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September 23, 2026

Mr. Shane Dille
Town Manager
Town of Sahuarita
375 W Sahuarita Center Way
Sahuarita, AZ 85629

Via Email: sdille@sahuaritaaz.gov

Re: Hudbay's continued violations of its 2013 License for Right-of-Way Encroachment

Dear Mr. Dille:

On April 16, 2026, Save the Scenic Santa Ritas Association ("SSSR"), sent a letter to the Town of Sahuarita ("Town") regarding the License for Right-of-Way Encroachment entered into between the Town and Rosemont Copper Company (a subsidiary of Hudbay Minerals Inc.) ("Hudbay") on June 24, 2013 ("License").

SSSR notified the Town that Hudbay (through its then-subsidiary Copper World Inc., now Copper World LLC) is in violation of the License for two primary reasons:

(1) Hudbay is required to annually provide the Town with "reports and documents" that show "the amount of water withdrawn and the amount of water recharged" (License, § 8) but has failed to do so; and

(2) Hudbay is obliged to recharge into the "Recharge Area" (Ex. B to the License) a minimum of 105% of the amount of water withdrawn by Hudbay from its "Rosemont Wells" (Ex. C of the License) (License, § 8) but has failed to do so.

On May 11, 2026, in response to (1) above, the Town responded that the "License Agreement does not regulate Copper World's drilling of wells," "nor does it require reporting to the Town regarding well development activities," and that the License 'does not establish a specific deadline by which such reporting must be submitted to the Town."

In addressing (2) above, the Town responded that "it is the Town's position that the recharge requirement has been satisfied," because "approximately 1,683 acre-feet of water was recharged at the Pima Mine [Road Recharge] facility during the applicable period."

The Town therefore takes the position that Hudbay is not in violation of the License. The Town's position is in error. Hudbay continues to be in default of the License.

1. The importance of the License's recharge and reporting requirements

The rationale behind Hudbay's recharge and reporting obligations explains their materiality and significance.

Hudbay needs large quantities of water[1] to operate its planned open-pit copper mine complex that will cover at least 4,500 acres of the Santa Rita Mountains and which will be "one of the largest producers of copper in the United States" ("Mine Complex"). Hudbay states mining is projected to last at least 44 years. Hudbay has a state-issued 20-year groundwater withdrawal permit for up to 6,000 acre-feet (nearly two billion gallons of water) per year that expires in January 2028.

Hudbay is dependent on the License to transport its groundwater entitlement to the Mine Complex. The License allows Hudbay to install a water pipeline along the Town-owned section of the Santa Rita Road Right-of-Way.[2]

In return for the encroachment to install the pipeline, the Town Council (in 2013) had the foresight to protect Sahuarita's declining water supply. The Council presciently required in the License that Hudbay put more water back into the aquifer beneath the Town than Hudbay will draw from its wells for its massive Mining Complex. To do this, Hudbay agreed to take surface water to which Hudbay is entitled through the CAP[3] and use it to

[1] Based on Hudbay's public records, it is estimated to require a minimum of 9,000 acre-feet (nearly three billion gallons of water) per year over the life of the project. In its 2023 Pre-Feasibility Study (at 1-14), Hudbay claims it will require 6,000 acre-feet per year for 20 years.

[2] The pipeline would extend from Hudbay's primary Sanrita West Wellfield before entering Town property at the Santa Rita Road. The pipeline will continue once it leaves Town property to the Mine Complex.

[3] Hudbay (through Rosemont Copper Company, Contract No. 21-XX-30-W0706) has been allotted 1,124 AFY from CAP, subject to the priority system and Colorado River shortages. Hudbay (through Rosemont) has a 10-year agreement with CAP, approved in January 2022, allowing Rosemont to store its CAP water at the Pima Mine Road Recharge Project, on the north west corner of Pima Mine Road

"recharge" "a minimum of 105% of the amount of water withdrawn from the Rosemont Wells." License, § 8.

"Rosemont Wells" refers to Hudbay's wells located in the Sanrita West and Sanrita South Wellfields. *See* Ex. C to License. All five wells at issue herein (*see* below) are located in these wellfields and are thus subject to the terms of the License.

