Forsgren, in hearing your testimony, isn't it true, that as you mention, the Forest Service can minimize the impacts of a mine? But as I understand, you have no statutory right to deny a mining operation on Forest Service lands. Minimize; but you can't deny.

Mr. FORSGREN. Again, we regulate the surface occupancy. The actual administration of mining claims is done through the Bureau of Land Management and the Department of Interior. And so our charge is to put into place whatever mitigations can be done, that do not materially interfere with the ability of those mining operations. So our discretionary space is somewhat limited.

Mr. GRIJALVA. So the 1872 Mining Act trumps the Endangered Species Act, and the Forest Management Act?

Mr. FORSGREN. You know, I don't think I would go quite that far, to say that it "trumps it," because certainly, as we work through the environmental analysis process, we are looking at the impacts of those resources, we are looking at the relationship to what the forest plan has established for objectives there, and we work very hard to try and modify the proposed plan of operations to be as consistent with those as possible.

Mr. GRIJALVA. The key point here is minimize, not deny, and that is the question I was asking.

Mr. FORSGREN. I think that is accurate, Mr. Chairman.

Mr. GRIJALVA. Thank you. Congresswoman, do you have any questions?

Ms. GIFFORDS. No. I know we have got a couple panels and we have members of the public to hear from, so—

Mr. GRIJALVA. Thank you, both of you. I appreciate it very much. And let me now—I want to thank the witnesses on the first panel for your testimony, and invite the second panel, Mr. Sturgess and Mr. Featherstone to please come forward.

Thank you. Mr. Sturgess, welcome, and you are recognized for five minutes, sir.

**STATEMENT OF JAMES STURGESS, VICE PRESIDENT,  
PROJECTS AND ENVIRONMENT, AUGUSTA RESOURCE  
CORPORATION**

Mr. STURGESS. Thank you, Chairman Grijalva, Representative Giffords. It is always interesting to be here in this room. My name

is Jamie Sturgess. I am vice president of Projects and Environment for Augusta Resource Corporation.

I have been working in the resource management field since 1973. I have worked in the energy and mining industries doing mine reclamation, water treatment, air quality and endangered species protection in those roles.

My experiences include working for both Government and industry.

My comments today are focusing on the mining law, the Rosemont mine project, and environmental mitigation as proposed by Augusta for the Rosemont project.

Let me first talk a little about Rosemont. Before I start, I must point out that in the back of the room, in some of the handouts for this meeting, there have been some pictures that have been “photo shopped” with other mines, pasted on to the Rosemont topography. I won’t hesitate to call it creative, but I will point out that those are outright fabrications, and do not represent our plans for our mine.

What I am providing today—there is a picture here, it is also submitted with the testimony—is a layout showing what we propose for the “year 10” perspective from Highway 83 at milepost 44. I understand yesterday, you were at milepost forty-four. The foreground in the picture shows that there is a mile-wide buffer area between the highway and the active mine area where we propose no activities at all.

The gray-brown area in the background shows the active mining area, and then there is a green in the foreground that is a perimeter screen berm that we propose around the mining activities.

Rosemont Ranch totals over 20,000 acres and completely surrounds the mineral deposit. Over the last century, this mining district has had repeated periods of mining, smelting and ranching. The mineral deposit itself is on private lands that are more than three miles from the nearest paved road.

The closest part of the perimeter berm will be almost a mile from the highway. No more than 40 vacant square miles around the mine site. Now let’s talk about the mining law.

It was, 135 years ago, that Congress recognized that the wealth of the nation rests, in part, on its mineral resources. Since 1872, the Mining Act has been amended many times, something like 50 times and 50 amendments. Those who would state that the law has not been changed since 1872 would be incorrect in those statements.

The mining law, even as amended, remains clear. I am going to quote from the Act, as amended.

“Congress declares that it is the continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in orderly and economic development of domestic mineral resources, mineral reserves, and reclamation of metals and minerals to help assure satisfaction of industrial security and environmental needs.”

The law goes on: “...and for the disposal, control, and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and

processing upon the physical environment that may result from mining or mineral activities.” End quote.

This is the law, as it has been amended, and this is the law that we have to follow. Augusta Resource is in the process of complying with this law by submitting a detailed plan of operations as required by FLPMA and by NEPA.

The mine plan is also subject to compliance with the Endangered Species Act, the Clean Water Act, the Clean Air Act, the National Environmental Policy Act, and other environmental regulations that are in addition to the mining laws.

This Rosemont mining district was first recognized by the Federal Government in the 1880’s. This was over 30 years before Arizona was even recognized as a state. Now, 125 years later, in 2005, Augusta Resource Corporation purchased the Rosemont Ranch. The purchase came only after Pima County had declined to buy the property.

In 2004, the entire Rosemont Ranch was offered to the county for \$11 million. After public debate and careful consideration, the county decided Rosemont Ranch did not have the values that were worth buying relative to other properties that they had in their plans.

In 2005, Augusta paid \$20 million for the Rosemont, twice the price the county could have paid, and now the county opposes Augusta’s plans for development. These plans are consistent with multiple use designations of both the forest plan and the county. Now let’s talk a little about Augusta’s plans for the mine.

Augusta has proposed conservation and protection measures that no other copper mine in Arizona has ever implemented. I have been in the copper mining business for 20 years in Arizona, 30 years in resource. I can tell you that these plans have not been implemented anywhere in the country. It is not just in Arizona. Here is what the plan of operations will include.

A truly closed loop process water system; putting more CAP water into the aquifer than is drawn out; no tailings pond. The smallest possible mine footprint. A commitment to meet the local “Dark Skies” guidelines. Concurrent reclamation and re-vegetation of the land. Creation of a community endowment fund for preservation of open space and wildlife habitat.

And we initiated the process with careful siting of facilities to minimize the visual impact.

What are the benefits of developing at Rosemont? During my life, the mine will paid \$1.8 billion in federal taxes, half a billion in state taxes, and those are predictions on prices of metals that are much lower than the ones we have today. Not insignificant.

The mine will also produce 5 billion pounds of copper, 100 million pounds of molybdenum, and 100 million ounces of silver. Rosemont would be a nationally significant contributor to the trade balance and to domestic production of strategic minerals.

This mine will produce 5 percent of the national domestic demand for copper for 20 years. The mine also brings high-paying jobs. Rosemont mine will employ 400 people at an average annual income of \$59,000 per year. Our previous estimate was 350 people. The latest is four hundred. In addition, there will be at least 700



indirect positions here in the Pima County community. A total of more than one thousand new jobs in the community for 20 years.

To oppose Rosemont is to support sending those 1000 jobs overseas. The Rosemont mine not only contributes to economic and energy independence. It contributes to jobs at home in this district.

If we don't produce our own copper, whose copper do we use? What country gives up theirs? Or do we just export our jobs and import everything that we need in the way of natural resources, that can be produced here at home.

We believe that our plan for Rosemont balances production of minerals and protection of the environment, and the details will be out when we finish our planning with the input that we are getting today and that we have got from our initial plan from July, that was submitted originally in July.

The detailed, completed plan is expected within the next 60 to 90 days. Thank you.

[The prepared statement of Mr. Sturgess follows:]

**Statement of James A. Sturgess, Vice President of Projects and Environment, Augusta Resource Corporation**

My name is Jamie Sturgess and I'm Vice President of Projects and Environment for Augusta Resource Corporation.

I've been in resource management since 1973. This includes work for the California Fish and Game Department on the threatened fishes program and for the mining industry researching reclamation, water treatment, air quality, and endangered species protection. From there I served in site management positions for large mining operations. Then I started up an environmental consulting company, working around the world with a balance of municipal, county, state, and private clients.

I must point out that I've seen several pictures "photo-shopped" to paste other mines onto Rosemont topography. Those pictures are outright fabrications. We are still in the process of developing our plans and illustrations of what Rosemont will look like each year during mining and reclamation.

What I'm providing today is a layout showing the "year 10" perspective from Highway 83 at milepost 44 which should be at the height of activity on the property. The brown area in the background is active mining, the green area in the foreground is the perimeter berm planned for the first few years of construction.

The mine is on private lands more than 3 miles from the nearest roadway. The closest facilities are a mile away from the highway. I have taken many people on tours to the center of the proposed pit, you cannot see a single house. The nearest neighbors are over 2 miles away, over a ridgeline; and there are many square miles around the mine site with no occupied dwellings. The Rosemont Ranch totals almost 20,000 acres, surrounding the proposed mine site.

The mine site has had more than 100 years of active mining and ranching operations on the property. The Helvetia and Rosemont Mining Districts there were formed and recognized by the U.S. government in the 1880's.

The property will be developed into a modern mine. Exactly how the mine is developed and operated will be decided by thorough feasibility studies and a full-disclosure Environmental Impact Statement or EIS, with a very public review process.

The EIS and public review process strengthens today's application of the 1872 Mining Law. It brings stringent regulatory, resource, and environmental evaluations to bear. And it reflects everything we've learned over the years about how to operate a safe, productive, and environmentally responsible copper mine.

In 1872, our forefathers recognized that the wealth of a nation rests, in part, on its mineral resources. Their intention with the 1872 Mining Law is clear:

"Congress declares that it is the continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in (1) the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries, (2) the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security and environmental needs"

"and for the disposal, control, and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen any adverse impact of mineral extraction

and processing upon the physical environment that may result from mining or mineral activities.”

The legislature of the State of Arizona recognized the need to protect this vital industry by ensuring that no county has the authority to regulate or restrict the use or occupation of land or improvements for mining or metallurgical purposes. The legislature further provided that no county is authorized to prevent, restrict or otherwise regulate the use or occupation of land or improvements for mining or metallurgical purposes.

Augusta’s claims to the mineral resources are valid and not subject to forfeiture without significant compensation. We have the right to use our private property, patented claims and, consistent with the laws and in furtherance of the stated federal policy, the unpatented claims.

This mine is proposed largely on privately owned land in mining districts nearly as old as the Mining Law itself. Rosemont also involves patented mining claims on adjacent federal lands that Augusta owns.

We understand that Pima County opposes the proposed mine. Ironically, Augusta purchased the land it now owns only AFTER Pima County declined to do so at roughly half the price Augusta paid for it.

Any new mine in Arizona must be a model of maximum safety and minimal environmental impacts. And it must be a positive contributor to our state, as well as to our country’s goals of strategic mineral and energy independence.

Like so many natural resources we all need, copper is not easy to harvest. Nor is it found in very many places around the world. Using just one quarter of one percent of the state’s land, Arizona provides 65 percent of our nation’s domestic copper production. But our country still imports about 40 percent of our copper needs. We rely on copper for many of our everyday activities, including driving. Your car has about 50 pounds of copper. If you drive a new, energy-saving hybrid, it uses twice that much. Solar cells rely on copper and the next generation of solar panels will require even more copper. Copper is also essential to electrical wiring, jet aircraft, air conditioner units, water supply systems, and computers.

Copper can be mined responsibly and that is central to Augusta’s plan for the Rosemont property. We’re a company of people with substantial experience and track records in operating safe and environmentally protective mining operations. Our commitment to environmental safety and reclamation is spelled out in our “Comprehensive Plan of Operations.” It will be filed with the U.S. Forest Service this spring and the EIS will follow.

Here’s what our Plan of Operations includes:

- A “water miser” closed loop mine water system.
- Putting more CAP water into the aquifer than we draw out.
- No tailings pond.
- The smallest possible mine footprint.
- Specific limitations to protect air and water quality.
- A commitment to meet local “Dark Skies” requirements.
- Concurrent reclamation and revegetation of the land, beginning the first year of operation to return the site to ranching and open space.
- Creation of an endowment over the life of the mine for preservation of open space, support of wildlife habitat and other community needs.
- Protection of viewscales through careful siting of facilities and operations.

That plan will be a legally binding document detailing every aspect of how the mine must be operated and will be tied to ownership of the land, not simply to Augusta. What that means is further assurance that the commitments made in this plan endure over the life of the mine, and beyond.

The mine will pay an estimated \$1.8 billion in Federal taxes over the life of the mine. State tax revenue is projected at \$490 million over the life of the mine. This tax revenue will have a significant impact on the state’s general fund and will help mitigate the burden on individual taxpayers.

It also brings high paying jobs. Rosemont Mine will employ 350 people at an average annual salary of \$59,000. In addition it will add another 700 indirect positions for a total of 1,000 new jobs for Arizona.

Mining here in a responsible, environmentally effective manner also has global implications. The alternative is sending those jobs and control of strategic mineral supply overseas to countries without those same standards of protection or production.

The mining industry, like so many in the last decade, has made huge technological advances. New mines do not need to look like old mines. We will put these technological advances to work for the community, for Arizona, and for this country, which depends on copper in countless ways. We invite questions from the public as we proceed with planning and implementation with the various agencies involved

in this process. We look forward to answering questions and working with as many interested parties as possible as we advance this important project.

Unless, we, as a country are willing to place all of our minerals resources power and its related economic strengths in the control of other nations hungry for such projects, we must be willing to allow such projects as Rosemont to proceed. This debate reflects some inconvenient questions: If we don't use our own resources, whose resources do we use? If we don't produce our own food, whose food do we eat? If we don't produce our own copper, whose copper do we use?

All of the members of the Rosemont team are pledged to produce the best example of the most protective mining operation ever built in this country. We are doing what no mining company has done before, in the way of sustainable water supply, concurrent reclamation, water conservation, and land conservation. We are prepared to back our promises.

In turn, we understand that in proceeding, Rosemont will be held to incredibly high standards. We realize there is no other way.

Thank you.

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Mr. GRIJALVA. Thank you, Mr. Sturgess, and now Mr. Featherstone, you have five minutes. Please.

**STATEMENT OF ROGER FEATHERSTONE,  
SOUTHWEST ORGANIZER, EARTHWORKS**

Mr. FEATHERSTONE. Hello. My name is Roger Featherstone. I have had more than 30 years experience protecting our natural resources across the country.

I am the Southwest Circuit Rider for EARTHWORKS, based here, in Tucson. My territory covers the states of Arizona, California, Colorado, Nevada, New Mexico and Utah.

I would like to start by thanking Chairman Grijalva and Congresswoman Giffords for holding this important hearing of the Natural Resources Committee, and I would really like to thank the Majority for taking the committee back to its rightful name, Natural Resources, not just the Resource Committee.

EARTHWORKS is a nonprofit, nonpartisan environmental organization dedicated to protecting communities and the environment. EARTHWORKS supports responsible mining policies and practices that give taxpayers a fair return for valuable land and mineral assets, that eliminate government subsidies to mine on public lands, that require mining companies to meet adequate environmental protection standards, and that recognize that some special places on public lands should be off limits to mining.

Mining companies argue that there are engineering solutions to environmental problems. But technical solutions are only part of the answer. It is one thing to design a safe and efficient mine. It is quite another to design public policy resulting in good decisions about the use of public land and resources.

Good public policy must provide a basis for weighing environmental, social, economic and cultural issues as well as technical issues. As many have said, Augusta's Rosemont Ranch proposal is the wrong mine in the wrong place at the wrong time.

The long-term solution to protect the Santa Rita Mountains is reform of the mining laws. However, the Santa Ritas need protection while full reform is debated. EARTHWORKS favors legislation to withdraw federal public lands in the Santa Rita Mountains, and to the south, in Santa Cruz County, with the recent development of a lot of interest down there for mining development.

Throughout this debate, one theme continues to ring true. So long as special places on public lands are not placed permanently off limits, the public decision makers and mining companies will chew up a lot of time, money and energy, fighting over proposals to mine the area, that reoccur again and again.

True 1872 Mining Law reform should protect special places, give land managers the ability to deny and irresponsible mine proposal, balance mineral development with other land values, prevent permanent damage to our public lands, safeguard surface and groundwater during and after mining, and ensure adequate reclamation.

A reclaimed mine should be restored to pre-mining conditions. Comprehensive reform needs to protect the American taxpayer by forever ending patenting and eliminate special interest subsidies now enjoyed by the mining industry.

Mining companies should pay a royalty for the privilege to remove minerals from public lands. The Bureau of Land Management estimates that \$982 million in hard rock minerals were taken from public lands in the year 2000, and the industry paid nothing for those minerals.

Reclamation bonds should be paid in cash, up front, to fully cover reclamation costs. The recent bankruptcy of ASARCO is a painful reminder of the danger of not having adequate and liquid reclamation bonds.

True reform also needs to include an abandoned mine lands cleanup program paid for by the mining industry to ensure public health and safety from pollution and from physical hazards, and the restoration of land, water, fish and wildlife resources.

EARTHWORKS encourages Congress to pass an 1872 Mining Law reform bill that contains the points I have just mentioned. EARTHWORKS further encourages Congress to pass a bill to withdraw federal public land in the Santa Rita Mountains from mineral entry.

Passage of a comprehensive reform bill would help future generations to enjoy the wonders of the Santa Rita Mountains that we in southern Arizona now take for granted, and that other outstanding values in the public lands will remain for generations to come. Thank you.

[The prepared statement of Mr. Featherstone follows:]

**Statement of Roger Featherstone,  
Southwest Circuit Rider, EARTHWORKS**

Mr. Chairman, my name is Roger Featherstone. I am the Southwest Circuit Rider for EARTHWORKS. I cover Arizona, California, Colorado, Nevada, New Mexico, and Utah from my office based in Tucson. I would like to start by thanking Chairman Grijalva and Chairman Costa for holding this important hearing.

EARTHWORKS is a non-profit, non-partisan, environmental organization dedicated to protecting communities and the environment. Our national office provides support to citizens across the country and around the world. Our field offices in Arizona, Montana and Colorado assist communities throughout the western United States concerned about the impact of mineral development in their backyards. EARTHWORKS supports responsible mining policies and practices: responsible mining policies that give taxpayers a fair return for valuable land and mineral assets, and that eliminate government subsidies to mine on public lands; responsible mining policies that require mining companies meet adequate environmental protection standards; and responsible mining policies that recognize that on some public lands there are resources, and other uses, that may be more valuable than mining, including the protection of environmentally significant areas.

EARTHWORKS (formerly known as the Mineral Policy Center) has been working to reform hardrock mining policies and practices in the United States since we were founded nearly 20 years ago. While this is a long time, it's not nearly as long as the major statute regulating hardrock mining on our public lands has been on the books. The General Mining Law was signed by President Ulysses S. Grant almost 135 years ago. Over the last two decades, EARTHWORKS has testified before Congress numerous times on the need for mining law reform and I am pleased to have the opportunity to do so again at this Field Hearing.

One hundred and thirty-five years is too long. It is time to reform the 1872 Mining Law, a relic of a bygone era—when mining was a pick and shovel affair, when the frontier was still open and “Manifest Destiny” was this country's creed. A product of its time, the mining law was written to encourage the development of the mining industry, and the settlement of the West.

Today, the prospector's pan has given way to giant earth-moving machines that can literally crumble mountains and dig pits the size of small cities. Prospecting by hand for copper has given way to the use of lethal chemicals such as sulfuric acid that leach microscopic flecks of ore from massive piles of pulverized rock. Today's prospectors are multinational corporations and their mine sites occupy many thousands of acres of our public land.

Under the federal government's current interpretation, the 1872 Mining Law elevates mining as the highest and best use for public lands. As such, federal land managers give preference to mining over all other land uses—from recreation to clean water to hunting. This leaves places like the Santa Rita Mountains and countless critical watersheds, cherished recreation areas and vital wildlife corridors across the West in danger from mineral development.

The mining companies argue that there are technical and engineering solutions to many of the environmental problems that mining can cause, but technical solutions are only part of the answer. They are not enough to fully address the broader environmental, economic, social, and cultural issues that this subcommittee, and all Members of Congress, must grapple with.

It is one thing to design a safe and efficient mine, it is quite another to design public policy that results in good decisions about the use of public land and resources. Good public policy must provide a basis for weighing environmental, social, economic, and cultural issues, as well as technical issues. The experience in the Santa Ritas illustrates the need to reform the Mining Law of 1872.

#### **The Scenic Santa Ritas: Not the Place for a Mine**

Mining companies have used the 1872 Mining Law to threaten the Santa Rita Mountains in the past, and citizens of southern Arizona have twice rejected an open pit copper mine in the area as a bad idea. In 1970, the Anaconda Copper Company proposed a land exchange to obtain public land in the Santa Rita Mountains for a copper mine. Through a series of mergers and name changes, the proposal was resurfaced by ASARCO in 1995.

