MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By **CHAIRMAN STEVE BENEDICT**, on March 11, 1993, at 9:00 A.M.

ROLL CALL

Members Present:

Rep. Steve Benedict, Chairman (R)
Rep. Sonny Hanson, Vice Chairman (R)
Rep. Bob Bachini (D)
Rep. Joe Barnett (R)
Rep. Ray Brandewie (R)
Rep. Vicki Cocchiarella (D)
Rep. Fritz Daily (D)
Rep. Tim Dowell (D)
Rep. Alvin Ellis (R)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Dick Knox (R)
Rep. Don Larson (D)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carley Tuss (R)
Rep. Doug Wagner (R)

Members Excused: All Present

Members Absent: None

Staff Present: Susan Fox, Legislative Council
Claudia Johnson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 320, SB 331, SB 419, & SB 420
Executive Action: SB 331, SB 419 & SB 420

HEARING ON SB 331

Opening Statement by Sponsor:

SEN. JOHN J.D. LYNCH, Senate District 35, Butte, said SB 331 is probably familiar to the members that were in the Business

Committee last session. He said the language in SB 331 has been changed drastically with the exclusion of the continuation of the willing provider in health care. He said Indiana is doing away with their willing provider because they found that most willing preferred provider organizations (PPOs) are not being created from the provision. SB 331 will provide for competition in awarding bids, and the low bid will receive the PPO if it is a quality bid. The insurer doesn't have to accept the bid if they don't want to. SB 331 came about because present law states that without the willing provider provision, an insurer would be able to ask for a bid from out of town, then the hospital in that area would not be able to participate. This bill will give everyone an opportunity to participate.

Proponents' Testimony:

Tom Ebzery, attorney, St. Vincent Hospital, Billings, said he was involved with this bill in the last session when it was SB 256. He said SB 331 will provide for everyone to have the same terms and conditions which is the same situation that Managed Care is. He said the difference with the continuous nature of the present situation and this bill is, this bill will reduce health care costs because of the competition SB 331 will allow. The PPOs could survive with the willing provider amendment, but felt it was not to be. The governor had placed a sunset law on SB 256 to be looked at these last two years. He said the people that are concerned with the willing provider being dropped should remember if this bill doesn't pass with the sunset law, then nothing will occur. He said the immediate effective date is very essential, and urged the committee's support.

Larry McGovern, Montana Associated Physicians (MAP), said MAP is the largest independent group of physicians in the Pacific Northwest based in Billings. He said they are in favor of a free spirit of fair competition, and urged the committee to support the bill.

Jim Poquetta, President of St. Vincent Hospital, Billings, said from the hospital's standpoint, they are in full support of SB 331. He said this bill will provide for an open bidding process as it waits for the PPOs. SB 331 is a positive bill that will benefit not only the health care consumer in Montana, but will be fair to the hospitals, physicians and other providers both in the rural and the larger communities in the state. He asked for the committee's support for SB 331 without any amendments.

Frank Cote, Deputy Insurance Commissioner, said health care costs and health insurance rates are rising dramatically in proportion to the rest of the consumer goods. SB 331 in its present form will alleviate part of this situation by giving the people the opportunity to find lower rates through the competition system. He asked the committee to support SB 331.

Jerome Connolly, Physical Therapist, Billings, said he is speaking on behalf of his private practice which employees 24 physical therapists and associated personnel in Laurel, Billings and Red Lodge, and also the Montana Chapter of the American Physical Therapy Association which represents over 200 practicing physical therapists throughout the state. He said SB 331 was drafted because of two hospitals that were having a feud. In terms of competitive bidding, this bill will allow some of the small businesses that have been taking great risks in the competition field to provide health care services to their communities. The Montana Chapter would have preferred the bill with the Willing Provider Act, but said if this is the best the commissioner and staff could come up with they will support SB 331.

Pat Melby, Rimrock Foundation, said Rimrock is a facility in Billings that provides treatment for chemical dependency, gambling disorders, and other disorders. He said they support SB 331, but would have preferred the willing provider stay in the law. Their support is based on the belief brought on by the appeals from the insurance companies, and will not narrowly draw bid specifications that would limit the number of facilities for providers who might qualify for a PPO that will be fair and competitive.

Tom Hopgood, representing Health Insurance Association of America, said they have been involved with the PPO issue since it started several sessions ago. He said removing the current preferred provider language is a giant step in making this a true cost containment measure. He hoped the committee would concur with SB 331.

Larry Akey, Montana Association of Life Underwriters, said he supports SB 331.

Sam Hubbard, Deaconess Medical Center of Billings, said Deaconess originally opposed this bill, but because of the willing provider feature amended out they can now support it. He asked the committee to concur in SB 331.

Chuck Ballard, representing Blue Cross/Blue Shield of Montana, said they were one of the opponents of this bill in the past. The bill has been significantly changed with the willing provider taken out. The Federal Trade Commission issued a letter back in February to Attorney General Mazurek, which stated the willing provider laws are anti-competitive. He said SB 331 has been amended to address the issue of competition, but would have preferred that the willing provider law had never been passed back in 1987. **Mr. Ballard** said the preferred providers have a place in Montana as they do in the other states, and that is to save the consumers money. The preferred provider arrangement that Blue Cross/Blue Shield has, has raised some controversy in the market place, but it has saved the 200 employers and 11,000

employees in the Billings and Yellowstone County area more than $1 million in annual premiums. **EXHIBIT 1**

Joyce Brown, Chief of Employee Benefits Bureau, Department of Administration, stated her support of SB 331. She said SB 331 represents a good compromise and the PPOs make sense; they work; and health plans are counting on them. **EXHIBIT 2**

Opponents' Testimony:

Dr. Hugh Black, Montana Psychological Association, Helena, said he also represents the coalition of the Mental Health Care Providers in Montana which includes: Psychological Association; the Montana Chapter of the National Association of Social Workers; and the Montana Professional Health Services. He addressed several issues of the bill he is concerned with as it presently stands as amended by the Senate: 1) it sets up costs as the molding criteria for insurers to contract with providers leaving out quality; and 2) it permits the formation of closed provider panels that threaten the limit the consumers services. The incentive to reward providers for cutting corners on quality in order to compete on cost alone. His concern is the coalition is formed primarily for the protection of the consumers of mental health services, and all consumers of mental health. He said SB 331 is exactly the same model as managed care which has failed across the country in the past, because it led to higher costs and a lower quality of care.

Informational Testimony:

James C. Hinshaw, M.D., Great Falls, faxed information and testimony on his opposition to SB 331. **EXHIBIT 3**

Questions From Committee Members and Responses:

REP. DAILY asked **SEN. LYNCH** to give an explanation of the difference between a preferred provider and a willing provider? **SEN. LYNCH** said under the preferred provider, all of the people insured, i.e., in the same school district have to go to that provider, because that hospital lowers their price for those 500 teachers under the provision the insurance provided. If the teachers went to hospital (b), they would lose 25% from their benefits. The willing provider provision that has been in place for the last two years stated if hospital (b) wasn't allowed to bid or be on any of the negotiations they will match the same price as hospital (a).

REP. MILLS asked **SEN. LYNCH** how long the contracts will remain in existence with a provision they may re-bid for a better price at a later date? **SEN. LYNCH** said it is in the best interest of the insurers to not make the contracts too long. The average is about three years for a PPO. He said they do not want this set by law, it should be between the insurer and the hospital.

CHAIRMAN BENEDICT asked **SEN. LYNCH** about the hospital in his region which is 50 miles from a major hospital in Missoula, will these people be able to enter into a PPO arrangement? **SEN. LYNCH** said a rural hospital is not usually in a PPO. He said the people that are insured will have to agree if they want to get into a PPO without having to drive 50 to 100 miles every time they need to go to a hospital.

REP. BRANDEWIE asked **Joyce Brown** where do state employees stand in regards to the hospitals in the different regions, i.e., would the western half of Montana be required to go to St. Patricks in Missoula, and if so, where would the people go from the outlying areas of Kalispell? **Ms. Brown** said PPOs only involve urban areas where there are competing hospitals. But if there are no competing hospitals, then there would be special arrangements for the areas outside of the PPO.

REP. LARSON asked **SEN. LYNCH** why St. Vincent's Hospital and Blue Cross/Blue Shield were the only ones testifying today. Why wasn't the Hospital Association involved with this? **SEN. LYNCH** said the Hospital Association was involved two years ago, and had taken a neutral position this time. He said they approached Great Falls and Missoula, and it is apparent that it has to be in areas where there is more than one hospital.

REP. BARNETT asked **SEN. LYNCH** about section 1, page 5, line 20, it refers to temporary preferred provider agreement, and wanted to know why the word "temporary" was left in there? **SEN. LYNCH** said it is for the coordination clause. He said if this bill doesn't pass, it will go back to prior 1991 before the sunset law was placed on it.

REP. DAILY asked **SEN. LYNCH** what if the service is not provided by a certain hospital? **SEN. LYNCH** said they can refuse any bid if it is not what they are looking for.

Closing by Sponsor:

SEN. LYNCH closed and said he sympathized with the only opponent that testified today, and said they would be worse off with pre-1991 anyway. This is a legitimate compromise and hoped the committee would concur with SB 331.

HEARING ON SB 419

Opening Statement by Sponsor:

SEN. JOHN J.D. LYNCH, Senate District 35, Butte, said SB 419 provides for the utilization of non-filing insurance in lieu of filing/recording, or otherwise perfecting any title or lien or for securing a loan to the extent that the premium for the insurance does not exceed the fees that would otherwise be payable for filing, recording, or releasing any security interest. It increases the maximum delinquency charge that may

be collected for default in payment of an installment due under the terms of a retail installment contract to $15. It deletes the requirement that certain dollar amounts set forth are subject to change in accordance with the changes in the consumer price index.

Proponents' Testimony:

Jerome Leondorf, Montana Consumer Finance Association, said SB 419 makes three changes in the law: 1) allows utilization of non-filing insurance in place of filing a recording or perfecting any lien taken by a seller or lender in connection with a retail sale or consumer loan. The required premium cannot be any more than what a seller or lender would have to pay in order to record a security agreement, i.e., if someone signs with a seller and gives the seller the security agreement, the seller can take that signed agreement to the secretary of state's office and record it for a fee of $7. This bill would allow them to buy non-filing insurance in case there was a default, or haven't filed. If the secretary of state could not collect or repossess the security, they would be able to collect from the insurer. He said the main thing to remember about the bill is it states the premium cannot be anymore than the fee is for filing; 2) it increases the delinquency charge to be made in case of a default on a payment under a retail installment contract. The current law states the amount is 5% of the installment or $5, whichever is less. The change would increase that to 5% for each installment or $15, whichever is less. This amount has not been changed since the law was enacted in 1959, and the increase would be more in-line with the current cost for handling defaults; and 3) on page 12, lines 23 - 25, it states that Title 32-5-104 is not part of this bill, and it these amounts must be adjusted in accordance with the consumer price index.

Bill Leary, Montana Bankers Association (MBA), said the MBA agrees with the concept of the bill, and encouraged the committee to concur in SB 419.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. BARNETT asked **Jerry Loendorf** if the people have to file the insurance forms with the secretary of state's office. **Mr. Loendorf** said no. Only if a person uses a security agreement then it is filed with the secretary of state. If someone wants to purchase the insurance then they do not have to file. **REP. BARNETT** asked how long is the life of the insurance? **Mr. Loendorf** said if there was a credit arrangement, a person could continue to have advances of credit for however long they want it.

Closing by Sponsor:

SEN. LYNCH closed.

