ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Janice K. Brewer
Governor

Henry R. Darwin
Director

U.S. Mail

August 3, 2012

Ursula Kramer, Director
Pima County Department of Environmental Quality
150 West Congress Street
Tucson, AZ 85701

Re: Rosemont Copper Project

Dear Ms. Kramer,

In October of 2011, ADEQ was approached by the Rosemont Copper Company (Rosemont) regarding the air quality permitting of the Rosemont Copper Project, an open pit copper mine approximately 30 miles southeast of Tucson on State Highway 83. Rosemont requested a meeting with ADEQ to discuss the denial of their Class II permit application by the Pima County Department of Environmental Quality (PDEQ), and to request clarification regarding the applicability of regulations contained in the Arizona and Pima County State Implementation Plans (SIPs).

As you are aware, the permitting requirements in both the Arizona and Pima County SIPs date back to the 1970s and 1980s. Rosemont has reviewed both the Pima County SIP and the Arizona SIP in detail and has expressed a concern about substantial ambiguity in the permitting rules regarding jurisdiction, especially considering the age of the regulations and the lack of official records. The two main issues that impact the Rosemont Copper Project are permitting jurisdiction and the applicability of Pima SIP Rule 504. Additional ambiguity also results from significant revisions to the Arizona Revised Statutes, Arizona Administrative Code, and Pima County Code since the SIPs were approved.

ADEQ finds PDEQ's actions on the Rosemont permit have caused significant regulatory uncertainty by denying a permit application based on the lack of identification of applicable SIP requirements, especially since the identification of those requirements has not been required of any previous applicant for at least a decade. On July 5, 2012, the Arizona Superior Court in Pima County ruled that PDEQ's action to deny Rosemont's application was both arbitrary and capricious. Such a ruling highlights the regulatory uncertainty that has been caused by PDEQ's decision.

Due to the confusion and uncertainty caused by the inappropriate denial of the Rosemont permit, to ensure that duplicative installation air quality permits are not required of the facility, and pursuant to A.R.S. § 49-402(B) and R9-3-1101 of the Arizona SIP, ADEQ is hereby asserting complete air quality jurisdiction, effective immediately, over the Rosemont Copper Project, an open pit copper mine approximately 30 miles southeast of Tucson on State Highway 83.

ADEQ's action creates regulatory certainty regarding which agency has jurisdiction over the mine, and will also resolve any questions regarding the applicability of Pima County SIP Rule 504, as the

Department requires all new facilities to conduct ambient dispersion modeling to ensure the protection of the National Ambient Air Quality Standards. The air permit proposed by ADEQ will ensure that Rosemont meets all federal, state, and local requirements. In addition, the Department's proposed permit requires superior environmental protection as compared to PDEQ's August 29, 2011 proposed permit, through the installation and operation of the following enhanced emission controls at the mine:

- State-of-the-art high-efficiency cartridge filters to reduce PM_{10} from process equipment;
- Redesigning of the primary crushing and lime systems for process optimization and fewer emissions;
- Increased use of new, less polluting engines in on-site vehicles; and
- Paving of 3.1 miles of road used within the property.

As required by A.R.S. § 49-402(B), ADEQ and PDEQ have conferred by phone regarding the assertion of jurisdiction on August 3, 2012. If you have any questions, please contact Trevor Baggiore, Deputy Director of the Air Quality Division at (602) 771-2321, or me at (602) 771-2308.

Sincerely,

Eric C. Massey, Director
Air Quality Division