EARTHWORKS assisted the local citizens group, Save the Scenic Santa Ritas, and others in fighting the ASARCO proposal a decade ago because it was a bad deal for the land, the community, and the economy. What was true in 1998 when ASARCO withdrew their proposal is even truer today.

The Santa Rita Mountains are important for bird watching, hiking, picnicking, off-road vehicle use and many other forms of recreation. Tucsonans flock to the Santa Rita Mountains to escape the hustle and bustle of the city and the summer heat.

Pima County has worked hard to bring a wide variety of stakeholders together to create the Sonoran Desert Conservation Plan to protect critical open space south of Tucson. The Rosemont Mine is proposed within the Plan's conservation area and is incompatible with the plan's goals.

The mining industry has been using provisions of the Mining Law to take the copper resource out of the public trust. Over the years, nearly 2,000 acres of public lands have been patented under the 1872 Mining Law by the succession of companies attempting to mine the Rosemont Ranch area.

Now, Augusta Resource Corporation (Augusta), a small Canadian mining company who has never operated a mine, has submitted a Plan of Operation to the U.S. Forest Service to open a large copper mine (Rosemont Ranch) in the Santa Rita Mountains south of Tucson.

#### **Potential Impacts to the Rosemont Valley from Open Pit Mining**

**Air Quality:** The area currently has excellent air quality. Citizens of Green Valley or Winkelman can graphically demonstrate what dust blowing from tailings and waste piles have done to their communities. Prevailing winds would blow dust from

a mine at Rosemont Ranch toward major new residential developments east of the Tucson basin. Air quality in the National Forest and surrounding residential areas would be degraded by both dust and truck exhaust associated with mine operations.

Noise: The impact from daily blasting at the proposed mine would be the equivalent of daily sonic booms to nearby residences, wildlife and recreational users in the National Forest.

Scenic Vistas: Highway 83 (which would become the major access route for any mine) is one of Arizona's few designated scenic byways. The current view to motorists is of grasslands, rolling hills dotted with oak trees, and the dramatic ridge line of the Santa Rita Mountains. The proposed mine would be visible from State Highway 83 for 3 miles out of the 24-mile trip from I-10 to Sonoita. This 3-mile segment includes an overlook and is one of the most scenic sections of the highway.

Traffic Hazards: Highway 83 was not designed to service large scale industry. Tourist traffic, commuters, bicyclists, and school buses would share the narrow and winding road with mine traffic, including ore trucks and vehicles carrying heavy construction equipment and explosives for blasting.

Property Values: The lands surrounding the proposed mine have experienced a rapid increase in new residential development including high dollar ranchettes. Sonoita Valley is currently a weekend tourist destination. A large nearby mine could disrupt the local economy and create a boom-bust economy typical of western towns adjacent to large mining operations.

Recreation: As recreational uses of the Rosemont Valley increase, open space becomes more valuable. Loss of public land from a large mine would decrease the quality of recreational experiences and create possible conflicts between recreationists and growing subdivisions. Mountain bikers, birders, hikers, off-highway vehicles, bicyclists, and hunters all currently enjoy the Santa Rita Mountains but would likely find a large open pit mine in the area incompatible with their activities.

Wildlife and Wildlife Habitat: Well established wildlife movement corridors would be disrupted by an open pit mine. This would potentially impact endangered, threatened, and candidate species, in addition to priority vulnerable species or species of special concern.

According to the Arizona Game and Fish Department, 10 Priority Vulnerable species are known to occur in the Rosemont Ranch area: the Pima Pineapple Cactus (*Coryphantha scheeri robustispina*) and the Lesser Long-nosed bat (*Leptonycteris curasoae yerbabuena*), which are endangered; the Mexican Long-tongued Bat (*Choeronycteris mexicana*), the Western Red Bat (*Lasiurus blossevillii*), the Chiricahua Leopard Frog (*Rana chiricahuensis*), which are threatened; the Lowland Leopard Frog (*Rana yavapaiensis*), the Yellow-billed Cuckoo (*Coccyzus americanus*), which is a candidate for listing as a threatened or endangered species, the Giant Spotted Whiptail Lizard (*Cnemidophorus burti stictogrammus*), the Rufous-winged Sparrow (*Aimophila carpalis*), and the Bell's Vireo (*Vireo bellii*).

Economics: Since the early 1970's the mining industry's contribution to Pima County's economy has diminished considerably while jobs dependant on a clean and healthy environment have increased. For example, in 1970 the mining industry employed 6,972 people in Pima County. By 2000, the number of mine employees in the County had dwindled to 2,476. In contrast, in 2001, 8,541 people were employed in Pima and Santa Cruz Counties in the recreation industry. Possible economic benefits from new large mines in the Santa Ritas would be offset by the negative impacts to tourism-related businesses dependent on the area's scenic beauty. Any possible economic benefit from the proposed mine could be temporary given the normal boom-bust cycle of major metal mines in the western US.

Water: Leaching of tailings piles or waste dumps, and leaks from other facilities are common occurrences at mine sites. This could result in the release of toxic materials into ground and surface waters draining into nearby riparian areas such as Davidson Canyon. Not only is a loss in water quality a potential problem from this mine proposal, so is a reduction in water quantity. It is likely that a large open-pit mine would dewater the surrounding watershed.

The potential for water contamination is of particular concern in light of groundbreaking research released last year. In a pair of reports, Comparison of Predicted and Actual Water Quality at Hardrock Mines: The reliability of predictions in Environmental Impact Statements, and Predicting Water Quality at Hardrock Mines: Methods and Models, Uncertainties, and State-of-the-Art, authors Jim Kuipers P.E. and Ann Maest PhD revealed that 76% of studied mines breach water quality standards, despite predicting compliance during the mine permitting process. These reports highlight the obvious: because mine proposals MUST predict compliance with water quality standards in order to be permitted, they always do—no

matter the proximity to water resources, no matter the potential for leaching of toxic contaminants.

#### **Permanent Protection for the Santa Ritas**

The long term solution to protect the Santa Rita Mountains is comprehensive reform of the 1872 Mining Law. However, the Santa Ritas are in need of protection while full reform is debated. EARTHWORKS urges the U.S. Congress and/or the U.S. Secretary of the Interior to permanently withdraw federal public lands in the Santa Rita Mountains from mineral entry and to do so as soon as possible to preserve the status quo for all time.

Moreover, EARTHWORKS favors a legislative solution that withdraws all of the federal public lands in the Santa Rita Mountains as well as federal public land to the south into Santa Cruz County from mineral development. It is clear that the citizens of Pima and Santa Cruz Counties have spoken about the need for protecting the Santa Rita Mountains from irresponsible mining proposals. Throughout this issue, one theme continues to ring true: so long as public lands of special concern are not placed permanently off-limits, the public, decision-makers, and mining companies will chew up a lot of time, money, and energy fighting over the inevitable proposals to mine the area that recur again and again.

#### **Real Reform of the 1872 Mining Law**

Comprehensive reform of hardrock mining law in the United States must include provisions that protect special places from irresponsible mining. Reform of the mining law must give land managers the ability to deny a mine proposal if there are other important resource values that could be damaged by a mining operation. Mining Law reform should balance mineral development with other land values in the following ways:

1. Wilderness study areas, lands recommended for wilderness designation, lands managed as roadless areas, lands in the Wild and Scenic River System or recommended for such, lands administratively withdrawn or segregated, lands surrounding National Conservation Areas, lands proposed as roadless areas, and sacred sites all should be off-limits to mineral exploration and development. In addition, important lands such as those included in Pima County's Sonoran Desert Conservation Plan should also be off-limits to mineral entry.
2. When a mine is proposed, land management agencies should review the land involved to ensure that it is an appropriate use of the land, given the other competing demands for the public lands resources.
3. Land managers need the authority to deny mine permits if an irresponsibly designed mine is proposed on public lands or outstanding resource values are at risk.

Under current law, environmental standards written specifically for mining are weak or non-existent. For example, the Clean Water Act does not protect groundwater from mining pollution and lacks a definition of how to reclaim a mine. Relating specifically to the Santa Rita Mountains, there are no protections against a mine permanently altering the water table surrounding the mine.

Comprehensive reform should balance the demands for minerals with the public's demand for the long term use of the land by:

1. Preventing significant, permanent and irreparable damage to our public lands. If a proposed mine would cause significant, permanent and irreparable damage, the Secretary of the Interior should deny the mining operation.
2. Ensuring adequate reclamation. A reclaimed mine site should be restored so that it can sustain either pre-mining uses, or uses conforming to the applicable land use plan.
3. Safeguarding surface and ground water during and after mining. Operations should minimize damage to surface and groundwater resources, and restore pre-mining hydrological conditions.

Comprehensive reform needs to protect the American taxpayer. The 1872 Mining Law still allows multinational mining companies to buy (patent) mineral bearing public land for less than \$5.00 per acre—although the annually renewed patenting moratorium has stopped new patents since 1995. It is important to note that the private land where Augusta would like to dig its open pit at one time was public land, but was sold by the federal government for \$5.00 an acre under the Mining Law.

Under the 1872 Mining Law, mining interests have enabled an area roughly equivalent in size to the state of Connecticut containing mineral values exceeding \$245 billion to be patented. Reform of the 1872 Mining Law needs to bring an end to this practice and keep these resources in the public domain.

Current law allows extraction of public minerals from federal public lands without payment to taxpayers. A royalty needs to be established on the removal of minerals from public lands. BLM estimates that \$982 million in hardrock minerals were taken from public lands in 2000. Industry paid no royalty for those minerals. Coal, oil and natural gas extractors pay between 8% and 12.5%. A similar return to the American public for minerals taken from public lands is reasonable for hardrock mining companies to pay as well.

The Interior Department mining regulations contain provisions enacted in 2003 that require mining companies to post bonds to cover the full costs of mine clean ups. However, the regulation no longer provides clean up standards. Without such standards, it is unclear exactly what such reclamation bonds will pay for, and taxpayers may still be exposed to liability in the future. Reclamation bonds should be paid in cash, up front and in an amount that would fully cover third party reclamation costs. The recent bankruptcy of ASARCO is a painful reminder of the danger of not having adequate and liquid reclamation bonds.

Comprehensive reform needs to recognize the ongoing social and environmental costs of abandoned mines and create a mechanism to clean up the mining industry's historic messes. EARTHWORKS estimates that there are more than 500,000 abandoned hardrock mines in the United States that will cost between \$32 and \$72 billion dollars to reclaim. Currently there is no funding source for abandoned hardrock mine reclamation. True reform needs to include a fund mechanism and a process for reclaiming abandoned mines. For example, all revenues from royalties and fees could go to an Abandoned Mine Lands (AML) fund. The cost of processing permits should be paid by the mining industry. Priorities should be set to ensure public health and safety from surface and groundwater pollution; general public health and safety; and the restoration of land, water, fish and wildlife resources.

Finally, comprehensive mining law reform requires substantially better industry oversight, including the following concepts:

- The Secretary of the Interior should use all legal powers available to prevent mining in protected areas.
- Failure of a mining company to address a violation should require the Secretary of the Interior to stop operations causing the violation.
- Regular inspections should be permitted without advance notice. They should occur at least once per quarter. The public should be allowed to request an inspection.
- Violators should be fined an amount that would deter large international corporations from further violations.
- Citizen suits should be permitted.
- Operators that currently violate laws should not receive new permits. Past lawbreakers should only receive a permit if their past violations are not part of a willful pattern of abuses.

EARTHWORKS encourages the Natural Resources Committee to introduce, debate and pass an 1872 Mining Law Reform bill that contains all of the points mentioned above. EARTHWORKS further encourages the Natural Resources Committee to introduce, debate and pass a bill to withdraw the remaining federal public land in the Santa Rita Mountains from mineral entry.

Passage of a comprehensive reform bill can help ensure that future generations will enjoy the wonders of the Santa Rita Mountains that we in southern Arizona now have available, and that other outstanding values of the public lands will remain for generations to come.

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Mr. GRIJALVA. Thank you very much. Thank you. I want to begin with some questions of Mr. Sturgess, if I may. You state, I think in your testimony, that you are still in the process—and correct me if I am wrong—of developing plans for the mine. You know, if that is indeed the case, why did you ask the Forest Service to approve a plan of operations that you acknowledge is not complete, before waiting for the complete plan?

Mr. STURGESS. Which plan of operations would you be referring to?

Mr. GRIJALVA. From July 31st.

Mr. STURGESS. Thank you. Forest Service regulations stipulate that in a large or complex project, particularly like Rosemont, that it is encouraged to file an initial plan of operations when enough



detail is available upon which to base a scoping process of initiate public review process.

They also allow for submitting either addendums to that plan as more information becomes available, or doing what we did, which is to withdraw with the intention to resubmit, and they actually it initial plan of operations.

We discussed this with our planning team, with our design team, and our community relations team, and we decided, in July, that we had enough information to come forward. That is when I met with some of the people on the panel, and I said we had a plan that we know if going to be controversial, we would like to get input, we would like to show our plan so we are not accused of hiding in the dark, and then to finish up and say, here it is, we hope you like it, cause we knew that wouldn't be the case.

So we came out with an initial plan of operations in July, it was 49 pages of text and figures, and had about 50 pages appended, a demonstration of claims and technical filings.

We also did this to allow the Forest Service the adequate opportunity to realize the scope of what our plans were going to be as they have to be prepared to do some reviews and evaluations in response to that with their NEPA obligations.

Mr. GRIJALVA. Relative to that, Mr. Sturgess, on page three of your testimony, you refer to an extensive list of activities that you claim you will do under your plan of operations. I just want to know if it is true, that under that plan of operations, that plan of operations was rejected by the Forest Service because it didn't provide necessary detail to evaluate the plan. I am referring to your testimony that you provided us earlier.

Mr. STURGESS. I am sorry, Mr. Chairman. Your question—a clarification. I wouldn't say "rejected." The Forest Service told us that they were going to require a lot more detail before they could initiate their planning process in response to our plan, and so we chose to withdraw it. It wasn't taken to the point of rejection. I don't know if that matters but—your question is not clear to me, though.

Mr. GRIJALVA. Your answer kind of is. So I'm okay with it. A simple question. Your testimony, you own the property of Rosemont Ranch, which is 20,000 acres, if I'm not mistaken, that is what you mentioned, and since you have all this property under your ownership, why not use the private lands of Rosemont Ranch for the dumping for waste? Why use the national forests for that dumping ground?

Mr. STURGESS. That is a very good question, Chairman. Let me try and clarify. An Arizona ranch would claim that it has 20,000 acres when it has a combination of fee land, grazing leases, grazing rights and state leases. So I should clarify. The 20,000 acre Rosemont Ranch includes 3000 acres of fee land, that is both a combination of patented mineral land and some old homestead lands interspersed.

It includes several thousand acres of state grazing leases. It includes several thousand acres of Bureau of Land Management grazing leases. It includes about 12,000 acres of U.S. Forest Service grazing leases. So the ranch is 20,000 acres. Our fee land that we own outright is about 3000 acres.

Mr. GRIJALVA. So let me just, going back to a point you made in your testimony, how long has Augusta Resource Corporation been incorporated?

Mr. STURGESS. I believe it was in the 1930's or forties.

Mr. GRIJALVA. And so at this point, how many mining operations do you operate?

Mr. STURGESS. Let me clarify. The corporation itself was incorporated in the thirties, or—and I'm not an expert on the corporate history. As a mineral venture, we have been in existence for about ten years, and looking at properties and looking at development opportunities. We do not at this time have an operating, producing facility.

Mr. GRIJALVA. And so there is no way to deal with your history of reclamation at this point; correct?

Mr. STURGESS. Mr. Chairman, we have no failures on our record. You are correct.

Mr. GRIJALVA. That was a good one. That was a good one. Last question. I am going to ask Mr. Featherstone one and then yield to Congresswoman Giffords.

In your testimony you stated no county, in this instance Pima County, is allowed to prevent the use or the occupancy of the land for mining.

You talked about the fact that mining can override local communities. So is it your belief that residents and their elected officials here locally should have no say, at all, in what occurs in the community that they live in?

Mr. STURGESS. I would not agree with that. I agree with your, what I—you asked me a double negative question. I am sorry, sir. It is my belief that the community in any area is very important to the success of every venture, whether it's private, public or political, and we are very happy to acknowledge that, both the local community as well as what I call the extended community of interested parties.

I think it is very important, the processes that we are just initiating, are going to take two years to three years, to however many years, to include community involvement in all steps.

Mr. GRIJALVA. We will come back around. Thank you, sir. Mr. Featherstone, let me get to the claim that Augusta makes, that since we have no track record with this company in terms of mining operations, reclamation, we are working off trust at this point. And the corporation is claiming that Rosemont operation will be a modern mine.

I just wanted to ask you, what are some of the impacts that you have seen from, to quote, modern mines?

Mr. FEATHERSTONE. Well, I think a good example is the Summitville mine in Colorado, which was a state of the art, and by the way, I mean, for 30 years of doing this kind of work, I think every mine proposal I have ever looked at has been state of the art, a modern mine. Yet every mine that has operated has leaked, in some form of another, some more than others.

A good example is Summitville, which was state of the art, which ended up killing about 15 miles of the Alamosa River, all the aquatic life in that river.

The dangers of a modern metal mine depends a lot on the sulfur in the ore. I understand that this ore body is moderate sulfur but we are still waiting for Augusta to come up with the final geochemical analysis. That would make a lot of difference. A high sulfide mine is going to, when the ore is dug out of the ground and exposed to air and water, it is going to create sulfuric acid, it is going to leach heavy metals out of that. Copper ore, there is a high correlation between copper ore in the Southwest and uranium.

For example, the Sierrita Mine and the Twin Buttes mine, and the Queen mine in Bisbee, all had uranium, and Twin Buttes and the Queen actually processed yellowcake, the raw uranium ore. And the process used in a modern sulphide copper mine actually concentrate the uranium as the ore is processed. So that is something really to watch for.

There is just any number of problems that can happen. Leaking tailings impoundments, leaking waste rock, you know, dust. It is just quite a bit of problems that can occur.

Mr. GRIJALVA. My last question. The drafters of the 1872 Mining Law, could they have imagined the size and scope of modern mining? And that is part of the question because it was crafted in 1872. And if they did, if they were to look at the size and scope of modern mining now, what other kinds of accommodations do you think they would have made in that law?

Mr. FEATHERSTONE. The first part, I don't think there is any way that the drafters of the law could have imagined a modern metal mine. In the old days, it was pick and shove; it was by hand. The workings down in Bisbee, the underground operations were, you know, real engineering feats. But that is a lot different from a modern mine where basically you are trading labor for oil.

You know, a modern mine is an excavation operation. It is heavy equipment, it is huge equipment, and, you know, from a footprint of maybe a few acres to a footprint of tens of thousands of acres on some of the larger mines, is just something that the drafters could not have foreseen.

The second part of your question—actually, I don't remember the second part of your question.

Mr. GRIJALVA. Let's use the example you used, in terms of an absence in the 1872 law as it stands, and that would be the issue of current reclamation standards and bonding for liability and damage that might be caused to surrounding communities, to water, etcetera. That is the kind of accommodation that isn't present now, but that may be, with rethinking this law, would be included now.

Mr. FEATHERSTONE. Yes. I mean, the original law really had no provisions for reclamation. Currently, the Forest Service does require reclamation bonding.

However, a report that EARTHWORKS, back when it was the Mineral Policy Center, commissioned by a mining engineer, Jim Kuipers, had looked at reclamation bonding across the West, and specifically in Arizona, and the amount of money that is required by the agencies and provided by the companies, and in all cases in Arizona, is far less than what full reclamation would require.

I don't have those statistics at my fingertips, or buried in my—I probably do have them buried in my brain but they are not going

to come forward right now, and I would be happy to provide those to the committee.

But the difference is an order of magnitude, you know, like hundreds of millions of dollars in Arizona between what should be in the bank for reclamation and what is in the bank now.

Mr. GRIJALVA. Thank you, and with that, let me yield to Congresswoman Giffords for any questions you might have.

Ms. GIFFORDS. Thank you. Actually, my questions are for Mr. Sturgess. Good morning, Mr. Sturgess, thank you for being here today.

Mr. STURGESS. Thank you for the invitation.

