



**SIERRA
CLUB**



For Immediate Release
May 12, 2022

Contacts:

**Save the Scenic
Santa Ritas**

David Steele
davidss@simginc.com
(520) 321-1111 – o
(520) 907-2620 – m

**Center for Biological
Diversity**

Allison N. Melton
Center for Biological Diversity
amelton@biologicaldiversity.org
(970) 309-2008

**Sierra Club – Grand
Canyon Chapter**

Sandy Bahr
sandy.bahr@sierraclub.org
(602) 253-8633 – o
(602) 999-5790 - m

**Arizona Mining Reform
Coalition**

Roger Featherstone
roger@azminingreform.org
(520) 777-9500 - w
(520) 548-9302 - m

Federal Appeals Court Upholds Decision to Halt Rosemont Mine in Arizona

TUCSON, Ariz.— A federal appeals court today upheld the invalidation of the U.S. Forest Service’s approval of a controversial open-pit copper mine in southern Arizona’s Santa Rita Mountains.

Today’s [ruling by the 9th U.S. Circuit Court of Appeals](#) is another blow to Toronto-based Hudbay Minerals’ plans for the \$1.9 billion Rosemont Mine in the Coronado National Forest, 30 miles southeast of Tucson. In a 2-1 decision, the appeals court affirmed the district court ruling that Hudbay’s mining claims were baseless, saying it was “undisputed that no valuable minerals have been found [on the lands slated for Rosemont’s massive waste dumps]. Because no valuable minerals have been found, the claims are necessarily invalid. The district court was therefore correct in holding that the Service improperly assumed their validity.”

“We are pleased that the appeals court ruled in our favor and confirmed that the Forest Service illegally approved the Rosemont Mine,” said Gayle Hartmann, president of Save the Scenic Santa Ritas. “Our public lands are the legacy we leave our children. The natural values they provide are far more important than the short-term gains that come from a destructive, open-pit mine.”

In 2017 Save the Scenic Santa Ritas, the Center for Biological Diversity, the Arizona Mining Reform Coalition, and the Sierra Club’s Grand Canyon Chapter filed a [lawsuit](#) challenging the Forest Service’s approval of the mine. In 2019 U.S. District Court Judge James Soto [overturned](#) the agency’s record of decision and the underlying environmental analysis for the mine project, sending both back to the Forest Service. Hudbay and the U.S. Department of Justice appealed, and today’s appeals court ruling upholds Soto’s decision.

“The appeals court correctly relied on the facts and the letter of the law to invalidate the mine approval,” said Roger Flynn, director and managing attorney for the Western Mining Action Project, and the attorney that argued the case for the conservation groups. “The Forest Service’s assumption that Hudbay had automatic rights under the 1872 Mining Law to permanently bury thousands of acres of public land with waste dumps contradicted, as the

court held 'a century of precedent.' The agency and Rosemont cannot unilaterally revise the Mining Law to suit the company's needs, as the court properly held that 'amendment of the Mining Law is a task for Congress, not for the Service, and certainly not for us.'" Flynn added.

"This momentous decision makes it clear that Hudbay's plan to destroy the beautiful Rosemont Valley is not only a terrible idea, it's illegal," said Allison Melton, an attorney at the Center for Biological Diversity. "The Santa Rita Mountains are critically important for Tucson's water supply, jaguars, ocelots, and many other species of rare plants and animals. We won't let them be sacrificed for mining company profits."

Hudbay wants to blast a mile-wide, half-mile-deep pit in the Santa Rita Mountains and pile toxic mine tailings and waste rock hundreds of feet high across nearly 2,500 acres in the headwaters of Davidson Canyon, a tributary to Cienega Creek, which replenishes Tucson's groundwater basin. The appeals court upheld Judge Soto's determination that the Forest Service violated federal mining and public land laws when it approved dumping the massive waste rock and tailings piles on Forest Service lands.

"Today's decision affirms the lower court's recognition that the Forest Service's approval of the proposed Rosemont Mine was arbitrary and capricious, stopping this mine from going forward," said Sandy Bahr, chapter director for Sierra Club's Grand Canyon (Arizona) Chapter. "That is so important as the Rosemont Mine would harm wildlife and wildlife habitat and impair Arizona waters such as Davidson Canyon. We should not be putting these important resources at risk for the profits of an international mining company. We are so pleased the court sided with protecting the lands."

The mine would have harmed more than 5,000 acres, including nearly 4,000 acres of public land covered by the mine's waste dumps, processing plant, and infrastructure.

"Today's ruling affirmed both natural and US law," said Roger Featherstone, director of the Arizona Mining Reform Coalition. For too long, mining companies like Hudbay have violated both our country's mining laws and the laws of nature, and for too long federal agencies like the US Forest Service have rubber-stamped those transgressions. Today's court decision ends that trend and allows precious water and air to remain pure and abundant and plants and animals to thrive."

This important decision clarifies that the Forest Service and other federal agencies can reject the proposed dumping of mine waste on public lands.

The pit and waste dumps would have remained a permanent scar and environmental hazard. The mine would have also destroyed prime jaguar habitat, land that's critical to the survival and recovery of jaguars in the United States.

The Rosemont Mine has faced additional legal challenges.

In September 2017, the Center for Biological Diversity [sued](#) to challenge a biological opinion from the U.S. Fish and Wildlife Service that determined the mine would not jeopardize threatened and endangered species in the area. In 2020 a district court [struck down](#) that biological opinion, and that ruling was not appealed.

Cases also remain pending before Judge Soto [challenging](#) the U.S. Army Corps of Engineers' issuance of a Clean Water Act permit for the mine. Those cases have been stayed pending the outcome of the related litigation. The mine, which would threaten critical water resources and wildlife habitat, cannot be constructed without the Corps permit.

Today's decision also upholds the district court's ruling in favor of the three American Indian tribes — the Tohono O'odham Nation, Pascua Yaqui, and Hopi — that filed a similar lawsuit challenging the Forest Service's approval of the mine. Like the environmental groups, the tribes have filed a lawsuit challenging the U.S. Army Corps' issuance of the Clean Water Act permit. Earthjustice represents the tribes.

Save the Scenic Santa Ritas is a nonprofit organization working to protect the Santa Rita and Patagonia Mountains from environmental degradation caused by mining and mineral exploration activities.

The Center for Biological Diversity is a national, nonprofit conservation organization with more than 1.7 million members and online activists dedicated to the protection of endangered species and wild places.

Founded in 1892, the Sierra Club is a national nonprofit environmental organization with approximately 3.8 million members and supporters, including more than 60,000 in Arizona. Sierra Club's mission is "to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; and to educate and enlist humanity to protect and restore the quality of the natural and human environment.

The Arizona Mining Reform Coalition represents 16 local, regional, and national organizations working in Arizona to improve state and federal laws, rules, and regulations governing hard rock mining to protect communities and the environment. We work to hold mining operations to the highest environmental and social standards to provide for the long term environmental, cultural, and economic health of Arizona.

The groups are represented by the Western Mining Action Project, a public interest law firm specializing in litigation on mining issues in the western states. Attorney Roger Flynn can be reached 303.823.5738, Roger@wmaplaw.org