HEARING ON SB 420

Opening Statement by Sponsor:

SEN. JOHN J. D. LYNCH, Senate District 35, Butte, said SB 420 will allow joint debtors to be covered under a joint policy of credit life or credit disability insurance. He said the days are long gone when the male spouse was the sole earner in a family. In this day and age it is incurred by husband and wife, partners and partnerships. This bill allows people to purchase insurance jointly which is currently done individually. With the double incomes of people today, they need to be covered if something happened to either partner.

Proponents' Testimony:

Jerry Leondorf, Montana Consumer Finance Association, said this bill deals with credit disability insurance. Credit life insurance is purchased to make payments when there is a period of disability. SB 420 is for joint debtors to purchase insurance together in case anything happens to their partner.

Bill Leary, Montana Bankers Association (MBA), stated his support for SB 420.

Bob Pfeifer, Montana Credit Unions (MCU), wanted to be on record in support of SB 420. He said MCU feels that joint credit disability insurance is an important and good policy to have.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

None

Closing by Sponsor:

SEN. LYNCH closed.

HEARING ON SB 320

Opening Statement by Sponsor:

SEN. HENRY McCLERNAN, Senate District 34, Anaconda, said SB 320 will provide a time limit in which to challenge the Board of Land Commissioners' mining decisions, and allow the award of costs and attorney fees to be challenged. SB 320 will extend the completeness review period for applications for new permits, and provide criteria for amendments and revisions to mine permits. **SEN. MCCLERNAN** said he agreed to carry this bill for the mining industry for a couple of reasons: 1) to alleviate the concerns of the Citizens United for a Realistic Environment (CURE), a group of people who work at the open pit mine in Whitehall; and 2) alleviate the problem mining companies have in modifying and changing permits. The bill was drafted and placed in the Senate Natural Resource Committee with a few modifications, but the Senate had to vote on the floor to get it out of the committee. The environmental community was very unhappy with the bill. He worked with **SEN. DOHERTY** to try to find a happy medium which did not go over with the mining group. The biggest concern from the mining companies are the modification of amendments and revisions. **SEN. MCCLERNAN** and **SEN. DOHERTY** took language from the Coal Mining Act and inserted it in the bill. He said he wasn't an attorney, and didn't know what the language would do to the bill. He said coal mine language is straightforward, when they open a coal mine a mine design is done which stays constant for the life of the mine. Metal mines are different because they diamond drill into the ground, then a mine design is done by the samples. Another big problem is the price of the commodity from the mines. Coal mines are based on contracts with big companies back east, so the mines know the price they will receive for that coal, but the metal prices fluctuate up and down. When the prices drop on metal, the mines have to restrict their operations and take only the high grade metal. **SEN. MCCLERNAN** said he spoke with people from the metal mines last week, and their concern is with the lack of definition in the Metal Mine Act on how to change an operating mine permit. There isn't a definition in the statutes, nor in the administrative rules, and SB 320 will do that. He didn't have a clean list of amendments, but has been working on them with **REP. PAVLOVICH** and **REP. BROWN**. He informed the committee what the amendments will do; when the Department of State Lands approves a modification, there is a period of two years that the people can challenge the decision. He said this is currently set in the statute of limitations. The group CURE in Whitehall is concerned because the decision can take two years, and these jobs are in jeopardy; they don't know if they can purchase a house, car, etc. The group in Whitehall wanted the challenge to be cut back to 45 days they didn't like that, now it is back to 180 days. **SEN. MCCLERNAN** said his personal preference is 90 days. It would give the environmental groups enough time to prepare a lawsuit if they need to. He talked about the attorney's fees found on page 2, lines 21 - 25 of SB 320. The language was taken from the Federal Water Pollution

Control Act that was amended into the Clean Water Act in 1977. This language is in the amendments, and applies to whomever loses the lawsuit. They are acceptable to the mining companies, and the CURE group. Pages 13 and 14 addresses the Department of State Lands' part in the hiring of a contractor to do an environmental impact statement for changes in the permits. The current process is whoever applies for the permit will pay for the contractor, but the department does not have a say in who the contractor will be. **SEN. MCCLERNAN** said he wants the department to have the final decision, and SB 320 will give that decision back to the department. The last change in the amendment deals with the effective date. The original date would have been upon approval and signature by the governor. He said **SEN. DOHERTY** had problems with it because of some changes with the Zortman-Landusky mine. After talking with the department, the mine has agreed to a full environmental review, and it is not an issue at this time.

Proponents' Testimony:

Dennis Olson, Northern Plains Resource Council, said he is in support of this bill. The mining industry has not contacted **SEN. MCCLERNAN** in regard to the amendments, and didn't know what their response would be. He said the Resource Council does not like section 7, nor any language in the bill that says the mining companies should have a say in who will do the environmental impact statement. He said if the rest of the bill were left intact it would be acceptable to them.

Lill Erickson, Bear Creek Council, Gardiner, said she is representing the Golden Sunlight Mine, and supports the bill with reservations. She said if the legislative body is truly interested in expediting the permitting process, the committee should look into the mine at Gardiner as an example. She said this mine should be the cause of great controversy, they use cyanide, and is above a major tributary that flows into the Yellowstone River, and would affect Yellowstone National Park. The mine was permitted expeditiously without any challenges. The mine management takes public involvement seriously; they invite the public's participation, listen to the public's concerns, and share their perspectives with the public to help them understand what is going on. The mine integrates the people's ideas into the way they operate. She said the citizens of Gardiner have a good feeling in that they have control over their lives, because they share the destiny with the mine. The key is bringing people together in a cooperative setting. She feels it is the duty of the legislature to establish procedures and processes where people can come together and not be divided. **EXHIBIT 4**

Linda McMullen, Rancher, NPRC, Big Timber, said she lives on a river downstream from a large proposed platinum mine. She didn't know if she should be a proponent or an opponent because of the amendment proposed by the mining industry. She will be an opponent if the amendment is accepted by the committee. She said

that SB 320 should stay the way it came amended out of the Senate. She referred to the bill on page 14, lines 4 - 8, it states the "Department shall consult with the applicant in selecting the contractor, and consider and weigh the applicant's arguments concerning the advantages and disadvantages of hiring a particular contractor". This language is dangerous because it is not appropriate for the applicant to have any influence on the decisions of the department. She urged the committee to adopt this bill as amended by the Senate, but strike the language that would allow the mining industry to be involved in the decision making process. **Ms. McMullen** said the Department of State Lands should be able to make the decisions in a manner which is not influenced by outside parties.

Mona Jamison, representing Cathedral Mountain Ranch in Nye, said the primary shareholder of the ranch is a very conservative land developer. She was against the bill when it came before the Senate, but after the amendments were added, it is a bill she can live with, but doesn't necessarily like. This bill is a compromise which is very fragile, and if more amendments are added to it the proponents will become opponents. She said the compromise language given the courts is if it is determined the lawsuit is frivolous the losing party pays. She said if the applicant can choose the consultant to do the work there would be an inherent bias in terms of the choosing that would go on in the final product and have an impact on the resources. **Ms. Jamison** asked the committee to support SB 320 as it appears in the third reading copy.

Gary Langley, Executive Director of the Montana Mining Association, said they rise in support of this bill, but only if it is amended with **SEN. MCCLERNAN'S** amendments. This is a people bill that will secure the future of the 3,500 men and women who work in Montana's mining industry. He said this bill will reduce the time limit in which mining permits can be appealed. Currently, political environmentalists have two years to appeal a mining company permit. A mining company which has invested millions of dollars in a mining project is placed in financial jeopardy, and it also jeopardizes the men and women who work in the mines. It places these people in a state of anxiety because they are not able to make any long-term commitments to buy a house, car, etc. The application and permitting process takes three to seven years in most cases, which is adequate time for public comment. Once a permit is issued there is no reason to give these politically environmental groups another two years to place these Montana families' future in jeopardy. This bill will allow the prevailing party to collect legal fees. If the language that **SEN. MCCLERNAN** proposed was good enough for the political environmentalist in 1991 in a bill they introduced to restrict the mining industry, it should be good enough for the mining industry in 1993. When a political environmentalist group loses, they should have to pay the legal costs when they appeal to either the state or the federal government. If they lose a suit and the prevailing party is not allowed to collect the legal

fees, then the burden is borne by the taxpayers because the environmentalists file a frivolous suit and have harassed the mining companies. SB 320 will allow the mining companies to have some voice in the selection of consultants. Reports submitted in 1989 and 1990 were made up of mining representatives, government officials and political environmental groups who issued a final report in September 26, 1990. The report was signed by Ken Wilson, Environmental Information Center, Tony Schunan of the Montana Wildlife Federation, and Bruce Farley, Montana Coalition. This report gave the applicant some say in who is selected as a consultant, and now they oppose it. He submitted to the committee that SB 320 is a people bill, and gives security to the 3,500 Montana families involved in the mine at Whitehall. He hoped the committee would concur in both SB 320 and the amendments proposed. **EXHIBIT 5**

Ward Shanahan, attorney representing Stillwater Mining Company. Mr. Shanahan is also involved with other mines in Montana and is aware of the permit problems the mines are dealing with. He said **SEN. MCCLERNAN** meant well with the amendments to correct some of these problems. The amendments placed in SB 320 were added on the floor of the Senate and he was not able to participate. **Mr. Shanahan** has a problem with the amendment on page 16, section 8, line 2. It is a savings clause, but it will not invalidate any other part of the bill. He said this was added because the environmental groups did not want to have any problems created for their Golden Sunlight Mine lawsuit which is now pending. He said the savings clause goes too far where it states the "rights and duties that has matured". An existing mining permit is a right and duty that has matured. If this bill does nothing to effect the right and duty that has matured for his clients, then he has not gained anything by SB 320. He said if his clients' existing mining permits cannot be modified, changed or amended in accordance with some of the things that were done and what **SEN. MCCLERNAN** meant to do with the bill, then his clients will have a problem with SB 320. He gave an example of what the language will do if it is passed. A mining company in Dillon added a $10 million plant to their operation, and if it is determined through these amendments to be a major modification, and goes through an environmental impact statement process, the plant probably would not have been built. The intent of this bill is to divide major and minor modifications and alterations, i.e., change machinery for air pollution control, etc.

<u>Opponents' Testimony</u>:

John Fitzpatrick, governmental affairs for Pegasus Gold Corporation, said when SB 320 was first introduced in the Senate, he was a proponent. He worked with **SEN. MCCLERNAN** to develop amendments that were inserted by the Senate Natural Resource Committee that would modify the concerns that have been raised by the environmental groups and the citizens. He said unfortunately, when the bill was placed on second reading a number of amendments were drafted and inserted in the bill on the

floor of the Senate. He said this is not a compromise bill as alluded to by Mona Jamison in previous testimony. There are a number of changes that went into the bill on second reading that are very onerous, and said he was here to request that they be changed back. He has not had the opportunity to look over **SEN. MCCLERNAN'S** amendments, and is not prepared to endorse them at this time. **Mr. Fitzpatrick** distributed amendments that would place the bill back the way it was before third reading. **EXHIBIT 6**

Brad Reel, with the Golden Sunlight Mine in Whitehall, said he is a member of the group called CURE. He said SB 320 is not just an environmentalist vs. industry bill. He is before the committee to ask for definitives so the employees of Golden Sunlight Mine can work with a secure future. He said families are involved with the decisions that are made at the legislature, and asked the committee keep this in mind when they vote.