Ms. GIFFORDS. Yes. How much did Augusta pay for the property?

Mr. STURGESS. Augusta Resources paid \$20.8 million—that is \$20.6 million.

Ms. GIFFORDS. And how much, based on today's copper prices, do you believe the property to be worth?

Mr. STURGESS. It depends whether that ground—that copper would be in the ground as an undeveloped property or whether it was permitted, constructed, developed, produced for sale.

Ms. GIFFORDS. If you could address both aspects of the property.

Mr. STURGESS. Okay. In the ground, I would say at the time we purchased it, it was worth \$20.8 million. I believe it was a member of your staff who told me that was a lot to pay for a ranch, when we met, and I commented, it is a lot to pay for a ranch but it is very little to pay for a copper mine, and we will see what it turns out to be.

In terms of value of the minerals, and it is going to take a minute to go through some math. Five billion pounds of copper, 100 million pounds of molybdenum, 100 million ounces of silver.

At today's prices—and I haven't checked in the last few days—the copper is over \$2.50 a pound. Molybdenum is about \$25- to \$27 a pound, and silver, I think yesterday, went over \$14 a pound—or an ounce. An ounce, rather. The amounts are enormous. But those are market, retail, without having the cost of getting there.

So getting back to what is the value? It depends what the price assumptions are. In our feasibility study modeling, we will probably use the trailing three year average, that is what the Securities and Exchange Commission looks at—that is about \$2 a pound.

And that is how I got with the number of \$1.8 billion in taxes. That is the federal tax payment that comes—and this is part of the reason mines have historically been exempt from paying royalties, is because they pay income taxes, fairly substantial.

So the \$1.8 billion in income taxes would be about 30 percent of the—well, of the profits.

Ms. GIFFORDS. So based on standard copper mining or mining practices, if you were fully operational, what would your profitability be if you were operating today?

Mr. STURGESS. What I can tell you is published information, because that is all I am allowed, really. When we make disclosures, it has to be to all the public at the same time. That will be upcoming, within the next 60 to 90 days. So I encourage patience. In some ways, from Rosemont's standpoint, this hearing is perhaps very early in the process as opposed to the 1872 Mining Act purpose.

But the net present value of the property in material that was published in April of last year, at prices of a dollar, I believe a \$1.50 copper, is about \$500 million.

Ms. GIFFORDS. Has Augusta ever developed a fully operational mine?

Mr. STURGESS. The individuals of a company make the company, the same as the individuals on an elected body make up the body. So Augusta—no. The people that work for Augusta, myself, I have been on a half a dozen mine projects, there are actually some pictures around the wall, some that I have personally been involved with, some reclamation projects where industry has had success.

Globe Miami, for example, where the tailing reclamation—and anybody who drove through Globe Miami before 1988, when Cypress bought it, remembers what the terrible dust blowing was. A great example of a failed, or not even attempted reclamation effort.

Drive through Globe Miami today. There are photographs on the side of the building, of the room, that show where the reclaimed or at least revegetated tailings are today. Those projects have been done by individuals.

There are also pictures here from a Golden Cross mine in New Zealand. It still looks like a mine because revegetation, when the photograph was taken, was only about five years old. I was the environmental architect, you might say, for that project, in 1986, full mine, tailing ponds, revegetated, on its way back.

The individuals that make up Augusta have started, built, closed, and operated mines, with good relations with the community, good relations with labor, organized and unorganized labor, good relations with the regulators, and I am proud of that record and everybody on our team, many which are here on our design team, I should ask, from Tucson—and I am sorry to grandstand but if we can have a quick standup, everybody who is here, who has had anything to do with the Rosemont planning design, that is proud to say I am part of it.

Okay. These people live in the community. We are not going to fail you. We are trying to show the mining industry has to find a way to develop minerals, and this group is committed to doing that.

Ms. GIFFORDS. But Mr. Sturgess, you would agree, that while all you work for Augusta mining company, and it sounds like you have quite a background, it is really the company that is the entity that we would deal with.

So you have a problem with the company, if we were to go back in a reclamation standpoint, or whatever. It is not you, individually, that we would be dealing with. We would be dealing with the corporation.

And the reason why I bring up the question is because if your company doesn't have a track record, or we don't have the faith that it is even your company that is going to be carrying this project forward, it just makes it difficult to be able to understand a little bit more about the planning process and your intentions.

Can we shift, briefly, to talk about the environmental impacts? As a motorcyclist, that is one of the best stretches of roads in, I would argue, all the country, but particularly Arizona.

Can you talk about trucks on the highway, how you would export the ore and the other—obviously, you touched on water, but if you can go into that in a little bit greater detail.

Mr. STURGESS. I will try and take those three at a time. As a motorcycle operator myself, if we don't concentrate on what we are doing, we crash, and actually, milepost 44, where I think you were yesterday, Congressman, and milepost 45, is the single most dangerous stretch of road on the Arizona highways.

It is the most dangerous mile for motorcycles and it is in the top four for cars. I look at that, where the present access is into the ranch, and I said there is no way that our employees, our designers, or our haulage vehicles, would want to be anywhere near that stretch of road. It is dangerous enough already. It needs to be fixed.

I know there is resistance against that but it needs to be straightened. I would like to see it straightened to the east and I would be happy for our company to commit to help pay to do that. I think it could be straightened, made more safer, and we could just drop it about 15 or 20 feet in grade, and if you don't want to look at a modern mine, you wouldn't have to see it. It could remain a scenic highway, with no view of the mine at all in those three miles. That is a scenic issue, which is part of the environmental.

Back to traffic. What we instead selected, and what the engineers are designing, is back at milepost 47 there is a one mile straight stretch. You might know it now. It has got a picnic area, a table and an overlook.

That is the safest stretch of that road, and that would be where we would propose to have our traffic and our access in and out.

There are two other parts to your question. Help me again.

Ms. GIFFORDS. Water.

Mr. STURGESS. Water. We did a telephone poll of all the zip codes around the area of the mine, in April, a year ago, we did it again in October, and we asked people, What are the most important values and concerns and issues you might have with a mining development at Rosemont, and the top three were water, water, and water.

Water quality, water quantity, and water supply. And so that is a very important question. I can't go into all the details now, but I can tell you that the plan of operations, 60 days, 90 days, when it comes out, will have a very thorough demonstration of exactly where our well fields would be, where the pipeline routes could be, where the Central Arizona Project Recharge Water, that we are actually starting in three days, four days—five days. March 1st, we are actually starting a recharge project, storing water in the Santa Cruz Basin.

We have 15,000 acre feet that we purchased from the CAP system, that is going in the ground, to more than offset the water that we are going to take out of the aquifer for mine operations. We are not required to do it, but we realize, if we are going to have a chance with the public, we have to earn their trust.

The water chemistry is going to be thoroughly evaluated. I think Mr. Featherstone—I don't argue with much of what he said about the historic problems. The good news—and I think he alluded to

this—low pyrite mines are a lot easier to manage than high pyrite or high sulfide mines.

The limestone deposit at Rosemont, in my 30 years, is as clean and clear, from a water chemistry standpoint, as any place I have had the pleasure or challenge to work at.

That doesn't mean that by itself, we don't have a lot of challenges to overcome, and to meet in the details.

And the other part of your question was?

Ms. GIFFORDS. Well, actually, the number of trucks daily on the road.

Mr. STURGESS. We have a transportation plan. I have seen a draft. The M3 Engineering company that is working on that has a schedule that will be out in 60 to 90 days. On that chart, it will show, by hour, our estimated number of trucks and employee vehicles.

I have told them there are two blackout periods between—we are subject to change this—but between 6:00 and 9:00 in the morning and 3:00 and 6:00 at night, and those can be changed.

No haul trucks during those hours when the school buses are on Highway 83. I know that was a concern that was raised here. We are listening. The answer to your question is three trucks an hour as far as—as concentrate trucks.

We have scheduled our shift change, 12 hours, so we have two shifts at 12 hours apiece, which means we only have two crews that have to go back and forth instead of three eight-hour crews. It also means the employees get a four day weekend, a three day weekend, and then a six day weekend, which gives them a lot of flexibility.

Ms. GIFFORDS. You talked about being in compliance with the "Dark Sky" laws. You are planning a 24 hour open pit copper mining operation. Obviously, you need to do that with lighting. Can you address, a little bit, how you plan on keeping the skies dark?

Mr. STURGESS. In our plan, again, those 60 to 90 days, we have a lighting plan, and I have tasked the M3 Engineering company that does—at least last year, about half their work was for the observatories, half for the mining industry. They are pretty well-qualified to do it.

We asked them to put the details of the lighting plan for all the external lighting at Rosemont, to make sure we are in compliance with the guidelines. Those are strict guidelines. We are within 12.5 miles of the, I guess Mount Hopkins Observatory. Part of the mine operation is within the strictest part of the guideline area.

What we would do that with is through use of the proper—I think they are called low sodium vapor, basically yellow lights, what you see. A lot of is mechanical. You put a hood—if the light is up here, you put a hood and shielding, so that the light is focused where you want it, and a lot of that is energy conservation as well. Hoods, shields, and also limitations of activities occur inside of buildings versus outside.

It will be a challenge. I am sure we can do it.

Ms. GIFFORDS. One final question. How many public meetings have you had so far?

Mr. STURGESS. How many public meetings on Rosemont? I can't remember. There's a lot more coming.

Ms. GIFFORDS. Okay. But you don't know how many meetings you've had where you've opened the public up to answer questions, to walk the property and—

Mr. STURGESS. The reason I can't remember is I can't count that high. We talked to Sahuarita, talked to Pima County, been here several times in this room, talked to the Pima Association of Governments, talked with, either myself or other members, talked to the Chamber of Commerce in several situations.

Ms. GIFFORDS. Mr. Sturgess, public meetings? Not meetings with planning officials or elected officials. But actual public meetings.

Mr. STURGESS. Between five and ten. Probably between five and ten.

Ms. GIFFORDS. Okay. All right.

Mr. STURGESS. But I would point out that we have not officially filed a plan that we are in the process of reviewing here.

Ms. GIFFORDS. Okay. Thank you, Mr. Sturgess.

Mr. GRIJALVA. Thank you, Congresswoman Giffords. A couple of follow-ups. Let me start with Mr. Featherstone. One question. You know, other than hard rock mining—and correct me if I am wrong—federal energy and mineral resources are managed under a lease or sale system?

Mr. FEATHERSTONE. Correct.

Mr. GRIJALVA. Do you think that we have reached the point, in the history of mining in this country, that we shouldn't use a leasing system for hard rock mining?

Mr. FEATHERSTONE. Yes, I think so, and I think a good example of that is uranium, which is kind of a duality, where you have got both some leases left over from the Department of Defense after World War II, and then you also have it as a hard rock mineral. So that is one where you have a duality. But I see no reason, in this day and age, why there shouldn't be some sort of leasing system.

Of course as part of two reforms, there needs to be, in our view, some places that are just plain off limits.

Mr. GRIJALVA. Thank you, and just before we close this part of it, I would just like to comment for the record, in the statement of Mr. Sturgess, on page two, it's erroneously asserted that the intent of the 1872 law is clear, the congressional intent.

The problem with that, as he goes on with the quote, the quote comes from the Mining and Materials Act of 1970, which essentially provides guidelines and procedures, but does not supersede the 1872 law, and what has happened is that this proposal, this request is under that law, which is really written around ownership, and really doesn't bear on any other criteria, and it does not address reclamation, it does not address disposal, control of material waste products. So that is part of the problem in which we are having this kind of hearing today.

I want to thank the witnesses for their testimony and we will at this point call the next panel forward. Thank you very much.

Ms. Levick and Ms. Lunine, please. Ms. Levick, you are recognized for five minutes, please.



**STATEMENT OF LAINIE LEVICK, PRESIDENT,  
SAVE THE SCENIC SANTA RITAS**

Ms. LEVICK. Thank you, Congressman Grijalva and Congresswoman Giffords, for having this hearing today. My name is Lainie Levick. Can you hear me with this?

Mr. GRIJALVA. It might be easier, for more audio. I know you don't want to but—

Ms. LEVICK. Right. I don't want to stand up here. Okay. Thank you, Congressman Grijalva and Congresswoman Giffords, for having this hearing today. My name is Lainie Levick. I am representing Save the Scenic Santa Ritas, SSSR, an all-volunteer 501(c)(3) nonprofit organization. We were formed in 1996 to stop the ASARCO land exchange and mine proposal at Rosemont Ranch and to protect the scenic recreational and environmental values of the Santa Ritas.

We are opposed to all plans for mining in the Santa Ritas, including those by Augusta Resource, a Canadian company, to use our public lands as a dump for their toxic mining wastes at Rosemont.

When we helped stop ASARCO in the late 1990's, there were over a hundred people actively involved, and almost 3000 people signed petitions opposing the land exchange and mine.

SSSR was endorsed by 55 local groups, ranging from hunting, off-road vehicle and gun clubs, to neighborhood associations, hikers and birders. The Pima County Board of Supervisors, Santa Cruz County Board of Supervisors, Pima County Parks and Rec Department, Arizona Audubon Council, and Tucson City Council, all passed resolutions against the land exchange in 1997.

The public opposition to that proposal was enormous, and along with hard times for the copper industry, helped to end that threat to the Santa Ritas.

And now with this new mine proposal, we are seeing there is still enormous public opposition to mining at Rosemont. The Rosemont Valley is important to our quality of life in southern Arizona for recreation, open space and environmental protection. Open pit mining is not compatible with these uses and the community is passionate about protecting this area.

The potential impacts to the Rosemont Valley from an open pit copper mine are simply not acceptable. Impacts to our water resources are the greatest concern, as we have already heard. Most mines have unintended leaks and spills, degrade surface and water quality with sulphates and heavy metals, and de-water the aquifer.

Our water resources are already severely stressed due to a growing population and existing groundwater contamination from past industrial and mining uses. It is crucial that we protect what is left, both quantity and quality.

The newspaper, last Wednesday, reported that the EPA is investigating the mines in Green Valley after the monitoring wells at the Sierrita Mine found uranium in groundwater at twice the legal limit. According to a Coronado National Forest geologist, the deposit at Rosemont is the same as Sierrita. So now we have the threat of uranium added to the list of potential water quality contaminants at Rosemont, if this mine is permitted.

Air quality is also a concern. Wind speeds throughout the Sonora Valley are high and prevailing winds blow towards Tucson. The winds originating from mine sites can move great distances. For example, tungsten originating from mine tailings in Bisbee is suspected as the cause of the leukemia cluster in Sierra Vista, about 25 miles away. The Rosemont mine proposal is a perfect example of why the 1872 Mining Law must be changed.

It is a grave injustice to the American people, and in spite of overwhelming public opposition, and a multitude of unacceptable environmental impacts, that the mining law makes it nearly impossible to deny this project.

Although other laws exist to protect the environment, the mining law takes precedence, and most of the environmental destruction associated with mining is allowed.

The small economic benefits of mining at Rosemont are not worth the huge risks to our water, environmental resources, and huge loss of recreational land. Mining is not the best use of Rosemont Ranch. This area will provide the greatest good for the greatest number, by leaving it as it is now. Arizona already has an abundance of operational copper mines that will help sustain our standard of living and provide copper to the country.

The small amount of copper that may be produced at Rosemont is not significant enough to justify destroying this beautiful and important part of the Santa Ritas.

We support efforts to withdraw this area from mineral entry. Mining is not an appropriate use of this land, and as Roger mentioned, and one of the speakers at the January 16th Pima County Board of Supervisors hearing on the resolution opposing this mine said: It's the wrong project in the wrong place at the wrong time.

Thank you for the opportunity to testify on this issue of great importance to the people and environment of Southern Arizona.

[The prepared statement of Ms. Levick follows:]

**Statement of Lainie Levick, President,  
Save the Scenic Santa Ritas**

Thank you Congressman Grijalva, Congressman Costa and members of the committee for convening this hearing on the Rosemont Mine, the 1872 Mining Law and the impacts on the Santa Rita Mountains. I appreciate this opportunity to testify before you today.

My name is Lainie Levick. I am here today representing Save the Scenic Santa Ritas (SSSR). We are an all volunteer, 501(c)(3) non-profit organization formed in 1996 to protect the scenic, recreational, environmental and wildlife values of the Santa Rita Mountains, including protection from degradation due to mining activities. We are intensely opposed to all proposals for mining in the Santa Rita Mountains. We are opposed to plans by Augusta Resource, a Canadian company, to use our public lands as a dump for their toxic mining wastes at Rosemont Ranch.

We are in strong support of the efforts to withdraw this area from mineral entry. We are aware that withdrawal is subject to valid existing rights, meaning that valid mining claims remain in effect. The Forest Service has refused to conduct a validity exam of the claims at Rosemont, although they have the jurisdiction to do so. We hope this withdrawal will force an examination, and reduce the needless destruction of the area by further mineral exploration and development.

I am the current President of SSSR. We have 11 members on our Board of Directors, and 8 members on our Advisory Committee. We have no paid memberships, but maintain an email action alert list which includes members from other organizations that forward the alerts on to their lists. These citizens are all passionate about protecting the Santa Ritas. They include off-road vehicle groups; hiking, birding and mountain biking groups; neighborhood and conservation groups; and many others. Our current activities include maintaining a website

([www.ScenicSantaRitas.org](http://www.ScenicSantaRitas.org)), working with local public officials, public outreach and education, hikes to the Rosemont area, and contact with the local press. In addition, we have an online petition opposing the mine that has approximately 919 signatures since Oct. 29, 2006 when it went online (<http://www.petitiononline.com/sss2006/petition.html>). A copy of that petition is attached. We also have over 80 names on paper petitions. No one has been paid to collect signatures or sign the petition, nor is anyone expecting to receive compensation or get a job by signing. It is all completely voluntary, and shows the strong public opposition to this mine proposal.

#### **History of SSSR and our efforts to protect the Santa Ritas**

The Santa Ritas and the Rosemont Valley have been of interest to mining companies for over a century. I will not discuss that history here (see our website for more information [www.ScenicSantaRitas.org](http://www.ScenicSantaRitas.org)), but will just present the most recent attempts at mining that prompted the formation of Save the Scenic Santa Ritas.

In 1995, the Rosemont Ranch was proposed for copper mining by ASARCO, Inc. ASARCO had acquired through purchase and patenting under the 1872 Mining Law, nearly 3,000 acres in the Coronado National Forest's Santa Rita Mountains, which included the porphyry copper ore body. In 1995 they sought to acquire an additional 13,272 acres (more than 20 square miles) of claimed National Forest land through a land exchange, to provide additional areas for disposal of overburden and mine tailings, and to provide a land-use buffer for the mine.

In 1996, Save the Scenic Santa Ritas Association formed as a non-profit organization to stop the land exchange and open pit mine proposal. Over a hundred people were actively involved in that effort, and almost 3,000 people signed petitions opposing the land exchange and mine. These petitions were presented to the Forest Service in 1997. SSSR was endorsed by 55 local groups (see list attached) ranging from hunting, off-road vehicle and gun clubs, to neighborhood associations, hikers and birders. A campaign coordinator was hired to help with the political, administrative, fundraising, and media work.

SSSR also gained the support of the local governments in Southern Arizona. In May of 1997, the Pima County Board of Supervisors voted 4-1 to oppose the proposed Rosemont Ranch Land Exchange and passed a resolution in opposition (attached). Congressman Grijalva, who was at the time Chair of the Board of Supervisors, signed this resolution. It stated, "The public interest of Pima County and southern Arizona will...not be furthered by the proposed Rosemont Ranch Land Exchange." The Santa Cruz County Board of Supervisors, Pima County Parks and Recreation Department, the Arizona Audubon Council and the Tucson City Council also passed resolutions against the land exchange that year. A copy of the Pima County resolution is attached. The other resolutions are similar in content.

All three major local governmental bodies gave similar reasons for opposing the land exchange: the loss of access to 20 square miles of public land, and the resulting stresses on remaining public land in the area; the loss of recreational opportunities for residents of, and visitors to, southern Arizona; the potential negative impacts on our tourism-based economy; the potential harm to wildlife as management of this diverse habitat passed from the Forest Service to a private corporation; the negative impact on the overall quality of life in southern Arizona; and several other reasons.