In order to fulfill this recharge obligation, Hudbay is dependent upon a separate yet-to-be-built pipeline that will transport Hudbay's CAP allocation from the terminus at the southernmost end of the CAP pipeline west of Interstate 19 at Pima Mine Road. The 36-inch pipeline will terminate at a yet-to-be-built 72-acre recharge facility located within the "Recharge Area" (*see* § 8 and Ex. B to the License). Hudbay has committed to build this pipeline as a joint venture with local water provider Community Water Company of Green Valley ("CWC") and is called Project Renews.[4]

Hudbay originally promised to fully fund the Project Renews pipeline,[5] that was estimated to cost $25 million to $30 million in 2015. Only two miles of the 10-mile pipeline have been built (Hudbay says it has to date invested $2 million in the project). CWC's General Manager said earlier this year he does not know when the project will be completed.

In its shareholder and marketing materials, Hudbay relies heavily on its promise to "recharge" water into the aquifer. *See*, for example, Hudbay's 2025 Annual Report published on May 19, 2026, in which Hudbay represents to shareholders that "[t]he project is designed to be net-neutral as a water user, recharging 100% of the water it extracts back into the local aquifer." (At 94.) And *see* Copper World's website: "Our goal for Copper World is to recharge and recycle as much water as we use in production. We will do this by purchasing water from the Central Arizona Project (CAP) and allowing it to soak into shallow groundwater aquifers from recharge ponds."

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and Nogales Highway or the Lower Santa Cruz Recharge Project in Marana if there is insufficient capacity at the Pima Mine Road Recharge Project.

[4] Planning for Project Renews began in the 1980s. Hudbay assumed the commitment of a previous mining company to build the pipeline/recharge project when it purchased Rosemont Copper Company in 2014.

[5] In Hudbay's 2024 Annual Report, it stated that "Hudbay has committed to fully funding Project Renews" (at 91) (emphasis added). However, this promise is absent from its 2025 Annual Report, which states only that it has "planned investments in the Project Renews water recharge initiative" (at 79) and refers to its "support for Project Renews" (at 94). Hudbay's 2023 Copper World Pre-Feasibility Study makes no mention of Project Renews, nor its obligation in the License to recharge 105% of water it uses, nor its promise to fund Project Renews, nor the fact that it is dependent on the License to be able to transport water to the Complex.

2. The Town relies on Hudbay to accurately report pumping and recharge

The Town is only able to enforce the recharge obligation if Hudbay complies with the License reporting obligation. In order to calculate what "105% of the amount of water withdrawn from the Rosemont Wells" entails, the Town must know exactly how much groundwater Hudbay withdrew from its wells in any given year. The Town relies on Hudbay for this data to determine how much water the License agreement requires to be recharged.

Because Hudbay's recharge obligation is critical to the Town and to the community, the Town Council had the foresight to include language in the License expressly stating that the recharge and reporting obligations are material terms of the License ("the parties agree that the recharge and reporting obligations of this paragraph 8 are material terms of this Agreement."). License, § 8.

The replenishment obligation, therefore, is not an incidental term of the License. The replenishment obligation is a longstanding commitment to the community.

At the time the License was negotiated, replacing the groundwater that Hudbay would consume over decades was publicly presented as an important protection for the Sahuarita and Green Valley communities and their water supply.[6] The License was included as a mitigation requirement in the U.S. Forest Service's 2017 Record of Decision for the Rosemont Mine prior to Hudbay redesigning the project as Copper World.

The repeated commitments by predecessor August Resource and subsequently Hudbay to recharge 105% of the groundwater dates back at least 17 years. The License made the commitments a contractual obligation in 2013 and that contract remains in force today.

3. Violation of the License's reporting requirement

The License is clear that Hudbay must "annually" "provide the Town with reports and documents which show the amount of water withdrawn and the amount of water recharged as required in this Agreement." License, § 8. This is required so that the Town can calculate whether Hudbay is meeting its recharge obligations (*see* above).