Jim Jensen, Montana Environmental Information Center (MEIC), said the MEIC is one of the organizations suing the state of Montana over the Golden Sunlight Mine expansion. He said they purposely did not seek the legal remedies available to them that would have caused the mine to be closed when the state gave the mine the go ahead for the expansion, making it the second largest mine in the state of Montana. It would have taken two years before any of the activities to start and give them time to have substantive questions that were raised regarding the reclamation and the protective water resources to be resolved in a way that would not force the mine to close. He said the Metal Mine Act was passed in Montana, not for some theoretical reasons, but for economic reasons. He said the committee should amend this bill to prohibit any member of the Montana Mining Association from being eligible to apply to the state of Montana to do the environmental impact statement work. The association is a financially invested member of the trade industry group.

Farrell Smith, rancher in Big Timber, said the environmental impact statement should be an objective study, not to allow mines to have any say in the selection of the entire environmental impact statement contractor process.

Tammy Johnson, CURE, Whitehall, said if the mines take action that would be granted them with these amendments they will need to go under full review. She said the action to be taken on the permit amendment does not effect the human environment.

Kim Wilson, Attorney, Clark Fork/Ponderay Coalition, said they are in opposition to the amendments proposed by **SEN. MCCLERNAN**. He said the Mine Permit Advisory Council recommended the mining companies to consult with the state and have some input.

Stan Bradshaw, Montana Trout Unlimited, said that testimony from the mining companies is suggesting that there is rampant abuse of the permitting process. He said since the Hard Rock Mining Act

was enacted in 1971, there has only been six cases, of which three are pending. He said Montana is not dealing with an epidemic of lawsuits, frivolous or otherwise, under this act. He said the amendments proposed are trying to solve a problem that he didn't think existed.

Ted Doney, attorney representing ASARCO, Inc., said they oppose the bill in its present form, but will support it if the amendments are included that were proposed by **SEN. MCCLERNAN**, **Ward Shanahan**, and **John Fitzpatrick**.

Informational Testimony:

Ron Dorvall, Whitehall, mailed written testimony in opposition to SB 320. **EXHIBIT 8**

The Fort Belknap Community Council mailed testimony and a resolution from the Council that was presented to John Fitzpatrick, Director, Community and Governmental Affairs, Pegasus Gold Corporation. **EXHIBIT 9**

Questions From Committee Members and Responses:

REP. DOWELL asked **Dennis Olson** about the language that was taken from the last session and placed into SB 320, and why was it agreed to by a number of people? **Mr. Olson** said the language was taken from the Coal Act. It is administrative appeal language which is not present in the Hard Rock Mining Act, and has nothing to do with whether coal mines are the same as hard rock mining in the geology and technique, but allows for an informal conference to work out any differences after the environmental review. He said it is probably a good idea that the administrative appeal process be inserted in SB 320, but **SEN. DOHERTY** resisted because he felt it was going too far.

REP. DOWELL asked **Mona Jamison** what does the MECA require in terms of analysis needed for an application? **Ms. Jamison** said the MECA requires an independent analysis of the impacts of a proposal on the environment, including social and economic impacts. She said the independent analysis would be undermined by what appears to be an amendment which would reflect on the original bill. It requires the consultant who is paying the bill for the analysis to be able to choose the consultant.

REP. ELLIS asked **Gary Langley** to explain to the committee how the procedure works when someone files action against a judgment by the department, and how long does the process take to procure a resolution? **Mr. Langley** said it takes three to seven years to obtain a mining permit. He said the issue is not the permitting process, but the appeal by the public after the permit is granted through the state and federal government. The problem is the additional two years of uncertainty after an appeal is filed. He said it could take as long as ten years for the total process to be completed.

REP. LARSON asked **Kim Wilson** to address the proposed amendment change that **Ward Shanahan** had suggested to strike the savings clause in section 8 of SB 320? **Mr. Wilson** said it is his understanding it would take away the language that does not affect "rights and duties that matured", but leave in the penalties that were incurred on the proceedings that have already begun.

Closing by Sponsor:

SEN. MCCLERNAN closed stating that his proposed amendments were an approach to reach some middle ground so the mining people and the environmental people would be equally satisfied, and it is obvious that the amendments did not accomplish this. He asked the committee to consider what the amendments will do, and act on them in the best interest of the people.

EXECUTIVE ACTION ON SB 331, SB 419, AND SB 420

Motion: **REP. COCCHIARELLA MOVED SB 331, SB 419 AND SB 420 BE CONCURRED IN.**

Discussion: None

Motion/Vote: **REP. PAVLOVICH** called the question. Voice vote was taken. Motion carried unanimously.

Vote: **SB 331, SB 419 AND SB 420 BE CONCURRED IN.** Motion carried 18 - 0.

ADJOURNMENT

Adjournment: 10:35

STEVE BENEDICT, Chair

CLAUDIA JOHNSON, Secretary

SB/cj

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL DATE 3-11-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS	✓		
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY	✓		
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT, CHAIRMAN	✓		

HR:1993
wp.rollcall.man

HOUSE STANDING COMMITTEE REPORT

March 11, 1993

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 331 (third reading copy -- blue) be concurred in .

Signed: _____
Steve Benedict, Chair

Carried by: Rep. S. Hanson

Committee Vote:
Yes 14 No 7

551139SC.Hss

HOUSE STANDING COMMITTEE REPORT

March 11, 1993

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 419 (third reading copy -- blue) be concurred in .

Signed: S — benedict

Steve Benedict, Chair

Carried by: Rep. Pavlovich

Committee Vote:

HOUSE STANDING COMMITTEE REPORT

March 11, 1993

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 420 (third reading copy -- blue) be concurred in .

Signed: Steve Benedict
Steve Benedict, Chair

Carried by: Rep. Daily

Committee Vote:
Yes 12 . No 4 .

V930007

OFFICE OF
CONSUMER AND
COMPETITION ADVOCACY

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

EXHIBIT 1
DATE 3-11-93
SB 331
COMMISSION AUTHORIZED

February 4, 1993

The Honorable Joseph P. Mazurek
Attorney General of the State of Montana
Justice Building
Helena, MT 59620

Dear Mr. Attorney General:

The staff of the Federal Trade Commission[1] is pleased to submit this response to your request for views on the possible competitive effects of maintaining in place the recently-enacted "any willing provider" law, which is set to sunset in July 1993. This law limits the ability of preferred provider organizations ("PPOs") to arrange for services through contracts with health care providers, by requiring a PPO to enter a contract with any provider willing to meet the terms the PPO sets. By preventing PPOs from limiting the panel of providers, the law discourages contracts with providers in which lower prices are offered in exchange for the assurance of higher volume. Although the law may be intended to assure consumers greater freedom to choose where they obtain services, it appears likely to have the unintended effect of denying consumers the advantages of cost-reducing arrangements and limiting their choices in the provision of health care services.

I. Interest and experience of the Federal Trade Commission.

The Federal Trade Commission is empowered to prevent unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce.[2] Pursuant to this statutory mandate, the Commission encourages competition in the licensed professions, including the health care professions, to the maximum extent compatible with other state and federal goals. For several years, the Commission and its staff have investigated the competitive effects of restrictions on the business practices of hospitals and state-licensed health care professionals.

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[1] These comments are the views of the staff of the Federal Trade Commission, and do not necessarily represent the views of the Commission or any individual Commissioner.

[2] 15 U.S.C. § 41 et seq.

The Commission has observed that competition among third-party payors and health care providers can enhance the choice and availability of services for consumers and can reduce health care costs. In particular, the Commission has noted that the use by prepaid health care programs of limited panels of health care providers is an effective means of promoting competition among such providers.[3] The Commission has taken law enforcement action against anti-competitive efforts to suppress or eliminate health care programs, such as health maintenance organizations ("HMOs"), that use selective contracting with a limited panel of health care providers.[4] The staff of the Commission has submitted, on request, comments to federal and state government bodies about the effects of various regulatory schemes on the competitive operation of such arrangements.[5] Several of these

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[3] Federal Trade Commission, Statement of Enforcement Policy With Respect to Physician Agreements to Control Medical Prepayment Plans, 46 Fed. Reg. 48982, 48984 (October 5, 1981); Statement of George W. Douglas, Commissioner, On Behalf of the Federal Trade Commission, Before the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, United States House of Representatives, on H.R. 2956: The Preferred Provider Health Care Act of 1983 at 2-3 (October 24, 1983); Health Care Management Associates, 101 F.T.C. 1014, 1016 (1983) (advisory opinion). See also Bureau of Economics, Federal Trade Commission, Staff Report on the Health Maintenance Organization and Its Effects on Competition (1977).

[4] See, e.g., Medical Service Corp. of Spokane County, 88 F.T.C. 906 (1976); American Medical Association, 94 F.T.C. 701 (1979), aff'd as modified, 638 F.2d. 443 (2d Cir. 1980), aff'd by an equally divided court, 455 U.S. 676 (1982); Forbes Health System Medical Staff, 94 F.T.C. 1042 (1979); Medical Staff of Doctors' Hospital of Price George's County, 110 F.T.C. 476 (1988); Eugene M. Addison, M.D., 111 F.T.C. 339 (1988); Medical Staff of Holy Cross Hospital, No. C-3345 (consent order, Sept. 10, 1991); Medical Staff of Broward General Medical Center, No. C-3344 (consent order, Sept. 10, 1991); see also American Society of Anesthesiologists, 93 F.T.C. 101 (1979); Sherman A. Hope, M.D., 98 F.T.C. 58 (1981).

[5] The staff of the Commission has commented on a prohibition of exclusive provider contracts between HMOs and physicians, noting that the prohibition could be expected to hamper pro-competitive and beneficial activities of HMOs and deny consumers the improved services that such competition would stimulate. See, e.g., Letter from Bureau of Competition to David A. Gates, Commissioner of Insurance, State of Nevada (November 5, 1986).

comments have addressed "any willing provider" requirements for health care service contracts.[6]

II. Description of Montana's "Any Willing Provider" Law.

Montana law permits "preferred provider" agreements between providers of health care services and health care insurers relating to the amounts charged and the payments to the providers.[7] The law apparently extends to agreements with all kinds of health care providers: hospitals, professional practitioners, pharmacies, and other providers of health care services.

The "any willing provider" requirement is a temporary provision, which was adopted in 1991. It requires that an insurer establish terms and conditions to be met by providers wishing to enter such agreements.[8] Any provider willing to meet those terms and conditions must be permitted to enter an agreement with the insurer that set them. This "any willing provider" requirement is set to terminate July 1, 1993. At that time, unless the requirement is extended by legislative action,

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[6] The staff submitted comments to the Massachusetts House of Representatives concerning legislation that would have required prepaid health care programs to contract with all pharmacy suppliers on the same terms (or offer subscribers the alternative of using any pharmacy they might choose), noting that the bill might reduce competition in both pharmaceutical services and prepaid health care programs, raise costs to consumers, and restrict consumers' freedom to choose health care programs. Letter from Bureau of Competition to Representative John C. Bartley (May 30, 1989, commenting on S.B. 526). The staff has submitted similar comments on similar legislation in Pennsylvania, New Hampshire, and California. Letter from Cleveland Regional Office to Senator H. Craig Lewis (June 29, 1990, commenting on S.B. 675); letter from Office of Consumer and Competition Advocacy to Paul J. Alfano (March 17, 1992, commenting on H.B. 470); letter from Office of Consumer and Competition Advocacy to The Honorable Patrick Johnston (June 26, 1992, commenting on S.B. 1986).

[7] Mont. Code Ann., Title 33, Ch. 22, Part 17 (1991).

[8] Mont. Code Ann. §33-22-1704 (Temporary). These terms and conditions may not be discriminatory; however, the law permits differences among geographic regions or specialties, or differences among institutional providers, such as hospitals, that result from individual negotiation.

the PPO law will explicitly deny that an insurer must negotiate or enter into agreements with any specific provider or class of providers.[9]

This comment will focus on how "any willing provider" requirements limit contracting between providers and third-party payors, and on how this limitation is likely to affect competition and consumers. The actual effects of Montana's law may be difficult to gauge, because it has been in effect only for a short time. The expectation that the requirement would end soon may have affected how providers and PPOs have dealt with each other. Thus, this comment is based on general principles, rather than Montana's particular experience.

