

Kerwin S. Dewberry, Forest Supervisor
Coronado National Forest
300 West Congress Street
Tucson, AZ, 85701

ATTN: Hermosa Critical Minerals Project

RE: Scoping Comments for the Hermosa Project DEIS

Circle Z Ranch is an operating dude ranch in Patagonia, Arizona, bringing significant tourism to the Patagonia area since 1926. On behalf of our business and our guests, we thank the Coronado National Forest Service for the opportunity to submit our scoping comments on the Environmental Impact Statement for the proposed South32 Hermosa Critical Minerals Project. Our comments cover the potential economic, cultural, historical, business, and environmental impacts of the proposed project.

ABOUT CIRCLE Z

Established in 1926, Circle Z Ranch is one of Arizona's original Dude Ranches and the origins of the now flourishing Nature Based tourism in our community. Our family purchased the ranch in 1975, at a time when the copper mining industry had abandoned their mines in this area, leaving behind toxic mine tailings, open mine shafts and mine adits in their wake.¹ Our land borders United States Forest Service ("USFS") land to the East, State Parks Land to the South, and preserved land owned by The Nature Conservancy to the West. Since our purchase of the ranch, we have a continued commitment to preserve this piece of the Sky Islands with a perpetual conservation easement through the Arizona Land and Water Trust. Sonoita Creek, a tributary of the Santa Cruz River and unique habitat to a wide range of species, runs through our property. Our dude ranch is a tourist destination serving over 500 people each year during our October to April Guest Season.

GOVERNING LAWS FOR THE HERMOSA CRITICAL MINERALS PROJECT

The purpose of the EIS is to inform the ultimate decision of whether to approve the proposed Mine Plan Operation, which must be evaluated in light of governing mandates and the unique values of the affected lands, particularly Forest Service lands. The National Forest Management Act requires that all permits "for the use and occupancy of National Forest System Lands shall be consistent with [governing] land management plans."²

The EIS process is governed by the National Environmental Policy Act ("NEPA"). NEPA was enacted to create harmony between humanity and the surrounding environment.³ NEPA's "sweeping commitment" to prevent environmental destruction is based on two key concepts:

¹ The Scoping Notice suggests that this project would "continue the historic production of minerals" in this area; however, these historic mines are long-abandoned and are much smaller in scope than the proposed mine.

² 16 U.S.C. § 1604(i).

³ National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. § 4321 note (Purposes of NEPA).

agencies must consider environmental impacts before acting, and agencies must inform the public about environmental consequences of the action.⁴ “By so focusing agency attention, NEPA ensures that the agency will not act on incomplete information, only to regret its decision after it is too late to correct.”⁵

The Hermosa Critical Minerals Project is the first mining project to be evaluated under the processes defined by the FAST Act, which is more typically applied to transportation infrastructure permitting.⁶ While we understand the goals of the FAST Act to expedite processes, mining of this type is an incredibly risky endeavor that rarely, if ever happens, without major environmental and societal impacts.⁷ It is vital that USFS and other agencies take the time and resources necessary to delve into all potential impacts of this proposed project.

I. Impact of requested easement

Circle Z has guided horseback riding trips from our established trails on our private lands and those leading onto the bordering CNFS lands with a Special Use Permit, granted in 1992. We are currently in our 4th year of our Special Use permit, which has a 10 year term. Because of this Special Use Permit and our historic use of the trails in the Coronado National Forest, Circle Z has a particular interest in the impacts to the Coronado National Forest.

We maintain that our Dude Ranch operations will be directly and negatively impacted by the Hermosa Projects’ requested 100 foot wide easement for a Permanent Access Route (“PAR”) and the proposed High Voltage Transmission Line on FS 4653 between 3-R Canyon and Flux Canyon Road. These will have a negative impact on the economic viability of our business, on our neighboring land conservation efforts, on our historical use of this strip of land, will create visual pollution and impact our overall land values. The impacts will be permanent, as South32 has no plans to reclaim the PAR.⁸

The proposed PAR is along what the Hermosa Project is calling USFS Road, when in fact it is a rarely used route for gas line administrative purposes. We never see motor vehicles in this area. Having a PAR and 100 foot tall power lines would impact the quality of this natural setting that has historically had very low impact usage.