In early 1998, Coronado National Forest Supervisor John McGee announced to the press that "he and ASARCO have mutually agreed to terminate the Memorandum of Understanding related to potential copper mine development or land exchange in the Santa Rita Mountains." Although the immediate threat of a land exchange and copper mine was halted, there remained over 13,000 acres of unpatented mineral claims in the National Forest, as well as the unresolved situation with the private lands at Rosemont Ranch.

In 2004, the Ranch was sold by ASARCO to a new owner who was considering conservation instead of mining, and was willing to sell all or a portion of the Ranch to Pima County. The County was very interested in purchasing this property since it is almost entirely within the designated biological core area of the Sonoran Desert Conservation Plan (SDCP), and the Santa Ritas are a priority conservation area with important wildlife habitat. The SDCP is the result of years of scientific study that will help guide development and ecosystem protection in Pima County (<http://www.pima.gov/cmo/sdcp/intro.html>).

In late 2004, Pima County prepared a report to evaluate the potential benefits of acquiring Rosemont Ranch and associated water and mineral rights for open space preservation. The only available funding for this purchase was from the 2004 Open Space Bond funds; however, most of the Rosemont Ranch was not included in the list of properties to be acquired with these funds because all inholdings in the National Forest were categorically excluded from the 2004 land acquisition

priorities. The groups working on this list assumed that Land and Water Conservation Funds would be available to acquire Forest Service inholdings.

As a result, Pima County was not able to purchase Rosemont Ranch with 2004 Bond money, and in 2005 the owner instead sold the property to Augusta Resource Corporation, a Canadian company. Augusta has proceeded with exploration activities and in 2006 submitted a mining plan to the Forest Service. This plan was rejected due to lack of detail. Although Augusta's mining footprint would be similar in size to ASARCO's land exchange proposal, unlike ASARCO, Augusta is not offering to acquire and protect other land in advance of mining to compensate for the irreversible losses of land that would occur. Instead, Augusta is offering a "regional trust" for a variety of projects, which may or may not include land acquisition, but the land acquisition, if any, would occur after the mining impacts.

In 2006 Save the Scenic Santa Ritas succeeded in getting the private lands at Rosemont Ranch on the preliminary list of properties to be purchased for Community Open Space through Pima County's upcoming 2008 Open Space Bond. If the property becomes available for sale, Pima County will be better able to protect these lands through bond funds. SSSR continues to monitor the activities of Augusta at Rosemont Ranch, educate and inform the public, and participate in any public participation opportunities that arise.

**The importance of the Rosemont Valley to the citizens of Southern Arizona and the potential impacts from mining.**

The Rosemont Valley is important to our quality of life in Southern Arizona, for recreation, scenic views, water resources, wildlife habitat and ecosystem processes. As our population grows, and development spreads out from the urban areas, there will be more pressure on Rosemont for its numerous values. Augusta claims they will maintain multiple uses at Rosemont Ranch, but it is unlikely that these uses would continue after it becomes an open pit copper mine. Intensive development of the area as a mine would result in the permanent loss of these resources.

The potential impacts to the Rosemont Valley from an open pit copper mine are simply not acceptable to the citizens of Southern Arizona. These impacts would include destruction of the landscape (vegetation, soil and hydrologic processes), water and air quality degradation, noise and light pollution, destruction of scenic views from State Scenic Highway 83, increased traffic hazards, lower property values, huge loss of recreation lands, destruction of wildlife habitat, and damage to the local tourism-based economy.

*Degradation of Water Resources*

Most mines cause some damage to surface and ground water resources. Even though they may use modern technology or have good intentions, mines have unintended leaks and spills. In the arid southwest, we have lost over 80% of our riparian areas, making it even more important that we protect what's left. Our water resources are already severely stressed due to a growing population and existing groundwater contamination from past industrial and mining uses.

There are many potential water resource impacts from a mine at Rosemont. The mine site is in a particularly sensitive and important location. It is in the watershed of Cienega Creek, a state protected Outstanding Water (also called a Unique Water, a water quality anti-degradation protection), and part of the watershed for Tucson's water supply.

Augusta has proposed to dump their mine wastes (tailings and waste rock) into Barrel Canyon, one of the main drainages to Davidson Canyon which flows into Cienega Creek. They have also proposed several holding ponds that would impound surface flows in Barrel Canyon. Filling this canyon and impounding the surface water will deplete flows in both Davidson and Cienega Creek and cause significant damage to the riparian habitats. Any leaks or spills from the mine site would flow into and contaminate these rare riparian systems. Augusta's mining plan used the 100-year 24-hour design storm for their stormwater management plan; however the flood events during the summer of 2006 in Southern Arizona were determined to be 10,000 year events.

Although Augusta claims they will use "dry" tailings, water will still be required for processing. When water is applied onto broken rock in areas with high sulfate concentrations, sulfuric acid is generated which in turn leaches out heavy metals. These potentially toxic heavy metals and other chemicals could leach into ground and surface waters and Tucson's water supplies.

An article in the Arizona Daily Star article on Wednesday Feb. 21, 2007, reported that "The EPA is investigating the mines west of Green Valley after monitoring wells on the Sierrita mine site found uranium in the groundwater at twice the legal limit. Mary Poulton, head of the department of mining and geological engineering

at the University of Arizona, said uranium and thorium often occur in the same granite rocks that contain copper and molybdenum." According to Bev Everson, geologist with the Coronado National Forest, the deposit at Rosemont is the same type of deposit as Sierrita. This creates concerns that the same type of water quality contamination may occur at Rosemont if the mine is permitted.

Augusta hasn't yet disclosed their water source, but it will likely be groundwater from the Santa Cruz Basin, at about 5,000—8,000 acre feet per year, or enough water for a city the size of Santa Fe. Domestic wells in the area of Rosemont Ranch already go dry periodically due to overuse of the aquifer and cannot handle additional stress. Stream flow and springs would likely dry up from this quantity of groundwater withdrawal, adversely affecting plants and wildlife. Most of the groundwater extraction would probably occur from dewatering the pit, and this pumping would lower the groundwater level, change the recharge patterns and change the groundwater flow direction. This has the potential to diminish underground flows moving southeast to the upper Cienega Basin, including Empire Gulch, as well as flows moving north toward Davidson Canyon. Until a complete water balance and hydrologic study of the area are completed, it is unknown exactly how much water would be required for processing, and what the surface and ground water impacts would be.

A recent report by Anne Maest and Jim Kuipers looked at how well the NEPA process predicted water quality impacts from mines. They found that 73% of the mines that predicted no adverse impacts to surface water resources actually did cause water quality standard exceedances. They also found that 92% of the mines close to surface or ground water had surface water impacts, and 77% caused ground water contamination when they had predicted no impacts. The possibility of water quality and groundwater degradation is extremely high if the Rosemont mine is permitted. These are risks we can no longer afford to take in Southern Arizona where our water resources are already severely stressed. This is reason enough to deny the mine. But under the 1872 Mining Law, these concerns cannot be considered, leaving mineral withdrawal as the best available option to stop this project.

#### *Reclamation*

Although Augusta claims they will use environmentally responsible techniques and restore the area to ranching and wildlife uses, there are no legal requirements that they do so. The 1872 Mining Law does not require reclamation, and the Arizona Mined Land Reclamation Act is extremely weak. This proposed mine would permanently destroy approximately 4,000 acres (over 3,000 acres of public land). Augusta will be required to post a bond for site reclamation, but it is unknown if it will be adequate for real restoration of the site. Most reclamation bonds mainly cover the cost of surface reclamation, and barely address water quality issues, which can be difficult to predict. By far the greatest expense in current mined land reclamation is for long-term water quality monitoring and treatment (i.e. for at least 100 years), since ground water contamination can take years to appear, and leaching may continue into perpetuity. Furthermore, in this semi-arid climate, where rainfall is highly unpredictable, revegetating over 4,000 acres to ranching and wildlife uses would require intensive irrigation and long-term monitoring. Reclamation costs for similar sized mines have been estimated at \$200 to \$300 million, with most of the cost for water quality restoration. Augusta has not indicated how much they will put up for their reclamation bond. Open pit mining causes irreversible changes to the landscape, and in our semi-arid climate restoration to any form of sustainable use would be a formidable task.

#### *Air Pollution*

The region currently has excellent air quality. Mine tailings and waste piles would be sources of dust, which prevailing winds would blow toward the Tucson basin. Air quality in the National Forest and surrounding residential areas would be degraded by both dust and truck exhaust (which contains diesel fumes and particulate smoke). Augusta's proposed "dry" tailings and other mine waste could allow dust particles to become airborne, creating a plume of metal particles in the air. Wind speeds throughout the Sonoita Valley tend to be high. Dust plumes originating from mine sites are serious concerns since they can move great distances (further than water pollution) and contain heavy metals. For example, tungsten originating from the mine tailings in Bisbee is suspected as the cause of the leukemia cluster in Sierra Vista, about 25 miles away. If gold is present, then airborne plumes of particulate arsenic may occur since there is a strong correlation between the presence of gold and arsenic. Predicting wind direction and velocity requires extensive monitoring and the analysis of wind rose diagrams.

### *Impacts to Biological Values and Wildlife*

Rosemont Valley is biologically important from its pinion pine-oak grasslands in the higher elevations to the cactus shrub grasslands in the lower portions. The Valley is part of the Madrean Archipelago bio-region of North America. Named as one of four Biodiversity Hotspots in North and Central America in 2004, the Santa Rita Mountains and Rosemont Ranch contain a level of biodiversity that is unmatched in most other parts of the United States. The Santa Ritas have also been designated as an "Important Birding Area". From a landscape-level perspective, the northern Santa Ritas, where Rosemont is located, act as a critical landscape connection to the Empire and Rincon Mountains to the north and east. This connection is best characterized by the fact that several jaguars—one of many federally listed species within the area—occurred in the vicinity in the 1900's.

There are two Endangered Species known to exist at Rosemont: Lesser Long-nosed bat (*Leptonycteris curasoae yerbabuenae*) and Pima Pineapple Cactus (*Coryphantha scheeri robustispina*). In addition, this area may be home to the Chiricahua Leopard Frog (*Rana chiricahuensis*), listed as threatened, and the Yellow-billed Cuckoo (*Coccyzus americanus*), a candidate for listing.

There are six others priority vulnerable species or Wildlife of Special Concern known to occur in the Rosemont Ranch area, according to the AZ Game and Fish Department: Mexican Long-tongued Bat (*Choeronycteris mexicana*), Western Red Bat (*Lasiurus blossevillii*), Lowland Leopard Frog (*Rana yavapaiensis*), Giant Spotted Whiptail Lizard (*Cnemidophorus burti stictogrammus*), Rufous-winged Sparrow (*Aimophila carpalis*), and Bell's Vireo (*Vireo bellii*). The Mexican Spotted Owl (*Strix occidentalis lucida*) may also occur there, based on its habitat requirements.

For more information on wildlife potentially affected, see the report by Pima County, "Preserving the Santa Rita Rosemont Ranch" (2004). <http://www.pima.gov/cmo/sdcp/reports/d29/Rosemont%20Ranch.pdf>

### *Loss of Recreational Opportunities*

The Rosemont Valley is a valuable recreational resource for Southern Arizona. This area is used for hiking, camping, off-highway vehicles, mountain biking, dirt bikes, hunting, bird-watching, bicycling, picnicking, photography and sight-seeing. As the population in this region grows, and development spreads further out from the urban areas, there will be more and more demand on this area. A mine at Rosemont would result in the permanent loss of these recreation lands, and will aggravate our increasingly crowded public lands, decreasing the quality of recreational experiences.

### *Noise Pollution*

Daily blasting is required to remove rock covering the ore body. The impact to nearby residences, wildlife and recreational users in the National Forest will be equivalent to daily sonic booms. The blasting may also cause damage to nearby residences. The noise from large mining trucks at the site and on the local roads would be disruptive to people and wildlife in the area.

### *Light Pollution*

Mines operate 24 hours a day, 7 days a week. They require huge amounts of lighting which would interfere with the operation of local observatories, such as Mt. Hopkins, and would not be in compliance with Pima County's Dark Sky Ordinance. Many people live in the Sonoita and Empire Valleys because they value the rural lifestyle, which includes dark skies and stars at night. The lights from a mine would impact this aspect of their lives.

### *Loss of Scenic Views*

The mine site is visible from State Highway 83, a designated State Scenic Highway. The scenic views will be impacted for about 3 miles of the 24-mile drive from I-10 to Sonoita. This 3-mile segment includes the portion of the highway where it gains its greatest elevation above the surrounding land, at which point drivers are treated to a sweeping panoramic view of the Rosemont Valley to the west. The mine site dominates this view which currently consists of spectacular rolling hills of grasslands, dotted with oak trees and backed by a scenic, rugged ridge line.

### *Traffic Hazards*

Mine related traffic and trucks, including ore trucks and vehicles carrying heavy construction equipment and explosives for blasting, will use the Rosemont Junction Road and narrow, winding Highway 83 which is heavily used by commuters, school buses, tourists, motorcycles and bicyclists. This would create very dangerous and hazardous driving conditions, and the heavy mine trucks would damage the road more quickly than normal traffic.

### *Decrease in Property Values*

The areas surrounding the mine site have developed into rural residential areas, ranches and ranchettes. The development of an open pit mine will lower property values in those areas due to increased air pollution, noise and light pollution, water quality impacts, and a generally reduced quality of life. The Sonoita Valley, a weekend tourist destination, may experience reduced tourism and could be thrown into the boom-bust economy typical of western towns adjacent to large mining operations.

### *Economic Impacts*

Any economic benefits of the mine will be offset by the negative impacts on tourism-related businesses dependent on the area's scenic beauty and recreational opportunities. Mine employment may be partially or completely offset by (1) the impact of the mine on recreational and scenic values which might otherwise have lured companies into relocating to Southern Arizona; and (2) the long-term deleterious effects of mining's well known boom-bust economies. Although Augusta is promising to provide about 350 jobs, these jobs will last only about 20 years (boom-bust economy of mining), and there is no guarantee they will come from the community. Typically, mining companies fill management positions from out of town, and other skilled mining jobs are typically filled by people moving from other mining areas.

Mining no longer represents a large portion of the jobs or income in Arizona. Besides farming, mining has consistently represented a very small portion of personal income in Arizona since 1970. According to the Arizona Game & Fish website, in 2000, mining provided about 2,500 jobs in Pima and Santa Cruz counties. In comparison, recreation related jobs totaled 8,541 in 2001, or more than 3 times the number of jobs as mining provided. This includes jobs related to non-consumptive recreation such as camping, hiking and bird watching (approximately 3,430 jobs), hunting and fishing (about 1,400 jobs), and OHV related jobs (about 3,700).

The Arizona Watchable Wildlife program is a program run by the Arizona department of tourism and partnered with Arizona Game & Fish. Watchable wildlife recreation includes bird watching and general wildlife viewing at our parks and other attractions like the Boyce Thompson Arboretum, or local Bed and Breakfasts that focus on nature activities. Statistics show that retail sales related to this program totaled over \$173 million in 2001 for Pima County, and \$11.9 million for Santa Cruz County. There were 3,196 jobs from these industries in Pima County, totaling \$90.7 million in salaries and wages, and 236 jobs in Santa Cruz County with \$6.2 million in salaries and wages.

When comparing the economic contributions of the main industries in Arizona for 2004, mining represented a small portion compared to aerospace, micro-electronics, and the food and travel industries. For example, the travel industry represents \$4.3 billion in Arizona, or nearly 7 times the mining sector contribution of \$0.7 billion. Recreation related jobs produced nearly \$210 million dollars in personal income in 2001, compared to a projected \$147 million from mining jobs.

These are sustainable, non-consumptive jobs that improve our quality of life in Southern Arizona and do not harm the environment. Southern Arizona is moving towards clean, sustainable businesses, and is not as dependent on extractive industries as in the past. The small economic benefits from mining are not worth the great environmental risks. The current uses of Rosemont Valley provide more benefits to Southern Arizona than would be obtained from a copper mine.

### **Conclusions**

The Rosemont mine proposal is a perfect example of why the 1872 Mining Law needs to be changed and updated. It is a grave injustice to the American people that in spite of overwhelming public opposition and a multitude of unacceptable environmental impacts, the Mining Law makes it nearly impossible to deny this project. In addition, the Mining Law contains no provisions for environmental protection or for reclamation and clean-up of the site once mining is finished. Although other laws are intended to protect the environment, the Mining Law takes precedence and most of the environmental destruction associated with mining is allowed. I am extremely pleased that the Subcommittee on National Parks, Forests and Public Lands, and the Subcommittee on Energy and Mineral Resources are listening to how we might address this problem.

The goal of SSSR is to prevent any mining from occurring in the Santa Ritas and the Rosemont Valley so the area can be preserved for its current uses. We support permanent protection for the Santa Ritas through withdrawal of the Forest Service lands from mineral entry. We believe that the small economic benefits of mining at Rosemont are not worth the large risks to our water, recreation and environmental resources. Arizona already has an abundance of operational copper mines that will

help sustain our standard of living. The small amount of copper that may be produced at Rosemont is not significant enough to justify destroying this beautiful and important part of the Santa Rita Mountains.

We are in strong support of efforts to withdraw this area from mineral entry in the hope that the resulting claim validity exams will prove the claims at Rosemont to be invalid, and end the threat of mining there forever. Mining is not an appropriate use of this land. To quote one of the speakers at the Jan. 16, 2007 Pima County Board of Supervisors hearing on the resolution opposing mining at Rosemont Ranch: It is the wrong project in the wrong place at the wrong time.

Thank you for the opportunity to testify and submit comments on this issue of great importance to the people and environment of Southern Arizona.

Attachments

1. Current online and paper petition opposing mining at Rosemont Ranch, by Save the Scenic Santa Ritas, at <http://www.PetitionOnline.com/sssr2006/petition.html>.
2. List of Groups who endorsed the position of Save the Scenic Santa Ritas and helped stop the Rosemont Ranch Land Exchange and Open Pit Copper Mine proposal in 1997.
3. Resolution passed in 1997 by the Pima County Board of Supervisors in opposition to the Rosemont Ranch Land Exchange, signed by Supervisor Raúl Grijalva.

[NOTE: Attachments to Ms. Levick's statement have been retained in the Committee's official files.]

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Mr. GRIJALVA. Thank you. And Ms. Lunine, you are recognized for five minutes.

**STATEMENT OF CYNTHIA LUNINE, PRIVATE LANDOWNER**

Ms. LUNINE. It is a privilege to speak here today. I thank Congressman Grijalva, Congresswoman Giffords, and all those who support them, who will continue to expand the work done today.

I am not an expert in economics, toxicology, science, politics, mining, or law. I speak today because in my lifetime, and via the history that my family continues to relate to me, greater than this lifetime, has been shared with the benefits and the disasters of mining in the Southeast.

My family settled near Lordsburg, New Mexico, before it was a state, right around the time the mining laws were being written, and various members worked for or in mining. My grandfather hauled ore with his team and wagon. Various uncles owned claims and did small-scale independent work, on and off. And I hiked the hills all my life, always wary for unprotected vertical shafts. That was a normal part of my childhood landscape. I never fell in. But others I knew did.

My Uncle Claude, a senior aide to Senator Clinton Anderson from 1949 to 1973, still tells me stories of how conservation legislation was made into law and how the interests of mining and water were folded into almost every bill.

Open pit mining at Tyrone started up while I lived in Lordsburg and the pit is still expanding today with unbelievable tall mountains of tailings visible for miles along the highway.

Friends have worked there, on and off, because layoffs occur every time the price of copper drops. My dad always worked in the bank in Lordsburg, and I worked there summers, during the time the smelter was being built by Brown and Root Corporation in Playas, New Mexico.



So I have seen the economy of that town from the inside. My parents still live there and we visit frequently, talk with friends from Lordsburg, Animas, and Silver City.

I moved to Tucson in 1976 and lived here almost 18 years. Since my husband and I bought land in 1989 in Sonoita, and built our home a few years later there, we have seen the historic effects of mining in the Santa Ritas and have both been active in these and other land use issues in the area.

We hike with our son, I ride horseback with a friend in the Santa Ritas, Patagonia Mountains, and everywhere there is the evidence of mining sites that have not adequately been cleaned up.

My life's experience has taught me that an open pit copper mine in the Santa Ritas, and an awakening of smaller-scale mines in the Patagonia Mountains, would be a disaster on every scale. It must not be allowed to occur.