III. Competitive importance of programs using limited-provider panels.

Over the last twenty years, financing and delivery programs that provide health care services through a limited panel of health care providers have proliferated, in response to increasing demand for ways to moderate the rising costs associated with traditional fee-for-service health care. These programs may provide services directly or arrange for others to provide them. The programs, which include HMOs and PPOs, typically involve contractual agreements between the payor and the participating health care providers. Many sources now offer limited-panel programs. Even commercial insurers, which in the past did not usually contract with providers, and Blue Cross or Blue Shield plans, which do not usually limit severely the number of providers who participate in their programs, now frequently also offer programs that do limit provider participation.

The popular success of programs that limit provider participation appears to be due largely to their perceived ability to help control costs. Economic studies have confirmed that, under health care arrangements that permit selective contracting, competition helps to moderate cost increases.[10] In

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[9] Mont. Code Ann. §33-22-1704(3).

[10] Studies have examined the competitive effects of selective contracting, in particular California's experience with permitting hospitals to contract selectively. See, e.g., J. C. Robinson and C. S. Phibbs, An Evaluation of Medicaid Selective Contracting in California, 8 J. Health Econ. 437 (1989). This study found that shifting from cost-reimbursement to permitting selective contracting moderated increases in hospital costs, particularly in more competitive local markets. This study

(continued...)

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addition, subscribers may benefit from broader product coverage and lower out-of-pocket payments that these cost savings may make possible. Competition among different kinds of third-party payor arrangements, including those that limit provider participation and those that do not, should ensure that cost savings are passed on to consumers. This principle would apply to all types of health care payment programs and health care providers.

Hospitals compete, ultimately, for the business of patients. A hospital may pursue the business of subscribers to PPO or HMO programs by seeking access to those subscribers on a preferential, or even an exclusive, basis. The hospital may perceive several advantages to such arrangements. A preferential or exclusive arrangement may assure the hospital of enough patients to make possible savings from economies of scale, for example, by spreading fixed costs over a larger volume of sales. At a minimum, it could facilitate business planning by making sales volumes more predictable. The arrangement may reduce transaction costs by reducing the number of third-party payors with whom the hospital deals, and may reduce marketing costs that would otherwise be incurred to generate the same business. To get access to the business and the advantages represented by these programs, hospitals compete with each other, offering lower prices and additional services, to get the payors' contracts.

Third-party payors find such arrangements attractive because they benefit from the providers' competition. Lower prices paid to providers could mean lower costs for a third-party payor. Not only might the amounts paid out for services be lower, but in addition administrative costs might be lower for a limited-panel program than for one requiring the payor to deal with, and make payments to, all or most of the providers doing business in a program's service area. A payor might find it easier to implement cost-control strategies, such as claims audits and utilization review, if the number of providers whose records must be reviewed is limited. And lower prices and additional services would help make the payor's programs more attractive in the prepaid health care market.

Consumers too may prefer limited-provider programs if the competition among providers leads to lower premiums, lower deductibles, or other advantages. Consumer preference for

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[10](...continued)
concentrated on Medicaid experience; however, further studies based on private health insurance experiences confirm these findings. See, e.g., D. Dranove et al., Is hospital competition wasteful? Rand J. Econ., Summer 1992; see also G. Melnick et al., The Effects of Market Structure and Bargaining Position on Hospital Prices, 11 J. of Health Economics 217 (Oct. 1992).

limited-panel programs would presumably mean that, in the consumers' view, these advantages would outweigh the disadvantages of limiting the choice of providers, such as reduced convenience or the occasional need to use a provider that is not part of the payor's contracted service. Limitations on choice are unlikely to be so severe that consumers' access to providers is inadequate. For just as competitive forces encourage providers to offer their best price and service to a payor in order to gain access to its subscribers, competition would also encourage payors to establish service arrangements that offer the level of accessibility that subscribers want. Consumers' ability to change programs or payors if they are dissatisfied with service availability would give payors an incentive to assure that the arrangements they make for delivery of covered health care services satisfy consumers.

IV. Effects of "any willing provider" requirements on limited-panel programs.

"Any willing provider" requirements may limit firms' ability to reduce the cost of delivering health care without providing any substantial public benefit. They may make it more difficult for third-party payors, including PPOs, to offer programs that have the cost savings and other advantages discussed above. Requiring that programs be open to all providers wishing to participate on the same terms may affect both cost and coverage. To the extent that opening programs to all providers reduces the portion of subscribers' business that each contracting provider can expect to obtain, these providers may be less willing to enter agreements that contemplate lower prices or additional services. Moreover, since any provider would be entitled to contract on the same terms as other providers, there would be little incentive for providers to compete in developing attractive or innovative proposals. Because all other providers can "free ride" on a successful proposal formulation, innovative providers may be unwilling to bear the costs of developing a proposal. Thus "any willing provider" requirements may substantially reduce provider competition for this segment of their business.

Reduced competition among providers for PPO business can result in higher prices for services through PPOs. The higher prices for covered services, as well as the increased administrative costs associated with having to deal with many more providers, may raise the prices to subscribers for prepaid health care programs, or may force those programs to reduce benefits to avoid raising those prices.

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Moreover, requiring programs to be open to more providers may not give the consumer benefits from greater choice. Subscribers may already choose other types of prepayment programs with fewer limits on the providers from which they may obtain covered services. Indeed, by reducing their competitiveness with other kinds of third-party payment programs, requiring PPOs to grant open participation may reduce the number, variety, and quality of prepayment programs available to consumers without providing any additional consumer benefit.

V. Conclusion.

In summary, we believe that "any willing provider" requirements may discourage competition among providers, in turn raising prices to consumers and unnecessarily restricting consumer choice in prepaid health care programs, without providing any substantial public benefit. We hope these comments are of assistance.

Sincerely,

Michael O. Wise
Acting Director

EXHIBIT 2
DATE 3-11-93
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DEPARTMENT OF ADMINISTRATION
STATE PERSONNEL DIVISION

MARC RACICOT, GOVERNOR

MITCHELL BUILDING, ROOM 130
PO BOX 200127

STATE OF MONTANA

(406) 444-3871

HELENA, MONTANA 59620-0127

Testimony in favor of SB 331, as amended,
Before the House Committee on Business and Economic Development

Mr. Chairman, members of the Committee, I am Joyce Brown, Chief of the Employee Benefits Bureau, Department of Administration which administers the State employee health plan.

I am here in support of SB 331 as amended. It represents a good compromise for the following reasons:

1. Selective contracting with the most cost effective providers (PPO arrangements) are essential to controlling health care costs and must be preserved:

2. The "Any Willing Provider Clause," extended by the original version of SB 331, achieved its objective of fairness in PPO contracting but at the expense of PPO contracting.

3. By substituting a competitive bidding requirement for the Any Willing Provider Clause, the amended version achieves fairness while preserving PPO contracting.

1. The Need for Selective Contacting (PPOs):

a. PPOs make sense; they work; and health plans are counting on them. Purchasing services from providers who offer the best value (best quality and price) only makes sense. It has been standard operating procedure for almost everything else and is finally working in the health care arena. A 1991 study conducted by The Wyatt Company, a national compensation and benefits consulting firm, found that a "typical" hospital/physician PPO provided a 17.6% reduction in claims costs.

Most health plans have exhausted other cost controls and are now looking to PPOs and HMOs as their last best hope. For example, The State Health Plan expects to get by with its requested increase in State contribution of $20 per employee per month in FY94 (a 10.5% increase) and another $20 in FY95 (a 9.5% increase) by achieving some savings through direct contracting. Without those savings, employees will likely have to pick up more costs despite an anticipated pay freeze.

Clearly, selective contracting is not possible in areas of the state with no selection of providers. However, the highest costs

and greatest potential for savings are in those areas which do have multiple providers. We are sufficiently convinced of the potential costs savings of PPOs that we recently entered into a contract with Blue Cross and Blue Shield to establish an inpatient psychiatric PPO. The move toward selective contracting is being fueled, not by insurers, but by their customers (private and public sector).

b. Selective contracting is a key component of health care reform. (Both federal and State.) It is part of the following bills introduced this session:

-SB285, Senator Franklin's Health Reform bill, (Section 11) calls for legislation to enable health care providers and consumers to enter into agreements involving lower costs or greater access or quality than otherwise available.
-SB267, Senator Yellowtail's Health Reform bill, (Section 16) called for a purchasing pool to collectively contract with providers for discounts.
-HB508, Small employer health insurance reform, (Section 10) called for a basic and a standard health benefit plan, both of which, must include "selective contracting with hospitals, physicians, and other health care providers".
-SB347, a Workers Compensation cost control bill, calls for formation of PPOs to control costs.

c. PPOs are favored by many consumers. Last winter the State Health Plan conducted a survey of its members to determine their preferred approach to handling the projected gap between revenue and costs. Eight options were presented along with information on their pros and cons. Members' first choice was incentives for Plan Members to stay healthy and avoid health care costs. Their second choice was PPOs. Members preferred this option over other cost control options and over all forms of increase in out-of-pocket costs (increased deductibles, increased employee contributions to premiums, or decreased benefits).

2. How an "Any Willing Provider Clause" undermines PPOs:

Health care providers are willing to enter into PPO agreements (offer reduced fees and meet quality standards) in exchange for a guaranteed volume of business. The "Any Willing Provider Clause" prevents an insurer from offering a guaranteed volume of business because it allows any provider, who is willing to meet the terms of the agreement, to come in and syphon off part of the insurer's block of business.

The Wyatt study cited above found that allowing any willing provider to join a PPO contract reduces the discounts providers are willing to offer from 19.5% to 9.4% because the insurer can not provide as large a volume of business to each provider. These savings are further reduced or nullified by the increased administration costs of more providers. "Any Willing Provider" clauses have resulted in collapse of PPO arrangements in other states.

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3. The advantages of the "competitive bid" alternative:

The State purchases most goods and services through Request for Proposal processes. These processes are not hassle free. However, the advantages of a well designed RFP process far out weigh the hassle. They give providers an equal opportunity to compete. They give purchasers a mechanism for assuring that they are getting the best deal possible. It is a win/win alternative that shouldn't require legislation, especially since health plans are demanding more accountability from insurers establishing PPOs.

James C. Hinshaw, M.D.

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400 15th Avenue South, Suite 106 • Great Falls, Montana 59405 • (406) 452-9989

James C. Hinshaw, M.D. / Marci J. Eck, M.D.
Kelly J. Timmer, R.N., N.P.C.

OBSTETRICS GYNECOLOGY INFERTILITY

March 10, 1993

To: Members of the House Business and
Economic Development Committee:

I am writing in regard to Bill SJ0331. I am not familiar with the language of the bill, but have been informed that it regards preferred provider legislation which will effect what type of agreements insurance or managed care organizations can make with M.D.'s and how much leverage these organizations can exert on my partner and I to join. I feel that anyone considering such legislation should consider that it may have an effect on small independent groups or solo physicians. It also may put patients in a position of being forced to change Doctors on a somewhat regular basis. This would be not only detrimental to small groups of physicians but also to patients in general in my opinion. I am in a group of two obstetricians and both of us are quite busy. We do not have the time or resources to carefully study these proposals and bid on them in as competitive a fashion as very large clinics who employ personnel to do just that. On the other hand, we do not have a dramatic array of diagnostic equipment in our office nor an array of sub-specialists which may encourage unnecessary intraoffice referrals. If we do refer patients or order tests there is no financial incentive to do so.