We identify the following concerns that the Hermosa Projects’ requested 100 foot wide easement for a PAR and the proposed High Voltage Transmission Line on FS 4653 between 3-R Canyon and Flux Canyon Road, and ask that these concerns be considered and analyzed as part of the NEPA process. In particular, the purpose of the project can still be fulfilled through an alternative route for this easement.

⁴ See 40 C.F.R. § 1502.1; *see also* Marsh v. Or. Nat. Res. Council, 490 U.S. 360, 371 (1989).

⁵ *Marsh*, 490 U.S. at 371.

⁶ Permitting Dashboard, Federal Infrastructure Projects, <https://www.permits.performance.gov/about>.

⁷ *See, e.g., U.S. Copper Porphyry Mines*, Report by Earthworks dated August 6, 2012, describing the environmental record of modern sulfide mines, available at <https://earthworks.org/resources/us-copper-porphyry-mines/>.

⁸ “South Hermosa Inc. Critical Minerals Exploration and Mine Plan of Operation,” Dec. 1, 2023, revised Apr. 15, 2024, p. 5-4.

a. Loss of use of historic heritage trails

The requested easement area has historically been used by our ranch for riding trails and the T-4 Ranch for cattle grazing. This small section of land has not been accessible by motor vehicles other than for gas line administrative operations, which happen rarely. This easement would transect 10 of our established and frequently used riding trails, making them unsafe for us to use. The easement would also indirectly affect our trails on our conservation lands with visual pollution of the road and 100 foot tall transmission lines, noise from haul trucks, and a disruption in the enjoyment of this area by our guests.

Because of the steepness, deep arroyos, and rock formations in this area, diverting our trails would be impossible. We have worked for years to keep these trails maintained and passable for our horses and the enjoyment of our guests.⁹

b. Economic viability of Circle Z's business

Over our 48 years of ownership, we have marketed our dude ranch around our historic ability to ride into the open and pristine spaces adjacent to our property. Without the ability to continue our historic use of this pristine and quiet area, we would suffer a great economic impact to our business as these trails are contiguous and integral to our riding program. We would lose the ability to attract guests to the open spaces that have been our signature platform.

c. Conservation Values

We have a conservation easement on 3500 acres of land that borders the area in question. Our ability to preserve this space into perpetuity will be greatly impacted with the 24/7 operations of the mines ore trucks and service trucks skirting along the border between our properties. With this conservation easement, we relinquished our development rights in order to preserve this pristine, visually stunning, and a needed protection zone for the watershed of Sonoita Creek.

Our conservation efforts also include the purchase of the 3-R Mine, which we placed under a conservation easement with the ADEQ, giving up our rights for mineral exploration. We have since partnered with the ADEQ to secure a Federal Grant for cleaning up the toxic mine tailings, closing the open shafts, and closing mine adits. These efforts have had a dramatic and positive impact on the health of Sonoita Creek, which is in the Patagonia Mountains Watershed. We received nothing in return, except for the ability to conduct ourselves in the most conservation-oriented manner to protect this biologically diverse area.

The PAR would require the building of massive bridges, high-impact cutting and filling of natural arroyos. The construction process would include blasting and heavy equipment that would have a high impact of noise, air pollution, disruption of habitat and visual pollution on USFS lands.

d. Land Values

⁹ Please see map of Circle Z Ranch Trails, included with this submission as Exhibit 1.

We believe that our land values, already voluntarily decreased with the conservation easement, will suffer a big blow. To try and market a conservation property to the real estate conservation buyers community with a large ore hauling road on its borders would be extremely difficult, if not impossible. We ask the USFS to analyze the impact to our conservation land values due to an adjacent PAR.