Mineral entry withdrawal seems to be the only tool currently available and it must be imposed. Even if mining reform is enacted, these mountains must not be ever invaded on that scale, for the following reason, among others that other people have stated.

Larger cities have enough diversity and economic stability to absorb these 10 to 20 year cycles of good jobs; then nothing. Sonoita and probably Patagonia are too small to survive a boom/bust cycle unscathed. Businesses come in, people become rooted in the community with families, sometimes multiple generations of families, and then it's just all gone.

These smaller towns, like Superior, Arizona, where friends of mine lost their pharmacy after the mine closed and crime levels surged, are not resilient.

From the last major down cycle of copper, Lordsburg was left with boarded-up buildings and out-of-work families on Government subsidies. This is with the mine at P-D, and back in full operation. They still have a worthless housing market. They have lack of money to support parks and recreation. No substantial shopping. A struggling county budget.

Very few of the hundreds of Border Patrol agents now stationed there are actually willing to live there. They commute, 45 minutes to an hour, from Deming or Silver City, which are larger communities, more resilient, more robust, with diverse economies.

One of my dearest friends and her husband operate an international mineral exploration company, and I know them to be individuals of the highest integrity. We don't always see eye to eye on this issue, but this issue is not about the character of the individuals involved in it.

The issue is about industry practices that have been allowed to get seriously out of balance with American values through neglect of the checks and balances applied to almost every other major industry in this nation, and prices of a commodity that do not reflect what should be reasonably required to extract it.

From power production to building construction, from airlines to agricultural, all major industries, except the mining industry, are required, by law, to clean up for themselves, a basic value that we teach our kids from their earliest days.

I would like to point out that reform of these industries has not apparently limited jobs and prosperity within those industries.

Highest and best, for this industry, highest and best use of forest land seems to have been defined by law, and by precedent, to be open pit mining on public lands, above all other uses, such as grazing, recreation, timber harvesting, wildlife, or health.

Mining reclamation activities are not required to be fully funded and functionally guaranteed. That balance must be reassessed and the laws be brought into harmony with that reassessment.

As with passage of the Wilderness Act, it will take years of persistent effort, and bold leadership, to state to the world that this damaging process cannot continue unchecked.

Thank you for your consideration of this critical issue.

[The prepared statement of Ms. Lunine follows:]

**Statement of Cynthia Lunine, Sonoita, Arizona**

My thanks go to Congressman Grijalva and the committee and guests here today to hear these comments and consider diverse perspectives on a historically powerful process of land modification in the southwestern United States. I am grateful to all those who are willing to step forward at a national level to advocate bringing our laws in line with current American values and realities.

It is because I would so much like to see true reform accomplished in my lifetime that the following comments are balanced between a desire to live within and adjacent to an uncontaminated environment that is beautiful and protected from devastation and a recognition of the dependence I also have on minerals in my lifestyle and the respect that I have for people of integrity that I know and who work in the mining industry.

The viewpoint that I will attempt to describe is that of a small landowner living for 12 years at the southern base of the Santa Rita Mountains; the previous 18 years in Tucson, Arizona, and a childhood in the small town of Lordsburg, New Mexico. All of my life I've lived close to mines and their influence and this testimony will be a personal opinion of how mining has affected my family and the various communities that I've been a part of. Part of the perspective has been shaped by exposure to both economic and political careers of members of my family. My uncle, Claude Wood, was the top aide to Senator Clinton P. Anderson throughout his Senate career (1949-1973) and took over many of his duties as the Senator suffered from Parkinson's disease in his last two terms. He has inspired me with stories of the delicate and protracted years of negotiations that resulted in the Wilderness Act of 1964, legislation whose final form and reality of passage owes much to the Senator's talent in deal-making and integrity, but also to the skill of a tightly-run staff and their behind-the-scenes activity.

My family roots in the southwest extend back to the late 19th century when the West was being settled; my ancestors were looking for land to make a living upon and took advantage of the Homestead Act and hard work to eventually stay in southern New Mexico along the Gila River near Red Rock for my mother's parents and south of Lordsburg for my father's. Both sets of grandparents had small ranches where they raised a few cattle from time to time, but mostly angora goats for their mohair. This was the early 20th century and the land was dry and arid, and ranching was always very marginal for small land-owners and people often had to work at other activities during periods of drought or depressed economies. My mother's father worked at least at one time of his life hauling ore for mines south of Lordsburg; an uncle was employed at various mines (the Banner, Bonney, the 85 Mine) in the 1930s & 40s and had a few of his own small claims that he worked on and off for years. In my childhood, once a year another uncle, Jack Ewing, came to do his annual assessment work on claims near Steins, NM, and I would always enjoy going along to help with what I could and be in the outdoors and pick up samples of ore from the floor of the tunnel. Uncle Jack still does the assessment work today, in order to keep the claims, although the mine hasn't been actively producing for decades. I am not averse to extractive activities on public land. A few years ago I purchased a permit from the Forest Service to take out landscape stones for building walls around our home. My permit was just adjacent to the land now owned by Augusta. We did most of the work by hand ourselves and were always very careful to leave no visible trace by selecting only some stones, by filling in any holes and by not taking stones from sloped areas that could erode.

### **Small Mining Operations**

There are two points to be made regarding small (under 5 acres) mining activities. The first point is that small mining has been both economically important and perceived as a treasured "right" within individual families and small communities in the southwest and politically has blocked mining reform because of the large numbers of citizens who are involved in it or support it. The perception has been that reform of the 1872 Act would eliminate or seriously reduce the ability to participate even in limited activities such as panning for gold or taking small amounts of turquoise for jewelry manufacture. In 1977 Mo Udall proposed a bill to repeal the 1872 mining act, a move that met with punishing resistance in Pima County in particular and Arizona in general. Mining law historian Charles Miller (Miller 1991 p. 245-246) writes, "The 'little man,' the ordinary prospector/miner and small businessman, was the primary opponent of Udall's proposal. Congress had initially directed the Mining Laws of 1866, 1870, and 1872, at this group. Over a century later considerable evidence exists that the 'little man' who was supposed to benefit from the law was still doing so, at least psychologically." Representative Udall's proposal was dropped and serious attempts at reform of these laws was not again attempted until 1990, and was narrowly defeated then. Perception is paramount.

The second, some might say opposing point, is that in my experience on the land all of my life, small mining activities are rarely cleaned up or filled in, and are extremely hazardous on a number of levels. My mother's direst warnings to me when we hiked in the hills was to look out for holes, because there were open shafts and tunnels that were not protected by wire fences or filled in. I still see these when we go out south of Lordsburg on my Dad's family's ranch (now owned by Ed & Lindy Kerr). Every once in awhile one would hear of someone falling in and either being injured or killed. Those people (usually young men, although I did it a couple of times too) who climbed down without injury reported skeletons of wildlife at the bottom, so they obviously are hazardous to wildlife, and ranchers still lose an occasional animal.

This is only the most obvious hazard. Another hazard that I'm now more aware of is the possible level of toxicity to tailings or waste piles left behind after yet another mining company declared bankruptcy or left without cleaning up. Only lab tests would tell which heaps of mining materials I and my family have climbed up and down on are dangerous to touch or breathe dust from, but it's very difficult to hike off-trail for any distance in southern Arizona or New Mexico without encountering one. Abandoned works of small mines are reputed to pollute ephemeral drainages such as those running into Temporal Gulch, north of Patagonia, where local residents warn you not to drink or let your kids wade in the water. Mansfield Canyon has been referred to as a superfund site. Flux Canyon, south of the town, is scheduled for another round of expensive cleanup because of small mining activities that left toxic materials leaching into drainages and exposed to wind. I just spoke (Feb. 21) with John Millikin, Arizona Game and Fish Unit Manager (south of Highway 82) who said that high levels of toxic minerals in perennial streams or springs would prevent reintroduction of threatened or endangered species of fish or amphibians. He also reiterated common knowledge that the laws don't have too many teeth in requiring adequate cleanup of mining activities. (see also the discussion of Wildlife Impacts from Kurt Bahti, in later paragraphs)

In addition to hazards, mines destroy property values. My mother's family home and adjacent 300 acres came on the market again from the family who bought it from them in the 1950s. It is the ranch located closest to the National Forest at the mouth of the box on the north side of the Gila River and is beautiful country. My husband and I wanted to purchase it as a link to our family roots, to hold for retirement, to encourage a local tenant to do a little farming. What we found was that it had been devastated by mining. A fluorspar mine across the Gila River had been allowed to dump all the mill crushings/tailings on the land in a huge multi-acre surface, I believe in the 1970s or 80s. In addition, Phelps Dodge bought all the water rights to the property except for a residential permit, making agriculture unfeasible, even though the property includes productive agricultural wells. The property is still on the market, but will be a difficult sell because it has been heavily degraded. Phelps Dodge has been known in that area (Red Rock) to have bought numerous water rights from retiring or financially needy ranchers and farmers along the Gila River. This transference of water from agriculture to mining is allowed by law, but can make huge changes in culture as well.

### **Small Communities and Boom-Bust Mining Economy**

Urban centers, such as Tucson, are large enough to absorb the surge of prosperity as mines and mineral prices rise, then deflate precipitously as the mine works out and/or copper prices plummet. Small communities—Superior, Arizona, Lordsburg,

New Mexico (where I grew up), and Sonoita, adjacent to the proposed Rosemont Mine—are not so resilient to the large-mine economic reality.

My father, Fred Ewing, worked in the bank in Lordsburg for all of my life. He had been driven from ranching by the drought in the 1950s and took a job in town and worked his way up to retire in 1989 after a long tenure as president (First National Bank, now Western Bank). As his daughter, and working summers at the bank during college years in the 1970s, I had an inside picture of the local economy. The Tyrone mine employed many local people from Lordsburg during that time, the smelter at Playas, NM took several years to be built by the Brown & Root Corporation out of Houston, and those times allowed people to buy homes, cars, pickups, and make good money. The bank opened a branch at Playas, built a building, employed a couple of people full time. Tyrone built a little town, complete with supermarket and gas station. Another cluster of homes was constructed at Playas. But when copper prices plunged, when the smelter was finished, when it shut down completely, those people were out of work and the businesses were just gone. The supermarket at Tyrone never re-opened, even though Phelps Dodge's mine is back in operation. Those low-quality homes are more of an eye-sore and maintenance nightmare than cherished neighborhoods (Homeland Security recently bought the town of Playas to use as some sort of training center). Silver City's economy seems to be fairly robust because of its climate and beauty and proximity to the Gila National Forest and Wilderness recreation areas. Lordsburg, at this time, is crumbling. It's my opinion that a very large factor was the inability to recover after the last wave of mining left. Even now, a couple of years into the new mining "boom", because small businesses hadn't survived the previous bust, there's inadequate shopping, very little recreation for kids, no parks, deteriorating housing. My aunt's brick home was placed on the market, years ago after she passed away, at a bargain \$36,000 and just sold last year at a paltry \$12,000. The influx of Border Patrol workers hasn't made much difference; they all live in larger communities such as Silver City or Deming that have always had more diverse economies & commute an hour to Lordsburg for work. In Superior, Arizona, friends of mine bought a pharmacy a couple of years before the mine closed (early 1980s?). They told stories about the surge in shoplifting that occurred in their business after the economy collapsed, and they lost their investment in the business.

The critical aspect of the modern large mining economy to small communities is that the cycle is so long—usually ten to twenty years—that people become very rooted to their jobs and their community. No one is going to take a menial low-paying service job if they can work for a well-heeled mining company with excellent pay and benefits. The mining company doesn't tell them that most of these jobs will be gone sooner or later, at which time their family will be unemployed and most likely, untrained to do other skilled work. They are not required to retrain and relocate workers or provide bonds that provide for this activity. If workers do leave to find other jobs, what about the community they leave behind? They don't say that the local economy will possibly collapse and businesses will leave empty, boarded-up buildings and loans that go into default. They don't point to higher crime statistics and higher levels of dependence upon public assistance. And small communities often do not have the sophisticated and deft political clout that can demand that the mining company pay for required infrastructure upgrades in times of prosperity. Once again, the laws have no teeth.

Our son is now 11 years old, in fifth grade at Elgin Elementary School. If there is an opening of a Rosemont open pit mine with a 20-year "boom" of production, he will, most likely, be just starting a family when the "bust" occurs. If he has chosen to stay in the Sonoita area, I would say with some certainty that it will be enormously difficult for him to maintain whatever job he had here and he may have to move away from his childhood home, along with many of his friends.

The little village of Sonoita is far too small to survive one of these cycles unscathed. It mustn't be allowed to occur.

#### **Mining Profits Leaving the United States**

I have not read the Mining Laws and may not understand them if I did. I know, however, that Augusta is a Canadian company and that much of the money produced from this mine would leave the county, leave the state, and probably leave the country (depending on who the owners and investors are). Evidently, Augusta has some interests in the Patagonia Mountains as well, and residents there (personal conversation with Don Wenig) have publicly expressed dismay and frustration at the lack of information and at the fact that any profit would be gone forever. Yes, some jobs are created and some cash would end up in Arizona, but I've been told that it is one industry that gets a free ride by not having to pay royalties on the minerals extracted.

It's an archaic and economically unsound system that was developed for frontier times, not for the 21st Century. These areas need to be withdrawn from mineral exploitation.

### **Health Concerns**

As we waited for a Pima County Supervisor's meeting to convene late last year, people sitting close to me, from Green Valley, talked about how their houses and yards would get covered with dust from the tailings piles of the mines along I-19. They had come to protest the Rosemont Mine initiative, as had I, and knew directly what it was to live with the aftermath. What is the health hazard to that dust? Evidently, nobody knows with certainty, even now.

A couple of days ago (Feb. 20) I called my friend and neighbor, Mary Kay O'Rourke, a researcher at the U of A medical school who does this kind of work (O'Rourke 2007). She authorized me to quote her in this testimony and described the difficulty of unraveling causes and effects of contaminants on human health of people living in mining communities. She sent me a few copies of journal articles, one of which concluded that "High serum copper, low serum magnesium, and concomitance of low serum zinc with high serum copper or low serum magnesium contribute to an increased mortality risk in middle-aged men." (Epidemiology 2006;17: 308-314)

Her e-mail response to my questions about whether epidemiology studies had been done with people living near mines comes down to the difficulty in separating out causes from mining versus problems that would occur even if a mine weren't further exposing existing minerals to the air & water. Higher than normal levels of Arsenic, for example, are found in test subjects in some mining towns, but not in all (O'Rourke, et. al., 1999). People move in and out of communities and may have been exposed to toxins from other sources. In the case of arsenic, the researchers had to correct for those people who had high levels because they ate a lot of fish.

So, it's not so simple. But I don't want my child growing up breathing that dust, or drinking water downstream from an open-pit mine.

It is, however, pretty easy to predict what can happen when traffic increases along Highway 83 between the Rosemont site and I-10. Someone counted the number of school buses that traverse that section of highway twice a day—I don't remember the number, but I do know that many kids from Sonoita and north of there go to high school and middle school in Vail and that's who is in the buses. And I know from training and experience as an Emergency Medical Technician that higher traffic translates into more accidents. Are our kids going to be on the road with mining trucks? With workers speeding because they're late to punch in? Contractors delivering supplies who are behind schedule?

What about people in Patagonia as mining reawaken old claims in the Patagonia Mountains because the price of copper is now so high? How will mining impact their water quality? Who will see to it that adequate bonding is secured to do truly effective cleanup?

What does "reclamation" really mean in practical terms? I haven't seen anything on mine tailings/overburden sites that is convincingly sustainable, no matter how mining companies make progress. (attached photos of Tyrone reclamation slopes) The fine material of the tailings will inevitably erode in many places after the mining company has left. Because they have been through a crusher mill, the tailings will always be finer particulates than adjacent consolidated soils. What water and air contaminants will leach out of those finer-than-natural particulates? In PD's own words on a sign in front of their newly graded tailings slopes it says, "There will always be evidence on these private lands that this was a mining district."

### **Mining from Space**

Our actions as a society leave a legacy for the future. Do we want Arizona's legacy to be a continuation of landscape devastation? A number of years ago, an astronaut took pictures of Tucson from the space shuttle (Jones, STS059) and sent one to my husband, Jonathan. He did his doctoral work at the University of Arizona Lunar and Planetary Laboratory and lived in Tucson for a number of years, then went on to NASA and flew on several space shuttle missions. It's ironic that the most visible evidence of Tucson is the mine complex. When I spoke with Tom (now retired from NASA) on the 20th of February, he told me that the Great Wall of China, one of the world's largest man-made structures, is not visible to the naked eye from space as many people believe, but these mine sites are. What are we leaving for future generations to see of our work on the planet?

### Visual Resources

The site for the Rosemont mine has the misfortune to be centrally located in one of the most scenic vistas along the Patagonia-Sonoita Scenic Road, the state's second officially-designated scenic drives (designated in 1985). Criteria from Arizona's process and a tour of this road were part of the development of Federal legislation known as National Scenic Byways in the Intermodal Surface Transportation Efficiency Act of 1991. In 2003, the Arizona Department of Transportation (ADOT) released a Corridor Management Plan (Wheat & Scharf 2003) that represented hundreds of hours of community-volunteered time and many thousands of dollars spent by ADOT to plan for protection of the values inherent to the corridor. Out of 23 values assessed, "scenic overlooks along the corridor" ranked in the top 3, along with the Patagonia-Sonoita Creek Preserve and the Las Cienegas NCA (the corridor includes the start of State Highway 83 from I-10 in the north to Sonoita, then turns right and follows Highway 82 through Patagonia to Nogales).

That overlook is my favorite view, with its series of folded, oak-studded ridges; the dramatic skyline of Mt. Wrightson shoots up on the left and jagged ridges and the Gunsight slot spread out on the right. Because the highway is very close to the top of the pass here, it would expose even more of the mine's devastation to view than if it were lower. People stop in the pullout and take pictures.

I am one of the citizens who attended many of the management plan meetings, and later became a member of ADOT's Development & Construction Review Committee that has met regularly, for the past 2 years, with the Tucson District Engineer and his staff and a coordinator in Tucson to attempt to monitor and advise them of ongoing local concerns. A lot of time and energy and state money has been spent to date to work on the values contained in the Corridor Management Plan. Initiation of the mine would invalidate much of that effort by industrializing the entire northern end of the drive. Tourism is the primary industry in Sonoita and Patagonia and many people come just to do that drive. Tourism is sustainable over generations, mining is not.

### Wildlife in the Santa Ritas

Kurt Bahti is Field Supervisor for Arizona Game and Fish for the sector that stretches from I-10 to Mexico in the south, and from the Tohono O'odham Reservation to Sulphur Springs Valley near Wilcox. It includes the Santa Rita Mountains. Kurt is also a long time resident & landowner in the foothills of the mountains, east of Sonoita, has worked for 25 years here, and was previously Wildlife Manager in the Santa Rita Mountains. He has the local reputation of knowing these mountains better than just about anyone and is trusted by all the people I know to give honest, direct, detailed, and highly useful advice about issues pertaining to wildlife and natural resources. I spoke to him Feb. 21 about the issue of mining in the Santa Ritas and he authorized me to quote him in this testimony.

When asked about the effects of the proposed Rosemont Mine on wildlife, he answered unequivocally that it would be disastrous to wildlife in the northern portion of the range. He said that although he doesn't know the exact size of the footprint of pit, overburden, tailings and operational facilities, that a boundary extending from one to two miles around it would potentially affect wildlife populations and behavior, depending on the species and their sensitivity to various human activities and the mine would disrupt wildlife corridors and fragment habitat. He mentioned existing populations of whitetail deer, javelina, mountain lions, and bear that would be affected, along with many smaller mammals & amphibians. He noted that a couple of natural springs in the area that supply water to wildlife would likely be compromised, and that it would make reintroduction of the Tarahumara frog to the area not possible because of their sensitivity to changes in acidity in their environment. He is concerned that their current reintroduction of wild turkeys into the Josephine drainage (April of last year and again last week) would not spread the population as they would expect from the success they've experienced in the Huachuacas, if the mine is developed.