Simply because someone obtains a contract at what would seem a relatively reasonable rate does not mean that the cost of care cannot be inflated by unnecessary tests and referrals. If this were to occur the only thing you would have accomplished is to move patients from one group to another. This, as opposed to letting the patient decide and fair market practices to take place. On the other hand, if your goal is to force small independent groups into banning together to form "pseudo clinics" this would be an excellent way to do that.

I think you will be hard pressed to control referrals and tests because the need for referral and tests is too much of judgement call. If you have any further questions please don't hesitate to call either one of us at any time, day or night. We can always be reached at this number 24

EXHIBIT 4
DATE 3-11-93

United States Department of Agriculture

Forest Service

Intermountain Region 320 324 25th Street Ogden, UT 84401

Reply to: 2810

Date: JUN 28 1990

Ms. Sandra J. Olsen
Chief
Hard Rock Bureau
Department of State Lands
Capitol Station
Helena, MT 59620

Dear Ms. Olsen:

Enclosed are my comments on the final Environmental Assessment (EA) for the proposed expansion of the Golden Sunlight Mine located near Whitehall, Montana. Thank you for the opportunity to review this EA.

In order to conserve time, I am first sending the comments to you via FAX. This will be followed immediately by a hard copy through the regular mail.

My impression of the proposed expansion is that there are quite substantial environmental impacts and a very limited review of operational alternatives. I don't see how you can avoid going to an Environmental Impact Statement.

Sincerely,

EUGENE E. FARMER
West-Wide Reclamation
Specialist
801-625-5271
Enclosure

cc:
Dave Williams
Bureau of Land Management

June 26, 1990

COMMENTS ON A FINAL ENVIRONMENTAL ASSESSMENT FOR THE PROPOSED EXPANSION OF THE GOLDEN SUNLIGHT MINE, NEAR WHITEHALL, MONTANA. SUBMITTED TO THE STATE OF MONTANA, DEPARTMENT OF STATE LANDS, HARD ROCK BUREAU, HELENA, MONTANA.

SUBMITTED BY EUGENE E. FARMER, WEST-WIDE RECLAMATION SPECIALIST, USDA FOREST SERVICE, OGDEN, UTAH.

Page 26, 2nd paragraph - The statements that, "GSM had disturbed over 833 acres from 1975 to the end of 1988. Only 45 acres have been revegetated because of continued expansion of the mine.", indicate that GSM has little demonstrated ability to reclaim or revegetate the area to be mined.

Page 45, under Present Operating and Reclamation Plan - It is difficult to understand how the present plan as amended could be approved under the stated condition that "Reclamation would require an unknown number of years". This rather lax attitude upon the part of the regulatory agencies reflects the low priority given to land reclamation. It is important that the State of Montana DSL understand that reclamation is a highly developed science: we know how to reclaim lands disturbed by mining. Claims to the contrary may represent either a lack of knowledge about the science of reclamation or a propensity to defer or socialize the full costs of mining. A fact easily ignored or forgotten is that reclamation costs are expensive and must be the burden of the mining operation, not by future generations of Montanans.

Page 47, under Tailing Impoundment I - If the impoundment is designed to hold the 100-year precipitation event, does that reflect your anticipated life of the impoundment? How will this pond behave under the 1000-year event? This impoundment is probably under-designed to deal with hydrologic events that are easily anticipated during the life of the facility. An interesting fact that applies in this case is that approximately two-thirds of all of the tailings impoundments that have ever been built in this country have already failed.

I note in this same paragraph that the GSM has proposed to construct "permanent diversions" around the impoundment to reduce the area draining into the impoundment from 1043 acres to 138 acres. This is a highly undesirable, superficial, action that ensures the failure of the impoundment dam at some point in the future. Quite simply, there is no such thing as a "permanent diversion". Diversion channels take annual maintenance. Who is going to do this maintenance? Perhaps GSM would post a bond to ensure annual maintenance for the life of the tailings facility.

Page 48, under Waste Rock Dumps, 1st paragraph - Potentially acid producing waste rock embankments should not be permitted at a final slope steepness of 2:1. There a several reasons for this: (1) in

spite of GSM claims to the contrary embankments at that steep an angle cannot be successfully revegetated because of the inability of large mining equipment to prepare adequate seed beds and otherwise farm the slope and more importantly GSM cannot retain the respread topdressing soils on rock slopes at an angle of 2:1; (2) Embankments built in one lift by dumping over angle of repose slopes develop a particle size gradation from fine at the top to course at the bottom. Allowing the embankment to be graded off to some lesser angle by grading the top materials downward moves the fine materials at the top into the botton of the embankment. This effectively blocks the drainage provided by the natural sorting of particle sizes that was provided by end dumping over the angle of repose embankment. Embankments should be constructed at their final angle by building from the botton-upward or by building in a series of flat benches with angle of repose interbench areas that may to graded out to the final slope configuration; (3) If 2:1 slopes are permitted, and are topdressed with the available salvaged soils and then the revegetation fails, or if the embankment is generating acid mine drainage (AMD), it cannot be graded out to a lesser slope steepness without sacrificing all of the topdressing soils; (4) A slope steepness of 2:1 cannot retain enough respread soil and rock to slow down the air convection into the embankment that is generated by the bacterial catalyzed chemical reactions that oxidize all sulfide fractions within the waste materials in the embankment.

I recommend that all potentially acid rock waste embankments be constructed at final slope angles of 3:1 or flatter. It may well be desirable to grade out even flatter. The greater the acid generating potential, the greater the required depth of respread soil, the flatter the slope.

2nd paragraph - I assume that either GSM or Montana DSL has accomplished a complete soil survey of the area and have established soil salvage criteria. Under the highly acid generating conditions that appear to exist at GSM I would recommend that all available soils be salvaged and respread at a later date. Under the most favorable of scenarios you will probably run out of soils anyway. At a minimum you need to compare the volumes of soil available against the volumes of soil needed. This forces some serious thinking about the depth of soil to be reapplied during reclamation.

3rd paragraph - This paragraph indicates that most of the embankment slopes will be seeded by broadcasting. This can be successful if the site is adequately prepared and a good seed bed is developed. However, using a rangeland drill or grass seeder will give better results. Grass seeders can handle a lot of surface rock, but also require a better seed bed than the rangeland drill.

All of these respread soils will require the use of soil amendments, including fertilizer. I did not see any discussion of soil amendments.

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Page 49, under Proposed Plan .....Reclamation Plan, para 1. Operating Plan. This indicates that mining through stage 5 will produce 300 million tons of sulfide bearing waste rock and tailings. This waste material could produce a staggering amount of acid. A million tons of sulfide bearing waste rock with a sulfide content of one percent can produce enough acidity to require 31,250 tons of limestone for neutralization. This figure is based on the stoichiometry of the chemical equations involved in the oxidation of sulfide minerals. On this basis, 300 million tons of waste rock with an average sulfide content of 2 percent could neutralize more than 18 million tons of limestone. I realize that there are certain difficulties with the assumptions that go into that estimate of 18 million tons of limestone. But the figure is an adequate estimator for planning purposes, and illustrates the potential magnitude of the problem of acid mine drainage at BSM.

Page 49, last paragraph - Mining to a depth of 225 feet below the existing groundwater table will of course create a lake after mining has stopped. It is highly likely that this lake will be heavily contaminated with acid and heavy metals.

Page 50, 4th paragraph - If the dam of impoundment II is constructed of the course sand fraction of the tailings in a centerline construction method, the dam itself will be an acid generator. This creates great difficulty in the long term stabilization of the dam. I would highly recommend that you avoid this situation. There are relatively easy ways to avoid this situation. One is to require that the dam be constructed of non-sulfide bearing materials.

Page 50, 5th paragraph. In view of the nearby location of the Jefferson River, the proposed pond liner system is not adequate to deal with the highly acid tailings coming from this operation. A 60-mil HDPE liner is not thick enough for a tailings depth of 150 feet. With HDPE you can figure on 2 feet per mil. Therefore, 150 feet of tailings will require an 80-mil HDPE liner. I hope that you also recognize the pragmatic fact that all synthetic liners leak. The only real question is how much do they leak? That depends mostly on the installation of the liner system. In any event, with highly acid tailings I would suggest that a clay liner should be used under the HDPE liner.

Same paragraph as above - It is not clear to me what sort of impoundment drainage system is proposed. Are the gravel finger drains going to breach the synthetic pond liner?

Page 51, 1st paragraph under Concurrent Reclamation - The last sentence defers the specific revegetation information pending the outcome of "future test plot evaluations". This is simply not acceptable, and test plots are a waste of time and resources. The mining industry has been putting out test plots for 50 years, and millions and millions of dollars of both private funds and tax dollars have been spent on reclamation research. One has to wonder if

we will ever know enough that we don't have to put out more test plots. The regulatory agencies should develop revegetation performance standards based on the best base of existing knowledge, require performance bonds to ensure compliance, and let the operating company meet the standards. All of this fooling around with test plots is simply a smoke screen to avoid a commitment to successful revegetation.

Page 52, under Final Closure, 4th paragraph - I realize that questions concerning the thickness of the rock cap and whether or not the rock is sulfide bearing come up later on in the document. However, it appears to me that you need a formal dewatering rate study of the tails in impoundment 2. The GSM estimate that the tails could be covered with ? feet of waste rock within 5 years of closure seems very optimistic. Two questions need to be answered: (1) when can the tailings surface support heavy equipment, and (2) when can the tailing surface support 2 feet of mine run waste rock? I also note that this paragraph brings up the fact that: "If revegetation fails.....". This entire EA is, regrettably, replete with that sort of planning for failure.

Page 56, last paragraph - Also note that the cycloned sands in the dam of impoundment 2 will be acid, with an average pH of less than 3.5.

Page 57, under Waste Rock Characterization - A single sample is totally useless for characterizing the rock material going into waste dumps. How many more samples do you need? Would you be comfortable with 10 more samples, perhaps a 1000 more samples? The probabilities are that no reasonable number of samples could statistically characterize the acid producing potential of the waste rock coming from the pit. The geologic heterogeneity of the waste rock and the limitations of our tests will confound our very best sampling efforts. So how do we approach the solution to this conundrum? First we must answer in a qualitative way whether or not the rock will produce acid. You seem to have answered that question: yes the rock is going to produce acid. Real-time monitoring of the waste rock going into the waste embankments is a reasonable approach toward closure of the problem. Real-time operations monitoring can consist of either sampling the drill chips in all of the drill holes that are flagged as waste or sampling the rock in each truck going to the waste embankments. I would not recommend sampling the ores since we already know that they are sulfide bearing and will be highly acid, and the waste is going to wind up in the tailings pond. Waste rock or drill chip samples should be analyzed for total or sulfide sulfur. Total sulfur is cheaper and the analysis is more reliable. A fractional subset of these samples need to be further analyzed by acid-base accounting methods and/or wet column leach tests.

Page 57, under Acid Potential Studies, 1st paragraph. The EP Toxicity test mentioned here, as well as the later tests modified by EPA, are inappropriate for determining whether or not these rock materials

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will leach out acid and heavy metals in the environment of a waste embankment. The results are meaningless unless someone plans to dispose of this rock in a RCRA permitted Treatment, Storage, and Disposal Facility.

Page 57, last paragraph - I am in agreement with the concerns expressed by DSL over the observed venting of water vapor from waste embankments due to the oxidation of sulfide minerals within the dumps. These reactions are exothermic in nature and can produce temperatures exceeding 70 degrees Celsius. It also indicates that the embankments are very wet. I believe that this is counter to the GSM claim that the waste embankments are dry. High temperature venting is also indicative of the convective forces that are moving air through the waste embankment. We are definitely not dealing with diffusive mechanisms.