[6] *See* Rosemont's then-parent company's 2013 Annual Information Form ("The Rosemont Project will replace the water removed from the local aquifer." (at 18). And *see* Rosemont's letter to ADWR dated November 6, 2012, in which Rosemont stated "Rosemont has committed to using Central Arizona Project ('CAP') water to offset its groundwater withdrawals in the Tucson Active Management Area," and "to that end, Rosemont has cooperated with [CWC] to construct an extension of the CAP canal system to the Green Valley/Sahuarita area."(pdf p. 77).

It is a misstatement of the License to say that it contains no "specific deadline." The deadline is "annually." The License has been in effect since June 2013, and Hudbay has filed no reports with the Town in any year for 13 years. The Town has been given no information at all about whether and how much groundwater Hudbay has withdrawn in order to determine compliance with a material term of the License.

Even though the Town originally denied this,[7] there is no dispute now that Hudbay drilled four industrial water production wells in 2024 and 2025 (wells ##55-241987, 55-241988 and 55-242051 in the Sanrita West Wellfield; #55-241989 in the Sanrita South Wellfield). Hudbay drilled a fifth production well #55-225120 in 2016 in the Sanrita South Wellfield.

Hudbay admits that its well driller was in violation of A.R.S. § 45-600(A) by failing to submit to ADWR mandatory well driller reports within 30 days of completion of each of the four wells drilled in 2024 and 2025. *See* letter dated April 27, 2026 from Hudbay to the Town ("Hudbay Explanation"), p. 1. Only after SSSR put the Town and ADWR on notice of this violation did Hudbay "direct" its well driller to "correct this administrative oversight immediately." *Id.* Such reports were signed by the well driller on April 29, 2026, and posted on the ADWR website on June 17, 2026, even though the wells were apparently completed on December 11, 2024, February 28, 2025, March 28, 2025, and May 21, 2025, making them all overdue by 11 to 16 months. These reports would likely never have been submitted if SSSR had not demanded them.[8]

In addition, Hudbay admits that it has withdrawn water from its five industrial water production wells. Hudbay Explanation, p. 1. As stated in Hudbay's 2025 Annual Groundwater Report , Hudbay withdrew groundwater from each of these five wells totaling 33.49 acre-feet or 10.9 million gallons in 2025.

Hudbay now admits that it failed to report to the Town its withdrawals from these wells. Hudbay Explanation, p. 2. Hudbay defends this failure, claiming it was based on a "good-faith interpretation" of the License and "not an attempt to conceal anything from the Town." But this claim is belied by the facts here and moreover does not excuse Hudbay's ongoing violation of the License.

First, Hudbay remains in violation of its own obligation (as well owner) under A.R.S. § 45-600(B) to submit ***pump installation completion reports*** to ADWR for its four

[7] During the January 26, 2026 council meeting, the Town Attorney stated: "There's been no well drilled, there's not even a permit yet from ADWR that's been approved to drill the well. So, there's no well, there's no pipeline."
[8] Three of the four well drilling reports are substantively deficient. The director has prescribed that static water level data must be included in a well driller report but these reports inexplicably mark "static water level" as "NA." See: Drill logs ## 55-242051, 55-241989, 55-241988, 55-241987.

wells drilled in 2024 and 2025 (wells ##55-241987, 55-241988, 55-241989 and 55-242051). These reports are separate from the well driller reports and must include substantive data like well pumping capacity, static groundwater level, and pumping drawdown. This information is critical and necessary not just for groundwater management of the aquifer and the Tucson Active Management Area, but also for Copper World's long-term groundwater assumptions. The reports are required to be filed within 30 days of pump installation. To date, Hudbay has not filed pump installation completion reports for any of its four wells.

By contrast, in 2016, for Well #55-225120 in the Sanrita South Wellfield, Hudbay prepared the required 146-page pump installation completion report that included the well's hydraulic testing information, static groundwater level, pumping water level, drawdown, pumping rate and test duration. Although the report states Hudbay had an ADWR groundwater withdrawal permit, this groundwater pumping was never disclosed to the Town. Hudbay is fully familiar with the statutory requirement to file pump installation completion reports for the wells drilled in 2024 and 2025 but has purposely failed to do so. These are the industrial water production wells upon which Copper World's entire project depends.