I asked Kurt about any problems from historical mining in the mountains and he told me that he had had water samples from an area that used to be mined in Mansfield Canyon tested for Ph (acidity) and the results showed a startling 2.1. As an example of what that level, or similar levels of acidity does, he told me he had worked bare-handed for a few minutes in the mud in Happy Jack canyon (site of another extensive mining tunnel complex) to release some dammed-up water and got up to realize that he no longer had fingerprints on his fingers. They had been burned off by the acid. Other anecdotes are common locally—people talk about sitting down on a rock covered with the ochre precipitate and getting up without seats in their jeans. Kurt noted that although wildlife naturally stay away from water that smells bad or is heavily acidic, he suspects they would drink water that may

contain unsafe levels of heavy metals or other contaminants that cannot be smelled or tasted. Game and Fish has not performed these tests on the waters in drainages in the Santa Ritas. Once again, amphibians or native fish cannot live in water that is contaminated by acidic mine leachings & effects of metals are unknown.

#### **Summary**

Copper and other valuable minerals are useful and prominent in everyone's life. It is necessary, however, that their true cost be reflected in the manner in which they are extracted and that extraction does not destroy valuable landscapes, wildlife habitat, recreational resources, and local cultures. Our laws and costs of metal must reflect our most deeply held values, not the ephemeral values of profit and instant gratification.

Values that Americans commonly hold—those that history has validated—dictate that issues of such major impact not be left to the primary influence of the market and profits and short-term gains. The copper will be there for future generations who may have greater wisdom and technology to extract it without destroying everything else, should there be a national crisis. But just because copper sells for \$4 a pound right now doesn't make it the right time to dig it out; this land is too precious to too many people to be utterly destroyed.

Please initiate mineral withdrawal for land in the Santa Rita and Patagonia Mountains.

Once again, I extend gratitude to those of you who are willing to undertake this activity with the wisdom of reading history, the years of persistence that will be required, and the love of this land and its people.

#### **Postscript:**

I would recommend a very concise and well-written account of Anderson's career, written by Senate historian Dick Baker, for historical details of the issues of western conservation legislation, including interests of mining, which played large in the landmark Wilderness bill. The book is *Conservation Politics The Senate Career of Clinton P. Anderson* by Richard Allan Baker, UNM press, Albuquerque 1985. Another good, but short account of legislative history is *Miller's Stake Your Claim! The Tale of America's Enduring Mining Laws* (cited below).

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[NOTE: Photographs attached to Ms. Lunine's statement have been retained in the Committee's official files.]

Mr. GRIJALVA. Thank you. As you were standing, if I could, let me just ask you one general question, because in your testimony, you talked about the “boom and bust” cycle. You also talked about your own experience, family, and other mining operations associated not only with you, individually, but with areas.

And you heard the representative of the mining operations being proposed here, to talk about the fact that this is a different proposition, and what do you think about those claims that the proposed Rosemont mine will be different from the other mines that you spoke to directly or alluded in the “boom and bust” example, of the past?

What would make this different, and do you have any confidence in that difference?

Ms. LUNINE. Well, I heard Mr. Sturgess cite the same number that I did, which is 20 years. You know, in 20 years, my son will be raising his family, and if he wants to stay in the area, that is going to be the bust. I don’t know if it’s going to be exactly 20 years, but prices of copper go up and down, and between that time, there could be a lot of mini busts, where the price of copper goes so low, that they shut down the mine for periods of time.

That is what happened with the Tyrone mine, is people would work for a few years, the price of copper would drop, they would reduce operations, people would be laid off.

So it is just the effect of one major industry on small communities, because that industry dominates that community, and so when it declines, then that whole community declines. So I don’t see anything different in the economics of what he is proposing.

Mr. GRIJALVA. Thank you. Ms. Levick, you mentioned, you talked about the recent report that looked at how well the NEPA process predicts water quality impacts for proposed mines. There seems to be a big difference, a disconnect between what is predicted and what ends up occurring, and I wonder if you could elaborate any more than the testimony we have on that process, and on that disconnect that I spoke to.

Ms. LEVICK. I know that, as Mr. Sturgess mentioned, they do their best to design the mine facilities, so there are no leaks or spills or water contamination issues. But there are always—it seems like there are always problems that occur. I can’t talk about every mine that has ever been constructed in the United States or in the world.

But most of the time there are some leaks and spills. There might be a rainstorm that a tailings damn is breached or the liners under the leach pads are torn and leach the sulphates and the other toxic metals into the groundwater.

So even though they design for no contamination and for zero discharge facility, there are always accident and spills. So in the NEPA process, when they do the analysis based on what is proposed in the mining plan, it appears that they are taking all precautions, but frequently, there are unforeseen circumstances and so as the Kuipers/Maest report, which I haven’t read everything, just a summary, it is a huge document, they have shown that in whatever the statistics were, 70 percent of the times where they predicted no water quality impacts, there actually were.



Mr. GRIJALVA. Okay. One more and then I will yield to my colleague. If a new mine is developed, do you foresee much opportunity for residential and commercial growth in the area that you are speaking to, for the future, if a new mine is developed?

A potential for residential and commercial growth as a consequence?

Ms. LEVICK. Not really. I think that frequently, a lot of the people that come to work at a new mine are from out of town. They are the experts the community might not be able to provide. Although Mr. Sturgess has stated there would now be about 400 new jobs provided by this mine, there is no guarantee that they will all come from the community. Is that your question?

Mr. GRIJALVA. That, and could you respond to that same question about a new mining operation and the potential, and people proposing this mining operation and others always talk about the boom that will come in terms of residential and commercial growth as a consequence of this mining operation, and it is alluded to in this one as well, and I would just like to get your perspective on that claim.

Ms. LUNINE. It does provide commercial growth, initially. You know, it provides good jobs to a lot of people in communities, and that has always been cited as the great benefit of mining.

And, you know, people do benefit for a period of time. It is just a short-term prospect, and then it is the aftermath of that short-term prosperity. You know, people have mortgages, they have property that gets devalued, after it is over. They have families that are embedded in the community. They don't leave.

Some of those families that had really good mining jobs are now on public assistance. It is such a cultural mandate to stay where you put your roots down. When small communities are built up by that way, by any single industry, it doesn't have to be mining, if that industry then leaves, then those people and that community are bereft.

If you look at P-D's town that they built in Tyrone, you know, they had a grocery store, they had a gas station, they had a lot of facilities there. The houses were inexpensive houses, but, you know, it is basically not a desirable neighborhood to live in now.

So you have to look at the long-term effects of these things, and that is what I am speaking to, is the long-term effects.

Mr. GRIJALVA. Thank you. With that, let me yield to my colleague, Congresswoman Giffords.

Ms. GIFFORDS. A quick question for, and same question for Ms.—is it Lunine?

Ms. LUNINE. Lunine.

Ms. GIFFORDS.—Lunine, and also Ms. Levick. Mr. Sturgess talked about the public process. He said five or six meetings. Can you talk about how those meetings were conducted, whether or not as a landowner and as a community group, you are asked to participate, in which way? Do you feel satisfied with the process, and whether you agree or not agree? But I am just curious about that public process.

Ms. LUNINE. I have seen Mr. Sturgess in this room but I have no personal knowledge of any public meetings held in my area. That doesn't mean that they weren't. It is just that I don't

remember being informed of public meetings by this mining company in our community.

Ms. GIFFORDS. Okay. Thank you.

Ms. Levick?

Ms. LEVICK. Does this work?

Mr. GRIJALVA. Yes.

Ms. LEVICK. Yes. I have the same response basically. I have seen Mr. Sturgess present at various City Council or, you know, supervisors hearings, or PAG meetings, but I don't recall the company ever holding a public meeting where we were invited, and I wanted to ask him, if he had these meetings, why weren't we invited?

Ms. GIFFORDS. Thank you.

Mr. GRIJALVA. Anything else?

Ms. GIFFORDS. No.

Mr. GRIJALVA. With that, thank you very much. We will thank the witnesses. And under Committee Rule 4(h), additional material for the record should be submitted by members, or witnesses, within ten days after the hearing. I would appreciate the witnesses' cooperation. If there are questions that we didn't get to, and we will submit those in writing, and would appreciate the cooperation of responding to those as well for the record.

We are going to take a little break before proceeding to the public comment period. The Subcommittee is in recess, a 10-minute break, and we will resume the hearing after 10 minutes. Thank you.

[Recess from 11:45 a.m. to 11:55 a.m.]

Mr. GRIJALVA. I will reconvene this meeting of the Subcommittee, and thank all of you for being with us today. The panels and the question-and-answer period went longer than we anticipated, but that was good, that was good information. Other commitments are going to come into play in a little while, but rest assured that all the information that you give us will be part of the record, and any written information that anybody wants to provide to us within ten days should be submitted to the Natural Resources Committee.

Protocol and courtesy. First, I would begin with the public comments of elected officials, beginning with the Chair of the Pima County Board of Supervisors, Mr. Elias, for three minutes, please, and hopefully everyone that we call forward can limit their comments to three minutes. Thank you.

Mr. Elias.

#### ORAL STATEMENTS FROM AUDIENCE MEMBERS

Mr. ELIAS. Thank you, and good morning, Representative Grijalva, and Representative Giffords. It is a pleasure to see you here today. I understand that we tried to find the plaque with Chairman Grijalva's name on it, in order to reuse it again, but it was made of recyclable material, so—

[Laughter.]

Mr. ELIAS. I didn't do it but somebody did. Where is Chuck? No. I am sorry. I digress. I will try and make this quick because I realize that as many people as we can, we want to have testify today.

But I do want to thank you, and comment to you that it is an honor to have you here, holding this hearing here today, with all

of these folks who truly believe in Tucson and Pima County and what a wonderful place it is.

I am a fifth generation Tucsonan, and my family has been here for longer than that, actually. My first relative being in the first detachment of soldiers sent to the Presidio. So within that time, and all the time we spent out on the Sopate ranch, we have watched the economy grow, here, in Pima County, and change, over time.

We heard mention of the “boom and bust” nature of mining and mineral exploration, and it is true, and my family and myself have witnessed that, over time.

I think it is important that we make a special note of that, because the discussion typically, about mining and mineral exploration, revolves around jobs versus environmental concerns.

And those of us who have lived here, in Arizona, for a long period of time, recognize that this is really a hollow argument, in many ways.

Economic changes versus tourism and the changes that have come in related to that, and the growth in that industry, are important to us.

But also, I would comment that, over time, the unions and organized labor, have worked hard to protect miners’ interests, and we have seen ASARCO renege on the retirement promises to their workers, over time, and now their health, which they gave to their employers, is truly at risk, because now, they must pay out of their own pockets, when they were promised something different.

This is another example of that “boom and bust” problem that happens in relation to mines.

This is something that we must come to some kind of agreement on, so that we can recognize that we have to protect the important biological and scenic natures of Pima County, but also show an interest to not only the environment but also the people who live here, because they are all important to us.

Issues. The Sonoran Desert conservation plan and comprehensive land use plan have been designed to protect our remaining valuable assets and eco systems, and towards that end, the voters, in 2004, approved over \$174 million to purchase open space.

\$30 million dollars of that has been spent in the area of the Rosemont mine. Las Cienegas National Conservation Area, Cienega Creek National Preserve, and the proposed Davidson Canyon Natural Preserve. Several of those areas are under attack now, not just from the Rosemont mine but also from a proposed cement mine in the Davidson Canyon area. The Board of Supervisors has, in a bipartisan manner, and I am very proud to have some of my colleagues here in the audience today, look forward to hearing their comments, unanimously passed a resolution in opposition to all those mining efforts. This is something that is very important to us.

\$30 million of local money with more than 60 percent of the voters approving that money being spent in that manner, being changed by a decision where we have very little to say about it. That concerns us, greatly.

Legacy. Legacy issues are important to us. The Mission Mine that ASARCO currently owns radically altered more than 11,300

acres of land in that area. 11,300 acres. And the price tag for clean-up and reclamation in that area is more than \$415 million.

But, again, the company's financial future remains in doubt. We do not know, the Tohono O'odham Nation do not know where that \$415 million of reclamation are going to come from. Promises are nice but reality is another thing that all of us must face in a changing economic world.

Public health, and protecting the public health is important to us too, and I think that when you put biological concerns, conservation concerns, that I might add, have really become a bipartisan concern of all this region, due, in large part, to Chairman Grijalva's leadership in his time on the Board of Supervisors, has grown to a tremendous size.

I will couple that with the issues related to public health. Thus Sierrita Mine, owned by Phelps Dodge, in 2004, released 1,053 pounds of mercury into our environment. That same year, 1.2 million pounds of lead were released into our environment. I assure you, that is not good for anyone, and our friends from Green Valley that are here, I am sure will be the first ones to testify to the damage related to their own health and the future of their homes and their community.

We remain very concerned about that. We stand in opposition to this mine at Rosemont. We ask you to take the lands of the Coronado Forest Service out of mineral exploration for the future, and I would ask that you include the public lands owned by local municipalities in that request as well.

We look forward to your help in maintaining the sacred place we live and assisting the honest, hard-working people who live here. Because we have such a short amount of time available to us, I will cut my comments off now, but before I leave, I would ask everyone who is in the room, in opposition to the Rosemont mine, to please stand and let their voices be heard. Thank you.

Mr. GRIJALVA. With that, let me—thank you—let me call—the next person I'm going to call is Mr. Ray Carroll, supervisor of the district, who will bear the consequences of a decision on Rosemont in the future and now.

Mr. Carroll.

Mr. CARROLL. Thank you, Chairman. Thank you and good morning. I would like to thank the esteemed Chairman, Congressman Raúl Grijalva, for presenting this excellent opportunity today, to discuss some of the vitally important issues for our community and our country.

I want to welcome you back to your chambers, where I began as a member, almost ten years ago, and it is an honor to have you in Congress, and it is an honor also to welcome Congresswoman Giffords here to our hearing room, as well as all the Washington, D.C. staff. I hope your stay is a pleasant one here and I hope that you enjoy southern Arizona.

My name is Ray Carroll. Do you need my address for the record, like—

Mr. GRIJALVA. Please.

Mr. CARROLL. Okay. I'm watching that, and the yellow light, I am out of here. I am the county supervisor who represents District 4, and that includes some of the most pristine and environmentally

valuable areas in Pima County, including Mount Lemon, Cienega Creek, Colossal Cave, Madera Canyon, and other, many unique natural environments.

District 4 also includes areas that are highly threatened by proposed mineral extraction. Included in those are Rosemont Ranch in the Santa Rita Mountains and Davidson Canyon. District 4 includes a retirement community mentioned by our Chairman, Richard Elias, which has been burdened with viscous dust, some molasses type material coming off the tailings of the mines in the area. It stuck to most everything in each house in South Green Valley, including the family pets. It was so hard to get off, that the mining entity itself volunteered to clean up almost 600 homes, because it took a lot of elbow grease. Even it got on some of the family pets, which are not easy to clean in the first place.

Our constituents rightfully complained about the effects of the mine on their quality of life, and I have listened, and as a representative of those people, I am here to tell you, I support their claim. This is not a good idea, to create more mining in District 4, and especially in the recreational basin, and the view shed of what is a growing population, an area slated for new growth in Pima County.

One of the greatest political leaders for conservation in our nation's history was a fellow Republican, President Theodore Roosevelt. T.R. was a man who had a lifelong, intense personal interest in great outdoors, but he also had a deep understanding that it is the responsibility of political decision makers to take care of our natural resources, because doing so protects our nation's strength and prosperity for future generations. He called conservation "a great moral issue," and if it were so then, it is even greater now, because the threat to our land and water is much greater today.

In Pima County, we have stepped up to meet the challenges. Each resolution passed by the Board of Supervisors in opposition to mining has been unanimous. There are numerous issues that need to be addressed. The pollution of air and water, the effects of overpumping our water table, proliferation of invasive species such as buffelgrass, which due to the disturbed surfaces of mining operations, get a strong foothold on their lands.

The public health risks. The ultimate cost to the taxpayer due to the grossly inadequate mitigation and reclamation efforts of the mines after they leave. There is about 35,000 acres used for mines already in Pima County. Most of it has not been reclaimed.

In the West alone, it is estimated that the cleanup of mineral extraction could cost 72 billion, with a b, dollars. The history of mining in Arizona is replete with "horror stories," but state law prohibits Pima County from exerting authority over mine reclamation.

That is why we are here today, to ask for federal assistance from our congressional delegation, to initiate the permanent withdrawal of mining on all federal lands within the Santa Rita Mountain range and the remaining federal lands within the Coronado National Forest.

It is the American people who are the ultimate landlords of the over 270 million acres of public lands open to mining claims, and

as representatives of those people, we ask for your strength and leadership to do the right thing on their behalf.

Thank you, Chairman.

Mr. GRIJALVA. Let me at this point welcome our next speaker, a former colleague, Supervisor Bronson.

Ms. BRONSON. Thank you, Mr. Chairman, and Congressman Grijalva, Congresswoman Giffords, welcome home. It is a pleasure to see you today and we truly appreciate you holding this hearing.

I am going to be brief. I want to talk about three things. I want to talk about validity, I want to talk about transparency and I want to talk about accountability.

You heard that the Forest Service has a policy that they don't examine claims, validity claims until after the fact. If this is indeed a policy, I would then urge Congress, before I would begin this costly, expensive process, costly in the end to taxpayers, that Congress require that the Forest Service indeed investigate the validity of this claim.

Number two. Transparency. Of the mining claims to come forward through the U.S. Forest Service, to date, to my knowledge, once the NEPA process has started—and again, remember, in previous testimony it was said that the NEPA process would provide the transparency, the ability of the public to influence outcome. Not one mine has been denied. They have all moved forward.

So I would question that transparency does indeed exist in the process and I would ask that Congress review, and in fact demand better transparency than currently exists.

In regard to accountability, recent studies of 70 environmental impact statements for modern era hard rock mines, have found that water quality impacts for mineral extraction are consistently grossly underestimated, mitigation measures consistently grossly inadequate and undercapitalized, where taxpayers are left to bear unjust financial burdens.

Again I would ask, as this process moves forward, that we have in fact, through the environmental impact statement, the NEPA process, that we have guaranteed measures that will not underestimate the impact to water quality, undercapitalize the reclamation process.

And then I would like, on behalf of the Santa Cruz Board of Supervisors, to alert you to the fact that yesterday they passed resolution 2003-03, requesting the permanent withdrawal of mining exploration and extraction from all federal lands within the U.S. Coronado National Forest in eastern Santa Cruz County. They request that those lands be withdrawn.

The vote was unanimous and the resolution will be forwarded to you.

Again, I thank you for this opportunity and welcome you home, once again.

Mr. GRIJALVA. Thank you very much. Let me at this point ask Councilwoman Ullich to please come forward and on behalf of the City Council, and make a statement.

Ms. ULLICH. Thank you, Chairman Grijalva, Congresswoman Giffords, and all of you for being present on this important matter. I am simply here to transmit a residential, a memorial that I introduced for consideration by the Tucson mayor and City Council on

February 6th. That measure was unanimously adopted and clearly articulates the reason why we, as a city, oppose the Rosemont mine request.

We are also wholly in support of the leadership of our county Board of Supervisors and stand ready to provide further information, as you would require it of us, or ask it of us. Briefly, our local experience, and numerous local studies, indicate that the proposed mine would clearly damage our area ecosystem and jeopardize water quality in our region.

It would be hard to overstate the long-term economic and environmental repercussions of this kind of project, not only to Tucson but the entire regional economy and health and well-being.

It is clear to us, as well, that it would return little, if any, net economic benefit. We cannot solely look at and try to measure the benefits of this kind of venture, in terms of the billions of dollars of mineral profits that might accrue to a particular corporation, or even the interests of the Nation, that might be served by a fraction of the minerals that are being offered through this venture. We must look at the overall net effect, and I can tell you, as we all know, who live here, that this ecosystem is unique in the world. This is the only place where certain flora and fauna are found, and we are a worldwide draw, and that is integral to the economic health and well-being of our community.

If we jeopardize that, if we are not good stewards, we are, in fact, put at risk, much more than the minerals at stake here, I would argue.

Speaking as an individual member of the Council, we therefore would—I would urge you to work with the county Board of Supervisors, and others, to ensure that this plan not go forward, and that we take a more holistic approach to the factors that are at risk here. Thank you so much for your time and consideration.

Mr. GRIJALVA. Thank you. Let me invite Mr. Doug LaFollette, Secretary of State, Wisconsin, for your comments, sir.