Page 58, under Acidity - I don't believe that these are standard methods for partitioning total sulfur into its component parts. That may not be terribly important since there seems to be broad agreement that the rock will be highly acid. However, I would suggest that additional acid-base accounting and wet column leach and humidity cell testing is needed.

Page 59, under Neutralization. The SMP lime requirement test that is applied here is inappropriate and applied in an inadequate manner. This is an agricultural test with no applicability to determining lime requirements in acid waste rock embankments. It is fine for growing soy beans; it is poor for reclamation planning. The SMP test will drastically under estimate the long term neutralization requirements of the rock. Also note that the limestone requirements are reported in tons of limestone per 1000 tons of waste rock. A 1000 tons of rock is about 6 inches over an acre. Therefore, the values in Table 13 can be very misleading; if you want to neutralize the surface 4 feet of rock you would have to multiply these values by 8. Also realize that the excess acidity values in Table 13 are probably badly under estimated to begin with.

Page 59, 2nd to last paragraph - The statement is made that, "It is also obvious that the oxidized waste rock types may be used as a neutral waste rock cap if GSM can separate rock type visually". That is not at all obvious to me; in fact quite the opposite is true. Even using the questionable values from Table 13 for Oxidized Mudrock it would take almost 60 tons of lime per acre to neutralize 2 feet of this material if it is used as a cap.

Page 59, last paragraph. Another revegetation test failure is reported here. This lack of positive results should influence the amount of bonds that are required on this operation.

Page 60, under Weathering - How long were these samples run? The samples should be run until the leachate variation from run to run shows some sign of stabilizing. The old standard period of 10 weeks

is usually inadequate. Many test samples require a test period of a year or more. Also note the statement that all samples of oxidized mudrock produced acid. That ends any thought of using this material as a neutral waste rock cap. What were the results of the laboratory weathering tests reported to have been conducted. Why weren't these results reported?

Page 60, under Mineral Size and Morphology Examination, 2nd paragraph Any suggestion here that the pyrite at GSM may produce less acid at the mine than is indicated in laboratory tests is nothing more than hopeful speculation, unsupported by data or fact. However, the suggestion that at some point in time the reactions will "shut off" has some merit. Appropriate testing can yield estimates of that time. Usually, these times are between 500 and 6000 years. That will be small comfort to the people of Montana.

Page 61, under Tailing Characterization, Acid Production Potential - My general comment is that it is not necessary to develop quantitative estimates of the acid potential in the tailings. Qualitatively, there is no doubt that the tailings will be potentially highly acidic, and any leachate from the tails will be highly toxic to people, fish, and wildlife.

Page 61, last paragraph - Suggestions are made concerning the application of a "neutral waste rock" cap, and soil reapplied over the tails. Where would GSM obtain this neutral waste rock? It would have to be imported from some source away from the mine. The last sentence also shows a propensity for failure in the reclamation of the tailings pond. There are at least two additions methods for neutralizing the tailings pond that are not recognized here: (1) Powdered limestone can be injected into the waste stream going to the pond, and (2) A special circuit can be set up in the mill to float and then recover the pyrites. Both of these methods will work but the latter method may require disposing of a toxic waste and as such subject to RCRA regulation. Also renognize that these methods would not be required for the full life of the mine, only for the last (or top) 4 feet or so of the tails.

Page 62, last paragraph - In view of the fact that the Boulder and Jefferson Rivers are not far from the mine, and the fact that some contamination has already reached the Jefferson Slough, this paragraph should recognize that copper ion levels as high as 25 ppm could wipe out the fishery in either or both of these rivers.

Page 64, under Soil Salvage Overview, 2nd paragraph - I agree with the stated adverse effects of soil salvage operations. But, the stated effects are trivial when compared to the great benefits that respread soils contribute to the success of reclamation.

Page 66, under Revegetation Trials - I have already stated my position regarding revegetation trials in my comments on p. 51; they are a waste of time and resources and have no place in a regulatory

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framework. We know how to reclaim mined lands and the ancillary facilities. However, it is sometimes the case that mining companies do not want to face up to the costs of reclamation. Trials and testing offer a convenient way to defer cost and action. The regulatory job is to set reasonable performance standards based upon the existing knowledge and practice within the industry. The fact that GSM has largely failed in their efforts to reclaim waste embankments and tailings ponds is significant of nothing.

Page 69, under Waste Rock Dumps Soil Salvage Plans, paragraphs 2 and 3. The second paragraph states that the agencies have no data on how much soil would be needed to prevent acidification of replaced soil. It is a moot point, and probably asks the wrong question. A more appropriate question is what thickness of respread soil is needed to reduce the air convection that drives the sulfide oxidation to an acceptable level? The answer depends upon the texture, porosity, water content, and weight of roots in the respread soil. Answers can be obtained through numerical modeling. However, for planning purposes you can figure that at least 36 inches of respread soil will be needed, and perhaps as much as 48 inches depending on the soil porosity and degree of revegetation success. This amount of respread soil plus lining the waste rock at rates of up to 20 tons of crushed limestone per acre will effectively preclude acidification of the respread soil.

Page 72, 1st paragraph - This paragraph says that "....GSM has committed to treat any discharge from the mine pit." This is the ultimate retreat. No one wins when an operating company undertakes water treatment in perpetuity, not the State of Montana, certainly not GSM. Water treatment should be the last resort, and used only when everything else has failed. In addition, I am astounded that a company who apparently can't revegetate their own disturbed areas is so ready to take on a multimillion dollar program of water treatment, forever and ever.

Page 72, under Waste Rock Dumps Seepage. This proposal is totally inadequate in terms of reducing the rate of acid production and controlling acid mine drainage away from the site. Using pit run oxidized waste rock as a cap or capillary barrier under the respread soil will not be effective unless the cap rock is neutral or basic in reaction. That does not seem to be the case at GSM.

Page 74, 2nd paragraph from the bottom, last sentence. The last sentence is, "This is aggravated by the assumed failure of the reclamation plan as proposed". Given that assumption I find it incredulous that the State of Montana would entertain the approval of additional mining at the site under the proposed conditions.

Page 76, 1st paragraph. The fact that this operation ".....has led to the presence of cyanide in domestic and monitoring wells over a mile away." raises questions about the level of care and expertise shown by the operating company in the past. This level of past care

should be considered when calculating performance bonds for any proposed future operations.

Page 76, 3rd paragraph - Since seepage from both tailings impoundments can be expected to reach the Jefferson Slough and ultimately the Jefferson River you can also anticipate the loss of the fishery in the Jefferson River. Wildlife and livestock losses are also possible.

Page 78, lines 6, 7, and 8. It is small comfort to read that in the Jefferson River the standards for acute copper toxicity would only be exceeded 10 percent of the time. That is 30 days a year. That ought to be plenty of time to wipe out the fishery and most of the other aquatic organisms in the river.

Page 81, line 5. Any suggestion that acid generation will not be a serious problem in the waste rock embankments is false and misleading.

Page 82, 2nd paragraph - Again we are hearing a proposal to create water diversions in order to reduce the watershed area that contributes surface runon onto waste embankments or tailings pond. The difficulty is obvious: Who is going to do the annual maintenance on the diversions 50 years from now? Bonding for long term care would be one way out of the problem.

Page 82, 3rd paragraph - The Universal Soil Loss Equation is not applicable nor appropriate for use on areas disturbed by mining. There are several difficulties: USLE estimates only sheet erosion, not rill erosion; the LS factor is only valid on slopes less than 2 percent, but may be extrapolated up to 10 percent only; the appropriate time scale is annual, not storm by storm; the USLE does not estimate erosion due to snowmelt; it is dimensionally inconsistent; no one can say what the appropriate CP factors are on mine dumps; the R factors are not valid west of Denver, and finally the soil erodibility of mine spoils (K) is totally unknown. Whatever work was done that utilized the USLE is best ignored.

page 93, under Slope Reduction - Given the acid potential at GSM, the waste rock embankments should not be permitted at a slope steepness of 2:1; even 3:1 may be too steep for some embankments. I previously discussed this in my comments on page 48. The statement that, "If reclamation fails, GSM has committed to reducing the slopes to 3h:1v.", should give rise to your further comment that reducing the grade on these slopes after the failure of reclamation will also mean that all of the respread soils will be lost by burying them within the embankment, thereby ensuring the long term failure of revegetation and the unabated generation of sulfuric acid and heavy metals into the environment. I also note that the DSL has involved themselves with GSM in some unspecified scheme of comparisons between reclamation test plots and native (unmined) reference areas. This is a complicitory position that most regulatory agencies would try to

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avoid. Regarding reclamation test plots, see my comments concerning pages 51 and 66.

Page 93, under Waste Rock Cap, 2nd paragraph. The statements here indicating that the acid potential of the oxidized waste rock is minimal is contrary to the test results of Table 13. Some of the oxidized waste rock appears to be extremely acid. Also see my comments on page 59 (Neutralization), and page 60 (Weathering). Unless the waste rock cap can be shown to be non-sulfide bearing, and therefore non-acid, the whole idea of a rock cap or capillary barrier to promote reclamation success is invalid.

Page 94, under Liming. We know how to apply crushed limestone to waste embankments, contrary to the nonsense reported here about some future reclamation tests. However, it is ridiculous to imagine trying to apply lime at a rate of around 20 ton per acre, or more, and then working it into the face of an embankment with a slope of 2:1. You are establishing conditions that will ensure failure.

Page 94, under Soil Placement, 2nd paragraph. The approach taken here that determines the depth of soil required to "....utilize the volume of moisture produced by 10-year, 24-hour storm events and to prevent seepage.....", is a curiously specious approach. You don't need enough soil to soak up the rainfall from a small storm because these waste embankments will always be wet in spite of your efforts to the contrary. What you need is enough soil cover to reduce the convective air entry into the embankment so that acid generation proceeds at a tolerably slow rate. I can assure you that 2 feet of soil is not enough to do that. You also need a heavy stand of grass, forbs, and other self repairing vegetation so that the soil covers do not erode at a rate that is significantly greater than the soil-forming rate.

Page 95, under Seepage/Water Treatment - Waste rock embankments at GSM will certainly exhibit significant water seepage into the soils and groundwater beneath the embankment sites. This water will certainly show up at some down-gradient location. It will almost certainly be highly contaminated and will almost certainly require some treatment. The only way to avoid this is to grade the embankments out to the point where they can be adequately resoiled and farmed to the point where water seepage quality is acceptable. Spring snowmelt runoff is the critical time for managing acid mine drainage, and all mitigating measures have to be measured against conditions at that time.

Page 96, under Impoundment Surface Reclamation Plan - I have already stated by concerns about reclaiming the tailings ponds, see my comments on page 52 (Final Closure), and page 61 (last paragraph).

Page 96, under Seepage/Water Treatment - I have already addressed the difficulty with so called permanent water diversions, see my comments on page 47. GSM's commitment to the perpetual water treatment of seepage from the pit and ponds may be realistic. Are you proposing to

require an adequate performance bond to treat water for the next 100 to 500 years? I also have grave concerns about the metallic sludges generated by a reverse osmosis treatment plant or by evaporating waste waters. If these hazardous wastes are regulated under RCRA, subtitle C then I assume that GSM is going to establish a Treatment, Storage, and Disposal (TSD) Site that would be permitted by EPA. Permits from EPA to establish a TSD facility should be obtained by GSM before this mining expansion plan is approved.

Page 99, under Slope Reduction - top of the page. I strongly encourage you to stick with your earlier recommendation for a 3:1 maximum slope steepness. This is one of the critical keys to successful mining at Golden Sunlight with acceptable environmental impacts.