Hudbay's failure to provide "reports and documents" to the Town showing "the amount of water withdrawn" (which is a violation of the License) mirrors Hudbay's failure to file pump installation completion reports with ADWR (which is a violation of § 45-600(B)). Whether Hudbay intends to "conceal" this data from the Town and/or ADWR is irrelevant; Hudbay is in fact concealing this information, unlawfully.

In any event, the License does not provide for any exceptions to the reporting requirement in § 8. If Hudbay pumps water from its Rosemont Wells, Hudbay must report such pumping to the Town. The License does not excuse reporting if water is "not put to consumptive use for mining." Hudbay Explanation, p. 1.

Hudbay's continuing withholding of information and failure to provide annual reports and documents to the Town prevents the Town from determining whether Hudbay is in compliance with its recharge obligation and is a material breach of the License.

To protect the Sahuarita community's declining water supply, the Town must enforce the terms of the License, including giving notice of default under § 24 of the License, and to refuse to issue any of the permits required by Hudbay for installation of the water pipeline until Hudbay has shown full compliance with § 8 of the License.

4. Violation of the License's recharge obligation

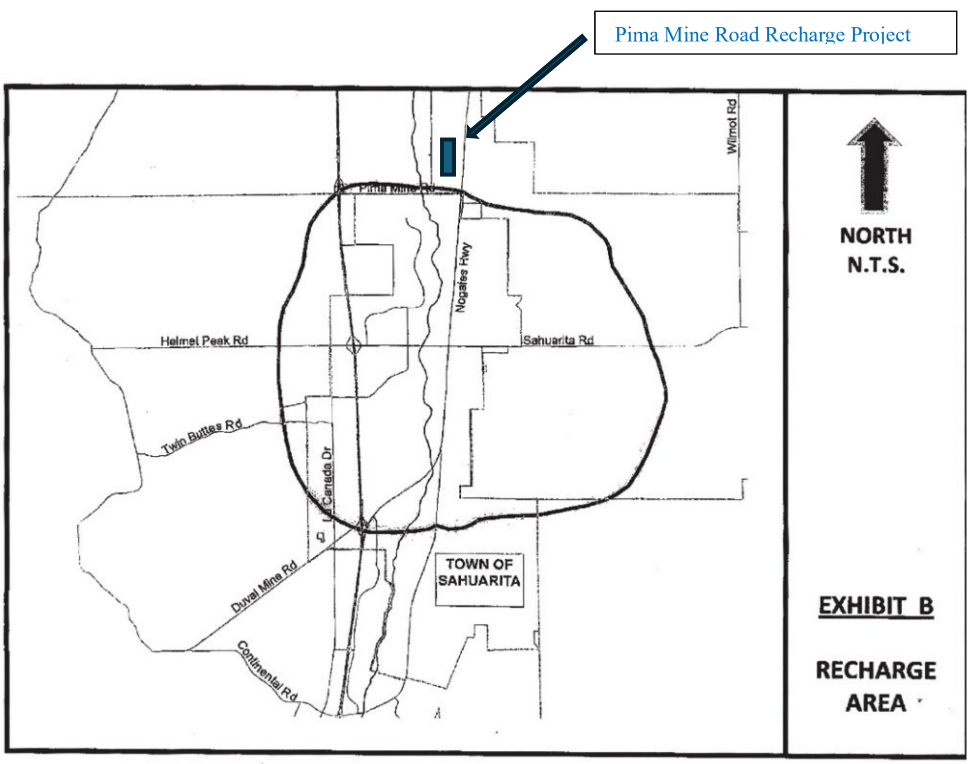
As consideration for the ability to transport water to the Mine Complex over Town property, the Town required, and Hudbay promised, that it "shall recharge, with Central

Arizona Project water and within the drawdown area depicted on Exhibit B attached hereto ... (the "Recharge Area"), a minimum of 105% of the amount of water withdrawn from the Rosemont Wells as depicted on Exhibit "C" hereto." License, § 8.

