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Clean Air Act/Copper Mine: Center for Biological Diversity and Other Organizations Challenge Arizona Department of Environmental Quality Issued Air Permit

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The Center for Biological Diversity, Famers investment CO., and Save the Scenic Santa Ritas Association (collectively, “CBD”) filed a January 30th Notice of Appeal and Request for Hearing (“Notice”) before the Arizona Office of Administrative Hearings.

CBD is challenging the Arizona Department of Environmental Quality (“ADEQ”) issuance on January 2nd of a Class II Air Quality Permit to Copper World, Inc. (“Copper World”).

The Air Permit is described as authorizing Copper World to begin construction and operation of proposed open-pit copper mines in Pima County, Arizona. The project is stated to consist of:

...open-pit mining of copper oxide and sulfide ore, including drilling, blasting, loading, hauling, and stockpiling of ore and waste rock; primary crushing and stockpiling of oxide and sulfide ore; milling and flotation of sulfide ore; heap leaching of oxide ore; vat leaching of sulfide ore concentrate and recovery of gold silver; solvent extraction and electrowinning of oxide and sulfide leach circuits; optional copper concentrate dewatering and shipping preparation; molybdenum concentrate drying and bagging; tailings storage and management; and a sulfuric acid plant.

The air emissions stated to result from the operation of the copper mine are stated to include the following:

- Particulate matter (PM/PM2.5/PM10).
- Nitrogen oxides (NOx).
- Carbon monoxide (CO).
- Sulphur dioxide (SO2).
- Volatile organic compounds (VOCs).
- Hazardous Air Pollutants (HAPs).
- Greenhouse gases (GHGs).

CBD argues that the project constitutes a major source of air pollutants and should have obtained a Class I (as opposed to a Class II) Permit. The organizations argue that ADEQ erred by misinterpreting the meaning of “any air pollutant” by failing to take non-fugitive general particulate matter into account in evaluating potential to emit for “major source” applicability. The state agency is also alleged to have erred by:

...erroneously characterizing PM emissions from stockpiles, transfer points and tailings storage facilities as “fugitive.”

A copy of the Notice can be downloaded [here](#).