Page 101, paragraphs 1 and 2. All of this sounds a lot like fairy tales in the office. The scenarios are unlikely, and there are no answers nor commitments to accomplish successful reclamation. Much talk about inputs and activities just clouds the fact that what is really needed is commitment to results and performance.

Page 101, under Waste Rock Cap, last paragraph on the page - The first sentence in this paragraph is demonstrably false. It is predicated upon the assumption that the oxidized waste rock cap is non-sulfide bearing. Previous data and statements in this EA give strong evidence that the "oxidized" waste rock may be highly sulfide bearing.

Page 102, under Revegetation, last paragraph on the page - There is a suggestion here that revegetation will stop the formation of acid mine drainage. Research in both the western United States and Canada has shown that to be false. Revegetation does not stop or even significantly slow the formation of acid mine drainage.

Page 114, under Seepage/Water Treatment, 2nd paragraph - Given the fact that GSM proposes to mine the pit to a depth more than 200 feet below the depth of the groundwater system makes the GSM contention that "...no groundwater would seep through the pit walls for the first 75 to 150 years.", highly suspicious. It defies both common sense and physical laws.

Page 116, last 2 lines on the page - This is an extremely serious limitation on this mining proposal. The generation of 130 tons per year of a RCRA regulated hazardous solid is a matter of grave concern. There are good reasons to believe that EPA would never permit such a facility.

Page 119, under Reclamation Plan, last half of the page - These additional commitments to reclamation appear pretty feeble. You need results and commitment to performance standards. What you are getting is some additional monitoring and research. I don't see that this

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generates any improvements or promises of improvement in reclamation success.

Page 120, last paragraph - You should not permit permanent water diversions on the site after mining unless the company posts a performance bond to ensure annual maintenance of the diversions in perpetuity.

Page 121, first 2 lines. What is being proposed here? What is meant by saying that a drainage barrier will be constructed beneath the waste rock dump? Is this a serious proposal?

Page 121, under Embankment Reclamation - A wedge of net neutralizing material several feet thick over the pond embankment is a good technique. The major question is where would this material come from?

Page 121, under Impoundment Surface - Putting 18 inches of compacted clay on the surface of the impoundment has certain installation problems, but sounds like a good idea. The compacted clay layer will cause all runon to pond on the surface. Can the embankment dam handle that situation? Would the clay layer need to be overlain with soil and revegetated?

Page 124, under Liming - Any suggestion that lime may not be required to reclaim the waste rock embankments is false and misleading.

Page 124, under Seepage/Water Treatment. The statement that, "Drainage or seepage barriers may help to prevent surface seepage at the toe of the waste rock dumps.", is meaningless and should be deleted.

Page 137, under Soils - Recovery of only 27 percent of the soil available for salvage under the potentially acid conditions at GSM shows either a remarkable lack of information about acid mine drainage or a remarkable disregard for the environment.

Page 138, under Soils - If it is foreseeable that, "it is....likely that there would be extensive area (sic) where reclamation may fail in the long term.", how can you approve this mine expansion proposed by GSM. Let there be no doubt about the fact that the mining disturbance and associated facilities can be adequately reclaimed given proper planning and adequate company commitments.

Page 143, lines 2 and 3. After reading this EA there is no doubt that the long term cumulative impacts of this proposal would severely degrade the soils and waters in and around the mine area.

EXHIBIT 5
DATE 3-11-93
SB 320

MAIN POINTS IN SB 320

1. Reduces the time limit in which mining permits can be appealed.
   * Currently, political environmentalists have two years to appeal a mining permit after it is issued.

   This places the mining company, which must commit millions of dollars for construction and development costs, at jeopardy because of the uncertainty over whether its permit will be overturned.

   The men and women who work at the mine are in a state of anxiety because they cannot make longterm commitments for themselves and their families because of uncertainty over their jobs.

   * SB 320 would reduce the time for appeals to 90 days. This would allow adequate time for the public to express legitimate concerns and give both the mining company and the men and women who work for it more security.

2. Would allow the prevailing party to collect legal fees.

   * Appeals are filed against regulatory agencies of the state and federal governments.

   When a political environmental group loses, the legal costs are borne by the taxpayer.

   * SB 320 would allow taxpayers to be reimbursed for legal fees and reduce the number of frivolous and harrasive appeals

3. Consultants selected to conduct special environmental studies would be chosen with the advice and consent of the applicant. At present the applicant has no voice in the selection of consultants, some of whom either lack the special skills to conduct the studies or are biased.

   * SB 320 would allow the regulatory agency to select the consultant with the advice and consent of the applicant.

   This would eliminate inefficiency and bias, thus streamlining the permitting process without detracting from environmental quality.

EXHIBIT 6
DATE 3-11-93
SB 320

Amendments to Senate Bill No. 320
Third Reading Copy

Requested by Sen. McClernan
For the Committee on Business and Economic Development

Prepared by Michael S. Kakuk
March 11, 1993

1. Title, line 12.
Strike: "AND REVISIONS"
Strike: "AND"

2. Title, line 14.
Following: "~~DATE~~"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 1, line 18.
Following: "~~REQUIRES~~"
Strike: "AUTHORIZES"
Insert: "requires"

4. Page 1, line 22.
Following: "REQUIREMENTS"
Insert: "and amendment processing procedures"

5. Page 2, line 7.
Strike: "180"
Insert: "90"

6. Page 2, line 25.
Following: "ATTORNEY"
Insert: "and expert witness"

7. Page 3, lines 1 through 3.
Strike: "THAT" on line 1 through "MERIT" on line 3
Insert: "an award is appropriate"

8. Page 3, line 4.
Following: "Amendment"
Strike: "or revision of"
Insert: "to"

9. Page 3, line 7.
Strike: "or revision"

10. Page 3.
Following: line 10
Insert: "(2) The department may by rule establish criteria for the classification of amendments as major or minor. The department shall adopt rules establishing requirements for the content of applications for major and minor amendments and the procedures for processing minor amendments"
Renumber: subsequent subsections

11. Page 3, line 11.
Strike: "(a)"

12. Page 3, line 13 through page 4, line 20.
Strike: "(b)" on page 3, line 13 through "APPLICATION" on page 4, line 20

13. Page 4, line 21.
Strike: "(C)"
Insert: "(4)"

14. Page 4, line 22.
Strike: "REVISION"
Insert: "amendment"

15. Page 4, line 25 through page 5, line 3.
Strike: "WITHIN" on page 4, line 25 through "(3)(A)." on page 5, line 3

16. Page 5.
Following: line 3
Insert: "(5) The department is not required to prepare an environmental assessment or an environmental impact statement for the following categories of action:

(a) actions that qualify for a categorical exclusion as defined by rule or justified by a programmatic review pursuant to Title 75, chapter 1;

(b) administrative actions, such as routine, clerical, or similar functions of a department, including but not limited to administrative procurement, contracts for consulting services, and personnel actions;

(c) repair or maintenance of the permittee's equipment or facilities;

(d) investigation and enforcement actions, such as data collection, inspection of facilities, or enforcement of environmental standards;

(e) ministerial actions, such as actions in which the agency does not exercise discretion, but acts upon a given state of facts in a prescribed manner;

(f) approval of actions that are primarily social or economic in nature and that do not otherwise affect the human environment;

(g) changes in a permit boundary that increase disturbed acres that are insignificant in impact relative to the entire operation, provided that the increase is less than 10 acres or 5% of the permitted area, whichever is less; and

(h) changes in an approved operating plan or reclamation plan for an activity that was previously permitted, provided that the impacts of the change will be insignificant relative to the impacts of the entire operation and there is less than 10 acres of additional disturbance."

EXHIBIT 6
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17. Page 5.
Following: line 14
Insert: "(2) "Amendment" means a change to an approved operating or reclamation plan. A major amendment is an amendment that may significantly affect the human environment. A minor amendment is an amendment that will not significantly affect the human environment."
Renumber: subsequent subsections

18. Page 6, line 16 through page 7, line 6.
Strike: "(8)" on page 6, line 16 through "PROCESSING." on page 7, line 6
Renumber: subsequent subsections

19. Page 7, line 19 though page 8, line 2.
Strike: "(12)" on page 7, line 19 through "AMENDMENT." on page 8, line 2
Renumber: subsequent subsections

20. Page 12, line 4.
Following: "DEFICIENCIES."
Insert: "The initial completeness notice must note all deficiency issues, and the department may not in a later completeness notice raise an issue pertaining to the initial application that was not raised in the initial notice. The department may, however, raise any deficiency during the adequacy review pursuant to subsection (1)(b)."

21. Page 14, lines 4 through 7.
Following: "DEPARTMENT"
Strike: "CONSULT" on line 4 through "CONTRACTOR" on line 7
Insert: "prepare a list of no fewer than four contractors acceptable to the department and shall provide the applicant with a copy of the list. The applicant shall provide the department with a list of at least 50% of the contractors from the department's list. The department shall select its contractor from the list provided by the applicant"

22. Page 15, line 6.
Strike: "OR REVISION OF"

23. Page 16, line 2.
Strike: "RIGHTS AND DUTIES THAT MATURED,"

24. Page 16, line 3.
Following: "INCURRED"
Strike: ","

25. Page 16.
Following: line 4
Insert:
"NEW SECTION. **Section 9. {standard} Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or

more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 10. {standard} Effective date.** [This act] is effective on passage and approval."

EXHIBIT 7
DATE 3-11-93
SB 320

EXHIBIT 7
DATE 3-11-93
SB 320

Groups say mine violations ignored

By BOB ANEZ
Associated Press Writer

The state has failed to enforce laws violated by a gold mine near Zortman and the problem smacks of a conspiracy between the mining company and state officials, environmentalists said Friday.

Representatives of the Mineral Policy Center and Montana Environmental Information Center criticized the Department of State Lands for its handling of the Pegasus Gold operation. They called for a legislative audit of the agency.

THEY CITED 31 LEAKS, spills and other environmental problems at the Zortman-Landusky mine over 13 years that allegedly went unpunished by department officials.

"These are not minor problems," said Jim Jensen, executive director of the environmental information center. "These situations have the potential to cause catastrophic harm both to the environment and to any workers or residents in the area.

"There's such an extraordinary pattern here of failure to enforce that it seems to me that at some point down the road there should be some discussion of whether or not there has actually been a conspiracy between this company and some individuals or agencies," Jensen said.

"Zortman-Landusky is a poorly run, really sloppy operation and perhaps it's dangerous as well," said William Patric of the Mineral Policy Center. "It appears that the Department of State Lands is more concerned about protecting Pegasus' interests than the interests of the people and resources of the Fort Belknap (reservation) area."

PATRIC SAID MANY TRIBAL members feel betrayed because of damage being done to the Little Rocky Mountains that Indians consider sacred ground. The mine opened in 1979 and covers 1,215 acres.

"These situations have the potential to cause catastrophic harm both to the environment and to any workers or residents in the area."

Despite the mine's history of cyanide leaks and spills, ground water contamination, bird and wildlife deaths, and poor relations with local tribes, the Department of State Lands has taken no action against Pegasus, Patric said.

The agency "staunchly defends the mine to the public and in inspection reports criticism is framed with praise," Patric said.

"Our files are open to the public."

Gary Amestoy, whose Reclamation Division includes the bureau overseeing hardrock mining operations, defended his agency's work.

"Our inspection and enforcement activities are based on standards established by state law and specific conditions in the permit," he said.

AMESTOY DISMISSED JENSEN'S SUGGESTION of a conspiracy, saying, "We have a very dedicated and qualified staff. I don't know what he's referring to there. I really doubt that there's any conspiracy going on anywhere.