The Town offers a post hoc rationalization for Hudbay's failure to recharge into the Recharge Area: The Town claims that Hudbay complied with this obligation because "approximately 1,683[9] acre-feet of water was recharged at the Pima Mine facility during the applicable period."

But any amounts of CAP stored by Hudbay at the Pima Mine Road Recharge Project ("PMRRP") are irrelevant to Hudbay's recharge obligations under the License, because they do not constitute a recharge into the "Recharge Area" as defined in the License.

The Recharge Area is expressly and graphically defined in the License (*see* § 8, Ex. B) (below) (PMRRP annotation added herein for ease of reference). The PMRRP is expressly excluded from the Town's Recharge Area. Pima Mine Road is the northern boundary of the Town's Recharge Area. The PMRRP is located to the north and outside of the Recharge Area.



[9] The approximate 1,683 AF overstates how much CAP water Hudbay has stored at the Pima Mine Road Recharge Project ("PMRRP") since the agreement was signed in 2013. State records show that Hudbay has stored 1,124 AF at PMRRP since 2013. Hudbay stored 559 AF at PMRRP in 2007.

The Town concedes in its May 11, 2026 reply that the PMRRP lies outside of the Town's Recharge Area. The Town speculates that water "mounding" beneath the PMRRP somehow flowed upstream (to the south) and crossed into the Town's Recharge Area. The Town's argument is essentially that "recharge is recharge wherever in the aquifer it occurs." This position is not supported by either the License or Title 45. Nothing in the License says that recharge at a groundwater storage facility outside of the Recharge Area complies with the License. Nothing in Title 45 says that recharge at one permitted groundwater replenishment location legally constitutes recharge at some other geographic location merely because the water ultimately may enter the same aquifer.

If "Recharge Area" allows Hudbay to recharge outside the boundary depicted in Exhibit B, then the term "Recharge Area" and Exhibit B are rendered meaningless. A contract must be construed "in its entirety and in such a way that every part is given effect." *Goddard v. R.J. Reynolds Tobacco Co.*, 206 Ariz. 117, 120 ¶ 12 (App. 2003), citing *Cardon v. Cotton Lane Holdings*, 173 Ariz. 203, 207 (1992).

The only way for Hudbay to comply with the License is to recharge in the Recharge Area. It has failed to do so. Hudbay is in violation of the License.

5. <u>The License is in effect and enforceable</u>

Hudbay appears to take the position that it is not bound by all the terms of the License. Hudbay states that "Copper World has not used the License at all since it was issued in 2013," and that only "some of [the License's] terms apply prior to actual use." Hudbay Explanation, p. 1. To the extent that Hudbay implies that it is not bound by the reporting or recharge obligations in the License, this is contrary to law.

The License expressly states that the "effective date" was June 24, 2013. License, p. 1. The License is a contract. *See GST Tucson Lightwave, Inc. v. City of Tucson*, 190 Ariz. 478, 482 (App. 1997) ("a franchise or license agreement between the City and its grantee is a contract."). The Town's grant of the License conferred a presently existing legal privilege upon Hudbay. Nothing in § 8 makes Hudbay's exercise of that privilege a condition precedent to its obligations. Arizona courts will not imply such a condition where the agreement does not clearly provide one.

Since June 24, 2013, Hudbay has had an obligation under the License to report any withdrawals from the Rosemont Wells and to recharge 105% of such withdrawals into the Recharge Area with CAP water. Hudbay pumped water from the Rosemont Wells in 2016 and 2025 and <u>failed to recharge 105% of the groundwater within the Recharge Area.</u>

For the reasons set out above, the Town is urged to take action to protect the water supply upon which the Town's community relies. The Town Council's predecessors understood what was at stake and had the foresight to insist on these protections for

Sahuarita's water supply. We urge the current Council not to allow these protections to become meaningless, but to enforce the promise the Town secured.

Regards,

<u>/s/ Adriane Hofmeyr</u>	*<u>/s/ Rui Wang</u>*
Adriane J. Hofmeyr	Rui Wang

cc:

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