

## Hubday Minerals may challenge U.S. Clean Water Act, to proceed with copper mine threatening Arizona water sources

(<http://us9.campaign-archive1.com/?u=ea011209a243050dfb66dff59&id=930704f231>)

- the same Hubday's former head of security Mynor Padilla (former Colonel in Guatemalan army) is on trial for an assassination and a shooting-paralyzing in 2009 at Hubday's mine site in Guatemala;
- the same Hubday being sued in Canada by 11 Mayan women victims of gang-rapes in 2007 as part of an illegal, violent eviction of the Lote 8 community to make way for mining. (The widow of the assassination victim and the man shot and paralyzed are also plaintiffs in these lawsuits);



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## Hubday Minerals may challenge U.S. authority requiring Clean Water Act permit for its "Rosemont" copper mine

January 18, 2017, <http://www.rosemontminetruth.com/?p=4738>

Toronto-based Hubday Minerals Inc. is warning the U.S. Army Corps of Engineers that it may legally challenge the Corps' authority requiring Hubday's Rosemont Copper Company subsidiary to obtain a Clean Water Act permit prior to beginning construction of the proposed Rosemont Mine. Neither Hubday, nor Rosemont's previous owner, have previously challenged the Corps' jurisdictional authority over the proposed mine.

Hubday's salvo comes after the Corps' Los Angeles district office recommended last July that Rosemont's application for the [permit be denied](#). The Corps' South Pacific Division in San Francisco is reviewing the permit application and is expected to make a decision later this year.

Hudbay vice-president Patrick Merrin stated in a [Nov. 17 letter](#) to the Corps that the company will likely challenge the Corps' permitting authority if the federal agency refuses to issue Rosemont's request for the permit that would allow its mile-wide, half-mile deep open-pit copper mine to dump waste rock and mine tailings on 3,000 acres of the Coronado National Forest.

The waste piles, that would tower up to 900 feet high, would destroy washes, seeps and springs that drain the eastern slope of the Santa Rita Mountains and contribute to the recharge of metropolitan Tucson's potable ground water supplies. The mountain drainages flow into tributaries of the Santa Cruz River.

"In our view, there is significant uncertainty as to whether the Corps' has jurisdiction over the onsite drainages," Merrin wrote in his letter to Colonel D. Peter Helmlinger, commander of the Corps' South Pacific Division. "In the event of an adverse final decision on our application, we anticipate that jurisdictional arguments will be a key element of our appeal..."

Federal jurisdiction over washes and other Santa Rita Mountain drainages hasn't been previously questioned since Rosemont Copper first announced its plans to build the \$1.5 billion project a decade ago, the Arizona Daily Star [reported on Jan. 16](#).

Hudbay acquired Rosemont Copper in July 2014. Rosemont's previous owner, Vancouver, B.C.-based Augusta Resource Corp., announced its intention to seek a Clean Water Act permit from the Corps in 2008 and submitted its permit application in 2011, the Daily Star reported.

Col. Helmlinger stated in a [Dec. 28 letter](#) to Merrin that the "Corps current analysis of the permit application" is based on documents submitted by Rosemont's consultant that accepted the Corps' authority to issue the permit under a regulatory provision called "preliminary jurisdictional determination".

Col. Helmlinger wrote Merrin that Hudbay may request an "approved" jurisdictional determination at any time, "including before the final permit decision or during an administrative appeal."

Such a request, Col. Helmlinger wrote, would require another Corps regulatory investigation that could require a supplemental Environmental Impact Statement and "a new" Clean Water Act certification from state environmental authorities.

The Daily Star reported that federal authority over many desert washes in the Tucson area has been clear since 2008, when the U.S. government declared the Santa Cruz River a legally navigable river even though most of it also runs only during storms.

Under the Corps' and the U.S. Environmental Protection Agency's interpretation of court rulings, dry washes that are significant tributaries to a navigable river are legally covered by Clean Water Act rules. That means permits are needed for anyone wishing to significantly alter or otherwise impact the washes, the Daily Star reported.

The Army Corps [warned Rosemont Copper in 2014](#), while it was owned by Augusta Resource, that its application for the Section 404 Clean Water Act permit fell short of regulatory standards.

The Corps stated in a [Feb. 28, 2014 letter](#) that “it is imperative Rosemont focus on restoration/enhancement of WUS (Waters of the United States) to offset the direct loss of 40 acres of WUS,” Col. Kimberly Colloton, Army Corps District Engineer, stated in the letter to former Rosemont President and CEO Rodney Pace.

“Unfortunately,” Colloton stated, “Rosemont has continued to present mitigation plans which provide more acres of upland and riparian preservation, with some enhancement, than acres of actual restoration/ enhancement of WUS.” Despite the 2014 warning, Rosemont has not made significant changes to its proposed mitigation plan.

Col. Helmlinger’s Dec. 28 letter states that the Corps’ district office determined that Rosemont’s mitigation plan that calls for proposed reestablishment of riparian areas at Sonoita Creek Ranch, which is outside the Rosemont drainage area, and Davidson Canyon falls short of regulatory requirements.

“The permanent loss of 40.4 acres of water would not be mitigated,” Col. Helmlinger wrote to Merrin.

Col. Helmlinger’s Dec. 28 letter also stated that the Corps determined the mining project would [“cause or contribute to” violations of Arizona water quality standards](#) and would have adverse effects on cultural resources and traditional cultural properties important to tribes.

The Corps agreed to meet with Hudbay officials sometime in January to discuss technical issues related to the permit.

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## More information

- ‘Choc versus Hudbay’ lawsuits in Canada: [www.chocversushudbay.com](http://www.chocversushudbay.com)
- ‘Defensora’: By Rachel Schmidt, this film documents the Mayan Qeqchi people's struggle to reclaim their ancestral lands in Guatemala, and to seek justice in Canada courts for the murder, shootings and rapes committed against them by Hudbay Minerals / CGN personnel: [www.defensorathefilm.com](http://www.defensorathefilm.com). Spanish version: <https://vimeo.com/83654243>
- ‘Hudbay’s Hoax ( Flin Flon Flim Flam)’: By John Dougherty, this film documents Hudbay's harmful, repressive and widely resisted mining operations in Uchucarco (Peru), Manitoba (Canada), El Estor (Guatemala) & Arizona (United States). View: <https://youtu.be/j7aacPtEI8s>
- New York Times, April 3, 2016, Guatemalan Women’s Claims Put Focus on Canadian Firms’ Conduct Abroad, [http://www.nytimes.com/2016/04/03/world/americas/guatemalan-womens-claims-put-focus-on-canadian-firms-conduct-abroad.html?\\_r=2](http://www.nytimes.com/2016/04/03/world/americas/guatemalan-womens-claims-put-focus-on-canadian-firms-conduct-abroad.html?_r=2)
- Toronto Star, June 19, 2016, Mayan Families’ Quest For Justice Against Canadian Mining Company Hudbay, <https://www.thestar.com/news/world/2016/06/20/the-mayans-vs-the-mine.html>
- Toronto Star, June 20, 2016, How A Guatemalan Murder Trial Could Forever Change Canadian Overseas Mining, <https://www.thestar.com/news/world/2016/06/20/how-a-guatemalan-murder-trial-could-forever-change-canadian-overseas-mining.html>

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and been involved with the Mayan Q'eqchi' peoples' struggles for truth and justice in Canada and Guatemala. Make check payable to "Rights Action" and mail to:

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