Mr. LAFOLLETTE. Thank you very much for allowing me to speak this morning on this very important issue. My name is Doug LaFollette. I have been Wisconsin's elected Secretary of State for many years. I also serve as the Chair of the Wisconsin Land Commission and I hold a PhD in organic chemistry.

I am here in the Tucson area for a few days of hiking. I love Wisconsin, but a break from walking to work at minus 12 degrees is going to be nice. I, like many others from the Midwest, have visited the Tucson area many times. We bring our tourist dollars with us and we are glad to spend them here. I am very pleased to see the local involvement in this process. As a public official myself, I think it is critical, and what I have learned here this morning, and I am learning from the county board representatives, City Council, and others, is very enlightening, and really, very encouraging. We, in Wisconsin, have experienced a number of episodes of mining activity, and many of the complaints and concerns I have heard are very valid in terms of transparency, openness, accountability, etcetera.

I have hiked the Santa Ritas. I have driven the scenic 83 that will be destroyed by this proposed mine. Wisconsin also depends on tourism, it is one of our major industries, and without major reform of the 1872 Mining Law, our beautiful north woods, lakes and

streams can be threatened, very much the way the Santa Rita Mountains are threatened by the Rosemont mine.

I urge you to protect this area in your community now. In all respect to Members of Congress, I doubt if the mining law reform is going to pass any time soon. Let's hope it passes your House, but the Senate is more problematic. We have been at this for many years. Senator Bumpers, who is a friend of mine, fought this battle, over and over again.

So as a short term, you need to protect your community by withdrawing some of this land. In the long term, you know, the reform of the law is of course critical. Both mining reform that is fiscal and environmental is very long overdue.

When I mention the 1872 Mining Law to many of my constituents, as I have worked with them over the years, they try to correct me, and they tell me, no, 1972, and I say no, no, it is 1872, and they don't believe it.

I know a large majority of my fellow Wisconsinites want reform along the lines that you have heard here today. Some of the topics that I will not talk about but only mention, that we have dealt with in Wisconsin, and I would be glad, Mr. Chairman, member, to discuss this with you. There are people in Wisconsin who have dealt with it, who could also be helpful. The jobs issue. It is a ruse, in most cases. We have had mine developments open and closing, many, many jobs promised. There were jobs, temporarily.

The real estate industry does pretty well for a while. Most of the jobs come into the community by expert people. A few local guys get to drive some trucks and make some money. But it is not the boom you think, in terms of the local people. I would urge you to look at the work of a professor, sociologist, Al Gedicks, University of Wisconsin, who has done a form called *The End Of An Era*, done extensive research on boom/bust economies as far as mining is concerned, and his research would be helpful to you.

The water issue is critical. Wisconsin, we have got lots of water. You folks don't have nearly enough and you have to be very careful about it. But even in Wisconsin, we have had serious water issues with these mining proposals, proposals to build 20 mile pipelines, to move water from one river to another river, all kinds of schemes to deal with the water, all of which could be real problematic.

We have stopped some of the worst ones in Wisconsin, I am proud to say.

The ownership issue. We have dealt with at least two cases where the owners were foreign corporations, they had local subsidiaries, no connection and accountability. As Secretary of State, I understand something about corporate accountability. That is where you have a local Falambo Mining Company—that is a real story in Wisconsin—that was also owned by Rio Tinto, Inc., a British company—but Rio Tinto had no responsibility for the liabilities of Falambo Mining Company who was actually on the job, driving the bulldozers. Very complicated.

And one thing I have heard nothing about, that I will just mention, that is processing. We heard about three trucks an hour going somewhere, but I don't know where they are going, and that is another factor that your community should watch out for, cause



where they take that ore presents another very serious issue to be concerned about.

Well, in conclusion, I urge you to finally reform the 1872 Mining Law, it has become a sad joke, and it is a giant give-away of public resources. And I want to thank you very much for this opportunity to not only be here today but to enjoy your beautiful community. I will come back again, I assure you. Thank you.

Mr. GRIJALVA. Thank you, Mr. Secretary. I did very well trying to keep the elected officials to 3 minutes, and I promise to do better in the rest of it, and I would really hope that—it is a courtesy and a protocol—but as we go forward, that the names that are called, please, so that we can get as many people as we can in to discuss, try to keep it at three minutes.

I have some good comments here from the Vindiola family, and I would like to ask Ms. Anita Vindiola to please come forward for three minutes.

Ms. VINDIOLA. Yo soy la Senora Anita Vindiola. Y vengo a decir que por favor pues que no destruyen alla, yo recreo en los montes. Que alla vamos cada summer con mis hijos y mis nietos. [English translation: I am Mrs. Anita Vindiola. And I came to say that please don't destroy over there, I recreate in the mountains. It's over there that we go each summer with my children and grandchildren.]

Mr. GRIJALVA. A little English, a little Spanish. That will work too.

Ms. VINDIOLA. So I would appreciate very much if they wouldn't destroy all the—I am 82 years old and here I am still going over there with my children and grandchildren to pass the days and pick acorns. Then if all those trees are gone, we are not going to have that anymore, no bellotas.

Mr. GRIJALVA. That would be terrible, no bellotas. It would really be terrible. Thank you very much. Thank you and I appreciate it, and your comments will be part of the record, that you submitted. Thank you.

Let me at this point welcome Mr. Manny Armenta for his comments, please. And after him—I will call up a couple of names. After him, Ms. Nancy Freeman, after Mr. Armenta.

Mr. ARMENTA. Thank you, Chairman Grijalva, and Congresswomen Giffords. My name is Manny Armenta. I am the subdistrict director for the United Steel Workers of America, that represents the mining industry. I am personally in charge of Arizona, New Mexico, Colorado, Utah, and southern Idaho in my subdistrict. I guess I'm here as a minority but I do support Rosemont in their efforts to do it. I have worked a lot in my career with the different people and organizations in the environmental issues.

I also was involved with the ASARCO situation, which has drastically changed because it was Grupo Mexico, not necessarily ASARCO. I believe that in the 30 plus years I have been in this industry—I am also a third generation miner—that this is probably one of the best plans I have seen, and I know there are a lot of issues out there, environmental. But I feel that our Government, through the EPA, should enforce the laws that are out there, and unfortunately, I don't see that happening.

I think we have an umbrella to cover those issues that are not being covered, and if Rosemont was to fall in the same predicament as the other people we deal with, EPA should do it, and I thank you for your time, for letting me speak here. I do believe this could be a positive thing, and we could stop, we could stop all the metals that are coming in from other parts of the world, because this country no longer has an industrial base in this country, because some of the decisions the parties have done, mostly the Republican Party with their free trade issues that are now affecting this country. Thank you very much.

Ms. FREEMAN. I am Nancy Freeman, Groundwater Awareness League. I really appreciate this opportunity and thank you all for being here. I am going to talk about water but I have to stick in one comment because everyone is interested in jobs, and the mining company talks about high-paying jobs. In 1985, a haul truck driver at Mission Mine, or Twin Buttes Mine, got \$15 an hour, and that is the starting pay for a haul truck driver today.

So the myth of the high-paying jobs is long since gone. I have been studying the water pollution by mining and the water depletion problems in Arizona for over four years now.

From extensive research, including attending committee hearings at the Arizona Legislature, I would suggest that there be a thorough hydrological study of water levels of national forest and national wildlife refuges in the Southwest, and that consideration be made to protect the groundwater levels in public lands. Mining is one industry that uses huge amounts of water for their extraction processes.

In Arizona, industries, including power plants in mining, are exempt from all groundwater pumping laws, even in active management area. This means that in regions of mining, groundwater tables are going down and there is no recourse. Problems of depletion in mining areas was highlighted in early 1970's, when Farmers Cooperative in Green Valley, sued the local mining companies for depletion of the Santa Cruz aquifer, which would eventually infringe on their water rights in that aquifer.

Further, Farmers Cooperative and Tucson Water Company asserted that water not fit for drinking should not be put into the aquifer, and I have included copies of those law suits. I remind you, that at least in Arizona, the so-called aquifer protection permit is an aquifer pollution permit, allowing industry to pollute up to a certain point.

So, in Green Valley, we have a sulphate level, ambient, of 50 milligrams per liter whereas aquifer protection permit allows pollution up to 250 milligrams per liter, and this is a special case. In New Mexico, they felt lucky to get 650 milligrams per liter.

Frankly, I want to speak up for the trees, plants, and wildlife. Birds and animals do not have the intelligent capacity nor the ability to dig wells down to bedrock at 12,000 feet, then decide what they are going to do next, as we do in Arizona. They are dependent on surface water. The water has to be cleaned. Not only is Rosemont area in danger of dropping water table, but we have a similar situation in the Superior area, where a British company proposes to tunnel down to 7000 feet, which means the tunnels will have to be de-watered down to 7000 feet.

At the Oak Flat, U.S. Forest Service campground, there is a stunning and diverse array of priceless breeding and wintering birds, that bring birders throughout central Arizona. And mining is not the only source of drawdown in Forest Service areas in public lands. At the Buenos Aires Wildlife Refuge, the riparian area is being threatened by exempt wells pumping in nearby Arivaca. The Tonto National—

Mr. GRIJALVA. If you could just start to conclude. Thank you.

MS. FREEMAN. Okay. The Tonto National Forest riparian areas are being dried up by development near Payson. So originally, the Forest Service was designated to provide a watershed. So I hope this important aspect of the National Forest will be taken into consideration, and I do have quite a bit of documentation to give you a lot of information.

Mr. GRIJALVA. Thank you, and let me just for the sake of trying to get as many people that have requested, which we won't get to everybody, that written comments are going to be a part of the record, they can be submitted for 10 days.

**[NOTE; Numerous comments, letters and statements submitted for the record have been retained in the Committee's official files.]**

Mr. GRIJALVA. And what was the other point I was going to make? The little red light means something, and—

[Laughter.]

Mr. GRIJALVA. Dr. Tim Marsh, please.

Dr. MARSH. Representatives Grijalva and Giffords, it is a pleasure to be here today. I am not like the other people who have spoken today. I am a scientist, I am an engineer, with a PhD from Stanford University in the field of ore deposits and exploration. I am a geologist. I look for new ore deposits. I am formerly chief geologist of Resolution Copper Company. I am a graduate of the Colorado School of Mines. Rocks are my business.

You can't go anywhere on this planet and find copper. It comes from very specific environments, and I would argue that the Santa Rita Mountains are a very precious environment that needs to be preserved. It needs to be preserved for a single purpose that is the exploitation of mineral resources.

One thing we have done in this country very successfully, and that is to preserve parts of our country for special uses. We have national parks, we have State parks, we have got a lot of areas that have been zoned for very specific uses.

We have got industrially-zoned parts of our towns and counties. I have witnessed, firsthand, the results of Mr. Huckelberry's efforts in Pima County and what his dream is for this county. I don't like what I see. I see tens of thousands of acres being paved over by residential areas, and instead of triangle-leaf bursage, and prickly pear, and creosote, all the plants that we love as part of our Sonoran Desert, we see houses and houses and houses, and a serious problem is arising in our Nation today because of that uncontrolled growth, and that is the paving over of our Nation's mineral resources.

We have got housing developments in Casa Grande and in Pima County, here, that are being built on our Nation's mineral resources. There is a hungry dragon east of here by the name of

China, and all of Eastern Asia, that is growing phenomenally fast, and it is sucking up minerals from the places that we have been importing them from.

From Chile, from Peru, from Mexico, those minerals are going to China, they are going to India, to make the things that everybody has to have these days. We have all got to have Ipods, we have all got to have cars with our 40 pounds apiece of copper in them. That copper has got to come from somewhere.

We are not going to be able to get it from Chile forever. We are not going to be able to get it from Mexico forever. We have got to get it where we have got it, and where we have got it is in the Santa Rita Mountains. It is in Pima County. Pima County is an epicenter of mineral resources, specifically molybdenum, uranium, gold, copper. This is the place. Let's protect it for the right use and the right use is development of mineral resources. Thank you very much.

Mr. GRIJALVA. Thank you, sir. Let me call a couple of names. Mr. Dick Schuman and Ms. Dawn Garcia. Is Mr. Schuman here?

AUDIENCE MEMBER. He is not here.

Mr. GRIJALVA. Okay. Ms. Garcia, and after her will be Joy Maccabee.

Ms. GARCIA. My name is Dawn Garcia. I am an Arizona licensed professional geologist. I am representing the American Institute of Professional Geologists, the Arizona section, and we formally ask that the U.S. and State governments do whatever they can to better facilitate development of this country's valuable mineral resources.

AIPG supports unfettered access to public lands for environmentally responsible and smart development of mineral resources. The vast extent of public lands managed by Federal and State agencies contains undiscovered and discovered resources that are vital to maintaining and improving Americans' standard of living and national security.

Existing Federal and State laws and regulations are intended to ensure that the citizens protect water, air, biological and cultural resources that exploration and development of mineral resources is undertaken with minimal adverse impacts to the natural environment.

Restricting access to public lands severely inhibits the responsible development of domestic energy and mineral resources. Such restrictions further impact the national economy and our quality of life.

Lack of access to public lands encourages imports of oils, metals, and other resources from other conventional without the environmental protection laws that we have in the U.S., or from countries where those are not enforced.

The American Institute of Professional Geologists believes that the U.S. should be a world leader in environmentally responsible development of its own natural resources. Please do not weaken the 1872 Mining Law. The American Institute of Professional Geologists encourages the U.S., State and local governments, to facilitate the development of domestic natural resources.

Thank you for listening to this testimony and entering this document into the public record.

Mr. GRIJALVA. Thank you very much. I recognize Congresswomen Giffords.

Ms. GIFFORDS. Yes. Thank you, Chairman Grijalva. I am glad to see such an interest in this. I thought the hearing was going to go to noon and I have a 12:30, and I need to step out, but if you would please make sure that I have information that is going to be proposed.

And, particularly, I just want to say, because I do believe that a hearing is important to hear all sides, and I know that we are now just starting to hear from the other side of the issue, and I am looking forward to hearing that testimony but I have to leave, so—

Mr. GRIJALVA. Thank you very much. I called Joy Maccabee, and also let me call a couple more names. Glenn Martin after that, and Scotty Johnson after that.

Is Joy here?

Scotty Johnson here? And then Mr. Martin after that, please. Okay.

Mr. JOHNSON. Congressman Grijalva, many thanks for keeping alive via such meetings the all-important dialogue of democracy and for bringing this opportunity for citizens in the area to speak on this issue which is important to all of us.

My name is M. Scott Johnson. I am both a native Arizonan and the senior outreach representative for Defenders Of Wildlife in Tucson. Defenders is a national wildlife conservation organization dedicated to the protection of all native animals and plants in their natural communities.

I prepared some comments in more formal fashion and I will submit those, in writing. I will skip some of them today because I think a lot of people have covered a lot of the impacts of the Rosemont mine, in particular.

And I want to jump straight to the overarching 1872 Mining Law, and I want to put it in the context of as we look at the environment in large, and how that has changed since 1872.

As we look at the newly free rein that the law, today, gives on environmental concerns, it is important to note that the forests of America and the American Southwest are in serious trouble.

They are suffering, not from one factor but from many factors. A sort of death by a thousand cuts. Extended drought, an epidemic of pinebark beetles, a century of fire mismanagement, extirpation of keystone and cornerstone species, an influx of invasive species, and surface disruption, which this would be one.

And then overarching all of this, we have the larger concerns of global loss and biodiversity, facing what biologists call the Sixth Great Extinction, and global climate change, which is throwing factors into this we cannot even begin to think about or imagine, or can't even begin to quantify exactly. Extreme water events and their impacts on mining collection ponds is a good example.

I just have to say, quickly, that any new developments now allowed in the Coronado National Forest, under the auspices of that law, should proceed with a scientifically-based, holistic view of forest and diversity health. Rosemont is just such a situation.

Now, in quantifying the science here, it is important to note that we can't quantify this exactly because our National Forest policy

has also gone a sort of “death by a thousand cuts.” Reduced funding and resources for forest managers, politics over science, and land managers and scientists—excuse me. Politics over science and special interests over public interests.

They have handcuffed our land managers and eliminated good scientific data. One example of this is the wildlife population viability analysis which were required in the regulations in the National Forest Management Act.

Shortly after taking office, George W. Bush gutted these PVAs. These were enacted under the Reagan Administration as Reagan’s wildlife legacy policy, as part of the Forest Service Management Act regulations. Assessing the health, or viability of wildlife populations under this, this is a necessary tool, and we have that no longer because the Bush Administration saw an expedient and eliminated—saw those as inexpedient and through expediency eliminated those.

So, in closing, let me just directly say that the mission of the 1872 Mining Law needs to be updated, both to ensure forest health and to ensure consideration of a new emerging ethic or value that the public has, in seeing the forest as a resource for future generations.

This emerging ethic is a desire to leave wildlife and wild lands legacy for our children and grandchildren, and to enjoy forests as we now enjoy them.

There is now, in the public mind, a new spirit born of concern for our forests, and a strong desire to protect them, a new ethic, a new value, yet unformed in 1872 when this mining law took effect, and this ethic, this desire to leave a wildlife legacy—

Mr. GRIJALVA. You need to wrap up pretty soon, Mr. Johnson.

Mr. JOHNSON.—for future generations must be taken into consideration and thank you very much, sir.

Mr. GRIJALVA. Let me call Mr. Martin. If I may, before you begin Mr. Martin, let me call some other names. Annie McGreevy, Richard Bishop and Jesse Edmondson. If those three could be ready. Okay. Sir, please.

Mr. MARTIN. Thank you, Mr. Chairman. My name is Glenn Edward Martin. I am the president and CEO of United Mines, Incorporated. We’re an Arizona corporation. We are at 11924 North Santoras Place. My phone number is [520] 742-3111. How is that for transparency? Anybody wants to contact us, we are available to talk on all these issues.

Primarily, going back in, starting with Mr. Featherstone who mentioned that, you know, the 1872 laws were not applicable today. Well, the Comstock Load was a huge silver mining operation, started Virginia City, and if it wasn’t for the Comstock Load and the Government using that silver, we might all be speaking in southern tongues.

So it goes back to a long history. Yes, this 1872 Mining Law needs to be corrected and things need to be modified with it. The biggest thing that I see throughout the threads of everybody’s comments is we’re not paying royalties.

I agree with that standpoint. I believe mining is a God-given right, and it is under the laws of the United States, and I believe we should be paying for those rights.

We own some 3500 acres of mineral rights in Arizona, primarily in southern Arizona. We own a mill site down by Arivaca that Mr. Huckelberry had mentioned about the Rancho Seco project. The Rancho Seco project, we spent several millions of dollars, that gave to local landowners, and they did not take into any context of the subsurface mineral rights, that they could either go to the BLM themselves and get, or that type of nature.

They also wanted—the patented properties on the Rancho Seco property is called the Silver Queen. It's a 20 acre patented piece that is now owned by Pima County and there's huge tailing piles there, but they're not doing anything with, and it's going to just go right into the water.

Pima County needed to address these things before. They put millions of dollars in the pockets of a few landowners but they did not take in any mineral rights concerns at all. We would offer to even clean up that site, free. Give us the patented property, we'll clean it all up for them. It's not a problem. But Pima County is not addressing—they're buying property and they are not addressing their own cleanup problems at the properties that they buy.

The landowners that are out there do not take into effect mining that is out there. They own the surface rights but they do not do anything with the subsurface rights, and they cave in a lot of these tunnels that are a danger to people coming through that area.

Primarily that is the main thing I wanted to address, was the fact that we need to pay royalties. You know, I think as Augusta Resources is a Goliath, we are Little David. You know, they have a very good plan, from what I have read from it. I would encourage the board to approve their plan, and we need, as Dr. Marsh had said, we must go into an industrial age and competing with the gross domestic product of China, is 8 to 10 percent, and right now, they have already stopped 50 percent of their copper exports.

So we need to mine where we can, and it is good right now. We thank you again.

Mr. GRIJALVA. Thank you.

Ms. MCGREEVY. Chairman Grijalva, I am Annie McGreevy from Senoita. I bring you the resolution passed yesterday by the Santa Cruz County Board of Supervisors, requesting permanent withdrawal of mining exploration and extraction from all Federal lands within Coronado National Forest in eastern Santa Cruz County.

