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Rosemont foes fault agriculture secretary

Say he upheld underlings' view that feds can't say 'no' to mine

By Tony Davis

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U.S. Agriculture Secretary Tom Vilsack has frustrated, surprised and disappointed Tucson-area opponents of the Rosemont Mine by upholding lower-level officials' view that the feds can't legally say "no" to its construction.

Vilsack's Oct. 14 letter, obtained Wednesday by the Arizona Daily Star, raised eyebrows among opponents because it comes as local residents and officials await the arrival of one of Vilsack's deputies to outline their concerns over the proposed mine. And because he wrote his letter to a local advisory body — the Green Valley Coordinating Council — and not to Tucson's congressional representatives — both of whom have stated their opposition to the proposal and criticized the Forest Service for its handling of the issue.

Rep. Raúl Grijalva termed the letter an "affront." Rep. Gabrielle Giffords' reaction was more subdued.

Vilsack's letter dealt with whether the Forest Service can select a "no-action" alternative for the copper mine in conducting its environmental review of the project. Such reviews are required under the National Environmental Policy Act for any federal project or, like Rosemont, a federally permitted project. The open-pit mine would lie mainly on private land but the tailings and waste rocks would be deposited on Forest Service land in the Santa Rita Mountains southeast of Tucson.

Vilsack wrote that the Forest Service can adopt a no-action alternative for a mine only if it's determined that other alternatives would result in a violation of "applicable federal laws."

"Therefore, the Forest Service works with the mining applicant to develop an acceptable and legally compliant plan of operations as an alternative to be considered during the NEPA process," Vilsack wrote, using the common acronym for the National Environmental Policy Act. "This precludes selection of the no-action alternative."

U.S. mining laws allows individuals to enter certain National Forest lands — including those proposed for use by Rosemont — to search for minerals there, Vilsack wrote. The individuals also have the right to locate mining claims, to mine the lands and to use the lands for processing, he wrote.

"Although the Forest Service may reasonably regulate mining activities to protect surface resources, there are statutory and constitutional limits in its discretion when reviewing and approving a mine plan of operations," Vilsack wrote

One of Vilsack's deputy undersecretaries, Jay Jensen, plans to visit the Tucson area on Saturday to tour the mine and meet with local officials, Rosemont Copper officials and opponents of what would be the third or fourth largest copper mine in the United States.

Grijalva's and Giffords' offices were not aware of this letter until told of it by the Star, their spokespeople said.

Grijalva, four-term congressman who chairs the House Public Lands Subcommittee, said he considered the letter an affront in part because the two congressmen had worked with the Forest Service and Agriculture Department in the manner in which they had been asked by federal officials: asking Vilsack in writing for an opinion on the subject: "Doing it by the numbers."

"It seems the process has been pre-empted" regarding Jensen's upcoming visit, but he will not give up, Grijalva said.

"This is not just about Rosemont. It has implications for all over the West."

Giffords is surprised and disappointed by the letter, said her spokesman, C.J. Karamargin.

"We are convinced that the Forest Service has the authority to regulate mining to prevent the destruction of national forests. This means it must fully examine the "no-action" alternative for the Mine Plan of Operation," Karamargin said. "When ... Jensen comes to Arizona on Saturday, he will see for himself the depth and breadth of the problems that will result from this mine and why so many people in this community — including elected officials — are strongly opposed to it."

Stan Riddle, the coordinating council's president, said Vilsack could easily have written this letter 3 1/2 months ago: "For four months we have to wait. It's very disappointing."

Leaving Giffords and Grijalva out of the loop on this letter "is a very bad move," Riddle added.

Environmentalist Roger Featherstone said he's not discouraged by Vilsack's letter.

"Hopefully, we will light a fire under Jensen to go back up the food chain," said Featherstone, director of the Arizona Mining Reform Coalition. "Vilsack is a corn farmer from Iowa. What does he know about the hard-rock mining law, or about the Forest Service in general? It's all coming from his policy wonks under him, a lot of it coming back from the Forest Service in the old regime."

Ironically, the letter was given to the Star by the staff of Pima County Supervisor Ray Carroll, who has been enmeshed in feuds with Grijalva and Giffords over Rosemont in recent months.

"It sends out a mixed message from Washington, with Jay Jensen's visit coming up," said Carroll, whose district includes the mine site and Green Valley. "My concern is: Is this mine now a fait accompli or will things get cleared up on Saturday? I'm proud of the coordinating council for seeking information and keeping their nose to the grindstone — if it hadn't been for their letter, you wouldn't know there was any mixed message."

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