The impact may also spillover and have direct impacts on our land. We are concerned about erosion and runoff onto our property as a result of being adjacent and down hill from such a massive and high impact road.

e. Risk of Fires

An above ground High Voltage Transmission Line would be a potential fire risk in this native grasslands area. We regularly get high gusting winds which can knock over trees, and potentially power lines.

f. Visual Pollution

Our property looks out over the pristine grasslands and jutting mountain ranges of the Patagonia Mountains. With these vistas, our property is regularly used for photography shoots and back drops for high-paying film production. Our trails are widely known as the most scenic in Arizona, which will not be the case with the transmission line towers and ore roads. We ask the forest service to analyze the visual disturbance this will cause to our property and business interests.

II. Viable Alternatives

The Hermosa Project has several alternate routes that would be acceptable to us, to the Town of Patagonia Council, the SCC County Supervisor Bruce Bracker and the County Manager. These reasonable alternatives should be considered in detail the EIS.¹⁰ The alternate Duquesne Route would use the already established and maintained USFS Road 49 which leads directly out from the Hermosa Project on the East side, and onto the already-established and maintained Duquene Road, finally entering onto Highway 82 near to the airport.

In addition to this alternative, we ask the EIS to include an analysis on all other possible routes on the East side and traversing the Patagonia Mountains to the South of the proposed route. We feel it is imperative that the route chosen have minimal impact to the Scenic Highway 82, as thousands of tourists and local citizens drive this highway daily to access services, recreate at Lake Patagonia, and view the scenic vistas that are the heart of this area.

We also ask the Forest Service to analyze (1) burying the transmission line along its entirety to minimize visual pollution and fire risk; and (2) moving it to follow Duquene Road instead.

We also ask that the EIS analyze using non-fossil fuel energy sources such as solar, wind, and battery storage to boost their energy needs. The mining operation contends that their goal is to

¹⁰ See 40 C.F.R. § 1502.14.

“deliver minerals America needs for the clean energy future”¹¹; the mine itself should not then become a significant source of greenhouse gases. Considering renewable energy alternatives would go far in making this a cleaner operation.

III. Closure Plan

EISs must consider the entire life of the project.¹² It is not clear whether the closure plan would include building additional permanent or temporary roads or structures, or what the impact of closure activities might be, or how they would differ from impacts during operation. In addition, the Coronado National Forest Plan includes goals to minimize the impacts of mining operations after closure, including but not limited to:

- “adequate post-mining reclamation assurances, to minimize environmental impacts to other national forest resources,”
- “inactive mines” are “returned to stable conditions and an appropriate, functioning, vegetative state, and do not pose health, safety, or environmental hazards.”
- “Permanent structures and/or occupancy for mining purposes are limited to only those that are necessary and incidental to approved mining operations.”
- “Mining activities should incorporate reclamation measures that reduce contrasts with the surrounding landscapes.”¹³

We ask that the EIS include closure plans for the proposed Hermosa Mine that would analyze the potential impacts to Circle Z’s interests as described in Sections I.a. – f. of this comment, and also consider consistency with the Coronado National Forest Plan and the long term health of the National Forest.

Thank you for considering our comments.

Diana Nash, Owner
Circle Z Ranch

Kathryn Hoffman, JD
St. Paul, MN
Frequent guest of Circle Z

¹¹ “South32’s Hermosa Project Releases Mine Plan of Operations,” Press Release dated January 30, 2024, available at https://south32hermosa.com/wp-content/uploads/2024/01/FINAL-MPO_release_EN_Jan2024.pdf.

¹² Environmental Protection Agency, Consideration of Cumulative Impacts in EPA Review of NEPA Documents (1999), <https://www.epa.gov/sites/default/files/2014-08/documents/cumulative.pdf>.

¹³ Coronado National Forest Land and Resource Management Plan, April 2018, pp. 71-72, found at https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd583208.pdf.