Whereas the U.S. Forest Service, via the National Environmental Policy Act, will be required to take into account consistency with local land use plans, which in this case is the Santa Cruz County comprehensive plan, and whereas the Santa Cruz County Board of Supervisors believes mineral exploration and extraction is not consistent with the goals of the Santa Cruz County comprehensive plan for this area of our county, and whereas the Santa Cruz County Board of Supervisors has concerns about both the quantity and quality of groundwater resources in eastern Santa Cruz County, critical to support our current and projected residential population.

And whereas recent studies of 70 environmental impact statements for modern era hard rock mines found that water quality impacts from mineral extraction are consistently underestimated, and

therefore mitigation measures are inadequate and undercapitalized, leaving taxpayers with unjust financial burdens.

And whereas mineral extraction has a legacy, in Arizona, of leaving behind adverse environmental, economic and visual impacts, that place undue hardships upon local citizenry, and often require Federal assistance for reclamation and restoration efforts, such as the removal action currently underway in Alum Gulch, Flux Canyon, in eastern Santa Cruz County.

And whereas recent budgetary reductions in the United States Department of Agriculture left the United States Forest Service understaffed, and therefore unable to adequately monitor mineral exploration and extraction activity in Santa Cruz County, now therefore be it resolve that the Santa Cruz County Board of Supervisors requests that the Arizona congressional delegation initiate the permanent withdrawal of mineral exploration and extraction from all Federal lands within Coronado National Forest in eastern Santa Cruz County. Passed and unanimously adopted by the Santa Cruz County Board of Supervisors, this 23rd day of February 2007, yesterday afternoon.

Mr. GRIJALVA. Thank you very much. Mr. Edmondson, and I believe I called Mr. Richard Bishop and Mr. Bill Ketzel after that. Sir.

Mr. EDMONDSON. Hello. My name is Jesse Edmondson. I am a resident in Tucson. I have been here for about 11 years. Not very happy to be here. I would rather be working. I have come to these with the resolutions for Pima County against this mine, and it's also taken me away from work. A lot of us who have work have not been able to come to these meetings.

The resolution from Santa Cruz, I found out yesterday, at 2:30. They had their meeting at 2:00 o'clock. I would not have been able to be there if I tried. There is transparency on that side.

This comes down to a moral issue to me, and a value issue. People talk about jobs, with no value of what that implies. Jobs implies families, children, lifestyle. At least for 20 years to me is still life—it is still more important than any endangered species I have ever met. A human life is way more valuable than that.

A tree is not as valuable to me as somebody's life and livelihood. We are not taking that into consideration. We are saying save these mountains but get employed 400 families.

Another issue I have is the 1872 mine law has been, as Mr. Sturgess has said, amended, adopted. We have laws, and laws and laws that we have forgotten. Let's enforce some of our laws.

EPA has tons of laws, to where it is almost impossible to start mining. If we enforce some of these, the mines will be cleaned up. We are also holding Augusta to a unfair level. They are humans, we are all humans, and we are expecting perfection from them. Leaks will happen from any industry. Accident happen.

As far as pollution, our vehicles are more of a pollutant in this area than Augusta mine will be.

As far as water, stop development. If this mine is out there, I believe the developments will stop out there. As we have heard Carol say, there is going to be developments, this land will be developed, in one way or another. What is the best way to develop it is what is at issue. I believe the mine will stop public developments which



would—and I believe septic tanks of the residents out there now to be as detrimental as a mine, to me.

I was trained in the Marine Corps to make right decisions, and I was also trained in my family to make right decisions. If I didn't believe in Augusta, I would not have been working for them. I have turned away other jobs that I don't feel well about; other missions, personally. Illinois. We lost our family farm from the Nature Conservancy because they condemned us for a plant. My family's lives were ruined, and consequently, divorce, from an environmental movement. I jokingly call the Reversal of Freedom Acts.

I do not feel free. I feel I am endangered again from environmental movements, because they don't value my life or my decisions. They would rather look at a tree and a mountain. Thank you.

Mr. GRIJALVA. Thank you, sir. I called Mr. Bishop and Mr. Katzel next, if they are here. Sir.

Mr. BISHOP. Yes. Richard Bishop, Chairman of the Dragoon Conservation Alliance in Dragoon, and I would like to also thank you for having these hearings.

Our group has dealt with a number of mining operations that are proposed, and we would like to add, that we believe the mining law of 1872 needs to be reformed, revised. But one, we would also like to make a point that that is not the only law that needs revision.

In particular, our community has had to deal with aspects of the Stock Raising Homestead Act of 1916, and that Act involves the ability of mining companies to make claims on private land, and that has caused quite a bit of problems in our community. Just to give you an example, an elderly lady who has lived in Arizona for quite a while, and got a letter in the mail, that in 30 days, a large Australian copper company was planning to start drilling and exploring on her ten acres. To us, this seemed unbelievable, but, in fact, it is part of the law, the Stock Raising Homestead Act of 1916, and in conjunction with the 1872 Mining Law, that private land can be claimed.

We think that needs to be changed. There was a revision in 1993, that basically just allowed a 30-day advance notice. Before that, there was no notice, and we think that when people move and buy that land, their piece of land, five acres, ten acres, 20 acres, intending to have a small ranchette, they should not have to put up with the prospect of a mine operation starting drilling in their back yard.

My second point has to do with the Forest Service, and there have been some mine issues where we have tried to communication with the Forest Service and we find it difficult, and, in fact, in the Forest Service's own planning, meetings for their long-range plan, they found that communication is one of the biggest complaints.

We don't believe that the 1872 Mining Law, or any other law, says that the Forest Service can only talk to the mining companies. We would like that community groups also have the ability and the access to the Forest Service. In particular, I would give it as an example, that just a few months ago, Phelps Dodge did a drilling project in the Dragoon Mountains off Middlemarch Road, that was on the schedule of proposed actions of the Forest Service. We believe that all actions should be on the schedule, and they should

be available for public review. In this case, by the time we learned of it, there was no time for public review, and this was a fairly substantial project that involved building a helicopter pad in the National Forest, running water lines, and drilling.

So to conclude, we would like to see better communication with the Forest Service through your oversight ability. We would like to see that our group could communicate a little better with the Forest Service, we get advance notice of what is going on, so that we can decide whether we want to oppose or not oppose actions in terms of mining. Thank you.

Mr. GRIJALVA. Thank you.

Mr. KATZEL. My name is Bill Katzel. I am a two year resident of Green Valley. I am a 31-year-resident of Pima County, and "Mo" Udall was my Congressman when we first acme here. In a previous incarnation, I was representing the health of every American citizen as the regulations officer for the U.S. Public Health Service. They call it delegated legislation. Every piece of legislation that Congress passed, at least in the health arena, required that the executive agency implement that law through regulation. I was responsible for Title 42 and Title 21.

If the analogies apply, Congress has three immediate remedies. One is the withdrawal legislation analogous to the Cave Creek Act. Second, long term, is the modification of the 1872 Mining Act. Third, and overlooked in this hearing today, is the requirement, through legislation, for executive agency regulations to be implemented to the congressional intent, and subsequently reviewed by Congress to ensure that that intent is met by the implementation. Thank you very much.

Mr. GRIJALVA. Thank you very much. Let me call a couple more names before the time runs out on us. Christina McVie and Mr. Mark Marra, in that order, and we were just talking about "Mo" Udall and I received a note, a quote of "Mo" Udall. "Everything has been said but not everyone had said it." And I thought it was kind of interesting. No reflection on you.

[Laughter.]

Ms. MCVIE. Mr. Chairman, I hope not to include anything that has previously been said.

Mr. GRIJALVA. Thank you.

Ms. MCVIE. Mr. Chairman, first of all, congratulations and welcome home—

Mr. GRIJALVA. Thank you.

Ms. MCVIE.—distinguished members of local Government, my name is Christina McVie, and I am the Conservation Chair of the Tucson Audubon Society. I am going to cut, this isn't going to make a lot of sense because I am just going to hit some highlights. I will submit fully competent, written comments, but in interest of time, let me just cut to the chase.

I am speaking today on behalf of our more than 4000 member households in southern Arizona. As this hearing will assist in the determination of possible future uses of public lands in Pima County, it is critical that it set a direction that focuses on the best scientific and commercial information available.

The Tucson Audubon Society is engaged in wildlife issues in southern Arizona and, in particular, has focused on research,

education, recreation and conservation through habitat protection and restoration, specifically of riparian systems.

We have partnerships with private and governmental entities and work to conserve and protect habitats where wildlife is at risk to the many factors that threaten their existence, such as development, habitat fragmentation, roads, watershed degradation, exotic invasive species, and subsequent fires, and the potentially toxic by-products of our transportation, sewage, mining and commercial operations.

We have helped to gather the scientific data to identify and protect significant bird habitats as part of an international effort known as the important bird area program, which is particularly relevant to protecting a diversity of wildlife species.

For the record, the Santa Rita Mountains have been designated as an important bird area and reviewed by a scientific panel for inclusion in that designation.

Our members enjoy wildlife viewing, and think it is critically important to protect habitat and ensure sustainable populations of the full spectrum of native species.

In the 2006 draft Arizona Game and Fish Department strategic plan for the years 2007-2012, Wildlife 2012, it states that the goals of its wildlife program are to conserve and preserve wildlife populations and habitat, to provide compatible public uses while avoiding adverse impacts to populations and habitat, and to promote public health and safety and to increase public awareness and understanding of wildlife resources.

One of their recreation strategies is to, quote, "identify, assess, develop and promote watchable wildlife recreational opportunities." End quote.

You might be surprised to learn that birding leads all other recreational activities in promoting the economic growth of ecotourism in Arizona. A 2001 study on birding impacts by the United States Fish and Wildlife Service estimated that there are 56 million American birders, who account for \$32 billion in annual retail sales.

I am going to cut right to Pima County. I will submit the rest.

In Pima County alone, watchable wildlife generated retail sales of \$326,536,328. We created 3,196 full and part-time jobs, earning salaries and wages of \$90,726,309.

We contributed State sales and fuel tax revenues of \$9,908,109, State income tax revenues of \$2,267,822, and Federal income tax revenues of \$15,820,112.

So please consider this information as you deliberate, help our community ensure a stable economy, help us save all the public lands, or any jurisdictionally-protected lands in Pima County for future generations, and I thank you.

Mr. GRIJALVA. Thank you. Mr. Marra, and after Mr. Marra, Don Steuter, and Mike Quigley. And that should probably wrap us up. Sir.

Mr. MARRA. Thank you for the opportunity, Chairman Grijalva. I didn't come here today with the expectation of speaking, but again, thank you for the opportunity. I am an engineer, an economist, and I am also an attorney. I represent a number of interests

in the mining industry, and natural resource sector. However, today, my comments are strictly my own.

The first thing I want to say, just for the record, is that I very strongly oppose any withdrawal of any minerals within Pima County or Santa Cruz County, or, for that matter, anywhere in the United States.

Minerals are not held by the crown, they are held by the Federal Government, in trust, for citizens. I am a citizen regardless of where I am. I happen to live in Maricopa County. However, people in New York have just as much right to these minerals as anybody in Pima County.

These minerals were reserved for society, to benefit society, and we should not restrict access to these minerals. If we do, we will no longer have them, and be able to provide cars and put them into production for all the things that we, as people, use and need, electricity being the primary use.

The second thing that I want to point out and mention, that I strongly oppose any change to the mining law. Specifically, I oppose any change that would necessarily take hard rock, load minerals into a leasable category. To the extent that there are changes, I suggest that you work with the resource sector in working out those changes.

To the extent that there is just a wholesale change in the laws, it will have drastic consequences, and we, as a society, national security, we will not be able to further our interests nationally, and that is a serious problem. I implore you not to consider withdrawal of minerals in Pima County or elsewhere, or further changes to the mining law. It is not broken; let's not try and fix it. Thank you for your time.

Mr. GRIJALVA. Thank you, sir.

Mr. STEUTER. Chairman Grijalva, my name is Don Steuter. I am the Conservation Chair for the Grand Canyon chapter of the Sierra Club. We have about 13,000 members in Arizona. About 3500 of those reside in the Tucson area. The Sierra Club leads hikes, has for many years in the Santa Ritas. We love this area dearly. We opposed the mine back in the 1970's, when the land exchange was proposed by ASARCO, and we are opposing this mine now.

I guess I would have to start by taking issue with some of the comments, that somehow mining is going to save us from growth and from development. I guess if you degrade an area enough, and make it ugly enough, people probably won't want to live there. So, to some extent, maybe it is true. But I would suggest that probably the opposite really has happened over the past century, and that is that this country's policy of producing cheap minerals, which is really what the mining law of 1872 is all about these days, by encouraging mining in virtually all areas on public lands, including areas that are near and dear to our hearts, special places, really has resulted most of the time in overproduction of various minerals.

Speaking of special places, I had a chance, about a week ago, to fly over parts of central Arizona in a small plane, the Globe, Superior, Miami area, and get a aerial perspective of our mines, and then also a perspective of some of the proposed mine sites, and

even though I've hiked in these areas for probably 15 or 20 years, this was a different vantage point for me.

And it was very interesting, flying south, from Superior towards Hayden, looking out of one side of the plane and seeing the Ray mine with Mineral Creek obliterated for most of its distance on its way to the Gila River, the deep pits and the tailings, and waste rock piles, and then looking out the other side of the plane, and seeing the White Canyon wilderness, a beautiful place called Battle Ax Butte, a place called The Spine, just north of the Gila River, a magnificent area, a big horn sheep population in there, very rugged, very wild, very scenic, very important for recreation purposes, and as you might have guessed, a mine, an open pit mine is proposed right adjacent to the White Canyon wilderness.

From there, we flew towards Miami, we flew up Pinal Creek, over the Pinal Valley mine, and in that area a mine has been proposed for about the last 10 or 15 years, called the Carlotta Mine, and that area contains probably some of the finest desert riparian vegetation anywhere in the Southwest. We have studied this area for a long time, environmental groups have. We have been opposed to this mine site. This mine would suck water out from underneath Haunted Canyon, probably either kill this riparian area from underneath, or another scenario would be if one of the tailings dams failed up in a nearby gulch, bury it from above with mining waste.

I am convinced, that if we could get enough people out to see these special places, that we could reform the 1872 Mining Law in very short order, and I think what we need to do is start thinking about some sort of a leasing system like we have with oil and gas in this country.

We need to prioritize areas that are mineralized, figure out which ones are special places, which ones are suitable for mining and which ones are not.

Mr. GRIJALVA. Thank you, sir.

Mr. STEUTER. Thank you for your time.

Mr. GRIJALVA. I called another name, if that person is not here. Mr. Quigley.

Mr. QUIGLEY. Chairman Grijalva, thank you for the opportunity to speak today on this important issue. My name is Mike Quigley and I represent Sky Island Alliance, a regional conservation group working to preserve the rich national heritage of the Sky Island region. We are based here, in Tucson.

To the issue before you today, Sky Island Alliance opposes the Rosemont mine in the Santa Rita Mountains. Further, we submit that our public lands are more valuable intact than dug up. There are currently eight open pit copper mines in varying degrees of operation in Southeastern Arizona.

Our region has done our fair share of producing raw materials for growth at home, and increasingly, for growth in countries far from home. We are proud to contribute to the success of our great Nation, though economically depressed communities, environmental Superfund sites, and big ugly holes in the ground are the costs of doing business that we have shouldered for that contribution.

Southeast Arizona and the larger Sky Island region have been named a World Biodiversity Hot Spot, and for good reason. The

natural beauty and ecological integrity of our region are truly special, and they are assets that support one of the largest service and recreational-based economies in the West.

The Coronado National Forest, a treasure of southern Arizona, and indeed, the Nation, hosts more special and endangered species than any other forest in the Southwest. We submit that the Coronado National Forest and its Sky Island mountain ranges provide more to our Nation's character than one more open pit copper mine ever will.

The copper era in Arizona has been surpassed by a diversified and more sustainable economy supported, not by what we take from the earth, but by what we leave intact to enjoy and relish.

The value of preserved wild lands and open space, of views free from mine tailings, of natural places for recreation and spiritual connection, these are driving forces of the economy of the New West.

Please permit me to make our point directly. In Arizona and throughout the West, our national forests are worth much more to us intact than dug up. It is not 1872; it is 2007. The times have changed. The West has changed. We urge you, we encourage you, we ask you, our leaders and fellow citizens in Congress, to guide us forward towards a more intelligent and sustainable future, a future of 21st Century vision, not 19th Century exploitation.

Thank you for the opportunity to speak today.

Mr. GRIJALVA. Thank you very much.

Before we end this hearing, let me thank Pima County, Mr. Huckelberry and his staff, for their hospitality, beyond the work that they put into making sure that this hearing could take place. I want to thank them very much.

I also thank the committee staff for assisting me through this first run at a hearing. I appreciate it very much, and thank you. Patience and advice have been very helpful, and I appreciate that very much.

The issue of unfettered access to public lands is part of what I heard today, and that is represented very well under the 1872 Mining Law, and I think part of the hearing also was to begin to talk about and acquire the information, beginning the process to look at that law of 1872, between the point of unfettered access to the point of the needing to modernize and bring that law up to date to what the West is really now as opposed to what it was in 1872, and going through the very difficult process with this law—and I think the Secretary made a good point—that this 1872 law is not going to be “a walk in the park” as we begin to look at modernizing it, creating a balance, looking at issues of transparency, what the taxpayer gets back as a consequence of the extraction, and the reclamation responsibilities and the liabilities to the American taxpayers if their reclamation standards are not strong.

So as we go through this process, I appreciate all the commentary today in that process. The short term is the Santa Ritas, the Rosemont proposal before us, and the effect, not only on the general region, but the effect and affect on the Coronado National Forest.

That is as we look at a remedy for that situation and consider crafting legislation to specifically deal with that issue. We will

certainly disseminate that information to all parties. We try to be as balanced today, asking both members that support the mine in the audience as well as those that are opposed. I want to thank all of you, want to thank the staff, and my colleague, Congresswoman Giffords, for the time that she was here with us.

Before I adjourn, you know, I told Gabby we were going to end with—since we have been invoking “Mo” Udall twice today, I thought a third time would be okay.

“Mo” Udall’s politician’s prayer, and before I adjourn, I told Gabby that I would do that.

“Lord, may the words I speak be soft and gentle, for tomorrow I may have to eat them.” And so I—

[Applause.]

Mr. GRIJALVA. I want to thank everyone in attendance, and with that, this hearing is now adjourned. Thank you very much.

[Whereupon, at 1:20 p.m., the hearing was adjourned, subject to the call of the Chair.]

[Additional material submitted for the record follows:]

**Response to Mr. Grijalva’s question from Jeanine Derby, Forest Supervisor, Coronado National Forest**

**Question: “How has the Coronado National Forest been involved in the Sonoran Desert Conservation Plan?”**

**Response:** The Sonoran Desert Conservation Plan, initiated in 1999, is a guide for Pima County to use when determining where to focus land acquisition or conservation easements within the County in order to protect valuable open space. The County’s desire is to protect open space corridors in the County that connect lands already protected from development (including federally managed lands) thus creating a network of ecologically valuable corridors as habitat for wildlife and other values. Public support for subsequent bond issues provided funding to support the Plan.

The Forest Service role in the early development of the Plan was to provide biological information about habitat for species of concern on National Forest lands and adjacent lands. The Coronado Forest Biologist attended several meetings to provide biological information to the planning group. The County did not address private land parcels interior to the National Forest for purchase with the bond proposals.

The County’s Conservation Plan is now being implemented. The Coronado National Forest stays informed of the County’s activities under the Plan through informal information exchange through the Tucson Basin Managers’ meetings. Upper management for Forest Service, Park Service, Bureau of Land Management, Fish and Wildlife Service, Pima County and AZ Game and Fish meet over lunch about once a month to exchange information. Tucson Basin Planners, staff for these same agencies, meet periodically to coordinate planning efforts and to work on joint projects, such as noxious weed eradication and riparian restoration.

The Coronado National Forest is currently revising the Forest Land Management Plan. The Sonoran Desert Conservation Plan is one of the plans that will be incorporated by reference, along with other land use plans such as the Santa Cruz County Comprehensive Plan. The Coronado National Forest Land Management Plan revision will be completed in 2009. Chuck Huckleberry stated in his testimony at the hearing that the next attempt to pass a bond issue will include consideration of private lands interior to the Coronado National Forest.

