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9th U.S. Circuit Court of Appeals Upholds Landmark Ruling Blocking Arizona Copper Mine

In victory for the Tohono O’odham Nation, the Pascua Yaqui Tribe, and the Hopi Tribe, ruling stops mine that would have destroyed ancestral lands

Tucson, AZ — Today, the Ninth Circuit Court of Appeals [upheld a landmark 2019 ruling that blocked approval of a mile-wide open-pit copper mine in Arizona’s Santa Rita Mountains](#). The Rosemont Mine would have generated 1.9 billion tons of toxic mining waste that would have buried more than 3,500 acres of National Forest System lands containing dozens of prehistoric tribal sites.

"This landmark decision further validates that Rosemont's foreign owners have neither the legal right nor the valid mining claims for their proposed plan to destroy sacred sites beneath a mountain of poisonous mine waste," said **Tohono O’odham Nation Chairman Ned Norris Jr.** "The ruling thoroughly dismantles the error-riddled process and reinforces the importance of protecting these sites and the entire region’s water supply. As decisive as this decision is, Rosemont's foreign investors will likely continue to try and profit through environmental and cultural destruction. We must not allow this to happen."

In 2019, U.S. District Judge James Soto overturned the U.S. Forest Service approval of Rosemont, calling it "arbitrary and capricious" and siding with the Tohono O’odham Nation, the Pascua Yaqui Tribe, and the Hopi Tribe, who brought a lawsuit challenging the approval. The Tribes were represented by Earthjustice.

The Forest Service had wrongly assumed that the mining company, Rosemont Copper Company, had the right under the 1872 Mining Law not just to access valuable minerals under public lands, but to also use nearby Forest Service lands to dispose of waste from the mine. The Ninth Circuit ruling agreed with the District Court’s finding that Rosemont could not use federal public lands, including lands with burial sites and other areas with cultural and religious significance to the Tribes, to dump nearly two billion tons of waste rock and tailings. The court ruled that, as a practical matter, the Forest Service "amended the Multiple Use Act and the Mining Law to give Rosemont what it wants" and that its argument was "foreclosed by a century of precedent."

"The Santa Rita Mountains are a sacred area for the Tohono O’odham Nation, the Pascua Yaqui Tribe, and the Hopi Tribe, who have a 10,000-year history on these lands," said **Heidi McIntosh, managing attorney for Earthjustice’s Rocky Mountain regional office**. "The area contains burial sites, a village site, and sacred seeps and springs central to the Tribes’ identities. All of these would have been excavated and buried under a gigantic mountain of waste rock and mine tailings — all to enhance Rosemont’s

profits. This decision should stop mining companies from dumping their waste on public lands to the detriment of tribes and others who enjoy the natural beauty of these places throughout the West.”

Rosemont’s plans included clearing dozens of known archeological sites in the Santa Ritas Mountains, including ancestral burial sites. The company planned to target Gaylor Ranch, a historic Hohokam village, proposing to completely excavate this site and remove the remains of the Tribes’ ancestors within the first few months of construction.

The Tribes are also seeking a preliminary injunction to prevent Rosemont from destroying the west side of the Santa Rita Mountains. Rosemont recently commenced bulldozing the site without notification, causing severe and irreversible harm to tribal cultural resources, waters of the United States, and critical wildlife habitat. Rosemont similarly attempted to rush construction on the east side of the mountain in 2019 only to be halted by the Court decision vacating Forest Service approval of the mine.

Rosemont has a track record of trampling Indigenous and tribal rights. The company [has been accused](#) of profound [human rights abuses at their Fenix nickel mine in Guatemala](#).

Rosemont would also have excavated a half-mile deep pit that would [puncture the regional aquifer](#), reversing groundwater flows and depleting surface flows at multiple springs, seeps, and streams into perpetuity. These impacts would have been felt as far away as Tucson, Arizona.

The Santa Rita Mountains are also home to the last jaguar population in the United States. The iconic “El Jefe” jaguar has been caught on film over the years in these mountains.

Learn more about the mine’s potential impacts in “Ours is the Land,” a short film produced by the Tohono O’odham Nation: ["Ours is the Land" is produced by the Tohono O'odham Nation](#)

The Court’s opinion is available [here](#).

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