John Fitzpatrick, spokesman for Pegasus Gold, called criticism of the Zortman-Landusky operation inaccurate and misleading. He said Patric and Jensen "failed to present an honest and balanced picture of the actual events."

For example, he said, there was no illegal overflow of cyanide solution due to a heavy rainstorm in 1986. Rather, the company worked with state and federal officials to prevent an overflow by treating the water before it was released, Fitzpatrick said.

He also denied an allegation the mine filled its leach pad beyond its safe capacity and said the report of 30 gulls dying after landing on a barren mine pond last year was incomplete. Pegasus spent $80,000 to put a net over the pond to prevent a similar occurrence, Fitzpatrick said.

HE ACKNOWLEDGED THE MINE has had problems, but said the company has tried to correct them and protect the public health and safety.

"The Mineral Policy Center operates on the childlike notion that an industrial facility like a mine must be perfect in all of its design and operational features," Fitzpatrick said.

Both Amestoy and Fitzpatrick said they welcome an legislative investigation.

"Our files are open to the public," Amestoy said. "Everyone isn't going to agree with us 100 percent on everything we do. That's the nature of our enforcement program."

Billings Gazette

Tuesday, February 23, 1993 | 108th year, No. 297 | Billings, Montana 59101

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Acid, metals found in mine discharge

By JILL SUNDBY
Of the Gazette Staff

Higher-than-normal acid and metal levels have been found in drainages below the Zortman and Landusky gold mines in the Little Rocky Mountains of north-central Montana, state and federal agencies have announced.

Because of these findings, the Department of State Lands and Bureau of Land Management have asked Zortman Mining Inc. to change its mining procedures. The agencies want ZMI to map and identify potential acid-producing waste rock, selectively handle different types of rock, expand reclamation measures and increase its number of water quality monitoring stations.

Some of the metals exceed drinking water standards at points inside the mine permit boundary, according to Scott Haight, district BLM geologist based in Lewistown.

"Beyond the permit boundary we haven't detected any that have exceeded (standards) yet," he said. "We're still investigating."

Although the elevated levels were found on the Zortman and Landusky sides of the mountains, no effects to the domestic water supplies in those towns have been detected, nor have metals been found in drainages into the Fort Belknap Reservation, Haight said.

The acid and metal levels were documented by the mining company, which takes its own water tests, as do other Montana mines. The government agencies based their conclusions on these water tests, historic water tests, onsite inspection and additional sampling.

Haight said the agencies first noticed the elevated levels on the July 1992 monitoring report, then looked back at older records. "We found that you could see some of that starting to creep in in 1991," he said.

Acidic water — which dissolves the metals that occur naturally in rock — is created from sulfide-bearing rock. ZMI has been mining mostly oxide ore, which has less sulfide material than unoxidized ore, so acid mine drainage "hasn't been a problem in the past," Haight said.

"Now as they're mining deeper, I think we're starting to see an increase in the percentage of sulfide material mixed with oxide. We're saying 'Let's be a little bit more selective in where we mine' — identify those potentially hot zones and separate them."

The acidity issue is of concern because ZMI has applied to expand the mine more into unoxidized ore, Haight said. However, the current situation is not considered to be extremely serious or extremely hazardous.

The most acidic reading was at a surface water site in Rock Creek with a pH level of 2.5 — much lower than the neutral pH level of 7.

"Most were running in the 4 to 5 range," Haight said. "That's about the point where you start to say 'This is a little more than nat-

(More on Acid, Page 10A)

Acid

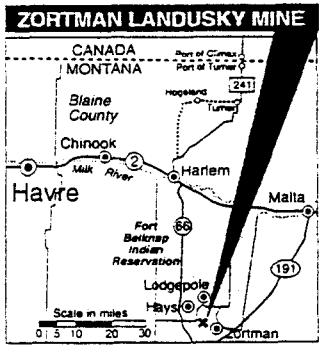
From Page One

ural — there's something else going on here.' "

In general, the monitoring stations have shown increases in iron, lead, cadmium and zinc "and we've seen some increase in arsenic, but it's hard to tell because the area is naturally high in arsenic anyway," Haight said.

Most of the acidic sites were surface water stations, although some were ground water stations in Rock Creek and Ruby Gulch.

The affected drainages are Ruby Gulch, which runs through Zortman and has been the site of much historic gold mining; Mill Gulch and Rock Creek, which meet above the town of Landusky to form Rock Creek; and Montana Gulch, which joins Rock Creek below the town of Landusky and continues on under the name Rock Creek.



"Rock Creek did have some elevated metal content before," Haight said. "To say it is totally the fault of the operator may not be correct."

The agencies are continuing to identify the exact source of the acidity, but believe it is coming from the waste rock sites and possibly pits, plus an old retaining dike that has since been removed.

ZMI has already begun capturing discharge water, treating water with limestone to raise the pH and excavating potentially acid-forming rock from one drainage.

The agencies expect to see improvement within six months.

ZMI, a subsidiary of Pegasus Gold Corp., operates both the Zortman and Landusky mines.

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MINERAL POLICY CENTER

• 1325 MASSACHUSETTS AVENUE NW #550 • WASHINGTON, DC • 20005 • 202-737-1872 •

THE SUMMITVILLE MINING DISASTER

A Poisoned River Runs Through It

4 February 1993

On 3 December 1992, the Summitville Consolidated Mining Company (whose Canadian based parent is Galactic Resources Ltd.) declared bankruptcy and walked away from its environmentally disastrous cyanide heap-leach gold mine in the San Juan Mountains of southern Colorado. The following is a preliminary account of the Summitville story based largely on press accounts, State records, and interviews with activists and State officials. This does not purport to be the final word on Summitville, for in many ways, the story is just now coming to light.

The Summitville mine was a problem from the very beginning. The valley-fill design for the heap-leach was ill-conceived but quickly approved by the State of Colorado's Mined Land Reclamation Division (MLRD). The initial bond for the site was set at $1.3 million. The State now claims it has little discretion and weak authority to deny deficient permits, require conditions to improve them, or require adequate bonds. This onerous beginning was further complicated in 1986, the year the mine opened, when the Colorado legislature temporarily eliminated the budget for MLRD. James Pendleton, Colorado's chief geologist said this action primarily resulted in no state MLRD inspections being conducted on Colorado mines for one and a half years.

By the time inspectors came back, serious environmental problems were mounting on the site - the liner was leaking; too much water was flowing into the mine; and periodic cyanide spills were occurring that allegedly wiped out aquatic life in 17 miles of the Alamosa River. On several occasions, the State slapped the Company on the wrist with modest fines and remedial plans. However, the Company was allowed to continue operation despite the fact that State ordered abatement activities aimed at correcting these severe problems continued to fail. Problems on the site continued. In 1989, the State required Summitville to raise its total bond to $2.2 million.

In July 1992, Summitville and the State signed a revised agreement whereby the Company would complete remediation and reclamation of the site by 30 November 1992. The total bond was raised to $7.2 million. A condi-

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tion of the "clean-up" settlement required the State to refund back to the Company $2.5 million of the bond during different phases of this work. In the late fall, the State went ahead and refunded 1/3 of the total bond despite continued environmental problems and a report issued in August 1992 estimating that site clean-up could cost up to $70 million. Another report estimated at least $20.6 million in clean-up costs would be required. On 3 December, a mere several weeks after the bond refund, Summitville filed for bankruptcy. A $4.7 million bond is all that remains with the State. On 26 January 1993, Summitville's parent company, Galactic Resources, Ltd. filed for bankruptcy in Canada.

On 16 December 1992, EPA's Superfund program has taken control of the site at the State's request. EPA is spending $38,000 a day to treat the cyanide waste. EPA will hit its $2 million spending limit on the clean-up by 15 February 1993. EPA and the State must come up with more money or stop the federal treatment activities. According to EPA, if treatment is stopped, weather and the elements threaten to overwhelm the mine structures which may likely result in a massive spill of over 100 million gallons of cyanide laced water into the Alamosa River. The Alamosa supplies water to ranchers and farmers in the San Luis Valley and feeds into the Rio Grande River - 40 miles away.

Since 1986, Galactic Resources extracted 280,000 troy ounces of gold at the Summitville mine.

* * *

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The Denver Post
28 January 1993

Chemical-mine moratorium urged

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By Mark Obmascik
Denver Post Environment Writer

Environmental damage caused by the Summitville mine fiasco prompted the Colorado Department of Natural Resources yesterday to propose a moratorium on state approval of any new chemical mining operations.

After the Summitville gold operation polluted southern Colorado streams with cyanide and copper — and left taxpayers with an estimated $15 million in cleanup costs by declaring bankruptcy — state regulators have come under fire for their handling of the situation.

"I think everybody understands there needs to be some dramatic action to prevent this kind of situation from happening again," said Ken Salazar, director of the department of natural resources. "We need some sweeping change."

Colorado is home to 23 chemical-treatment mine operations. Salazar asked the Colorado Mined Land Reclamation Board to reject all permit applications for new cyanide heap-leach operations until the state can toughen its mine statutes and regulations.

The proposal was opposed by the Colorado Mining Association, which represents 115 local mine companies.

"I don't think there's a need to put a moratorium on all applications," said Dave Cole, director of the association. "I think these issues can be addressed under the present laws."

The Mined Land Reclamation Board scheduled a meeting next month to consider the department of natural resources' moratorium request.

In addition to the moratorium, Salazar asked the board to let the state require mine companies to post higher reclamation bonds.

Summitville's parent files for bankruptcy in Canada

By Gary Theimer
Special to The Denver Post

The Vancouver company whose subsidiary ran the beleaguered Summitville Mine announced yesterday that it had filed for bankruptcy in Canada because of "Colorado's inability to reach a settlement agreement" on the massive cleanup at the polluted mine site.

Galactic Resources Ltd. had been negotiating with the state since its subsidiary, Summitville Consolidated Mining Co. Inc., filed for liquidation Dec. 4 under U.S. bankruptcy laws.

Superfund site, eligible for a federal cleanup.

The EPA crew, in the meantime, expects to get an extra $3 million from its headquarters to keep the water-treatment plants running.

Officials of both companies told the state then that they couldn't afford to keep the mine's three water-treatment plants running or

ALAMOSA

keep an 18-mile access road open in winter, both needed for the cleanup.

So the state department of health and the department of natural resources' division of minerals and geology asked the federal government to step in. The U.S. Environmental Protection Agency took control of the site Dec. 16.

If the treatment plants shut down, water containing cyanide and heavy metals will begin spilling into streams at the Summitville Mine, 24 miles southwest of Del Norte.

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High Country News 25 January 1993

Colorado mining industry strikes again

What was Colorado's largest gold mine in the 1980s is now the state's worst mine pollution disaster.

On Dec. 15, Summitville Consolidated Mining Co. declared bankruptcy and abandoned its cyanide heap-leach gold mine at 11,700 feet in southern Colorado's rugged San Juan Mountains. It left behind a six-year legacy of pollution violations, a 17-mile stretch of the Alamosa River sterilized by mine waste, and a 170 million-gallon tailings pond leaking large amounts of cyanide.

A day later, on Dec. 16, worried state officials called in the Environmental Protection Agency to prevent wholesale damage to the Rio Grande basin. The agency's Superfund program now has 45 people working at the mine and it is spending $38,000 a day to treat the cyanide waste.

"(We) kind of had it pitched in the middle of our laps," says Superfund spokeswoman Sonya Pennock.

EPA officials estimate the cleanup could eventually cost taxpayers $20 million — unless the agency is fortunate enough to get some of it back from a bankruptcy court.

In the meantime, the EPA is wondering how to pay for it. The Colorado Mined Land Reclamation Board, which permits, regulates and sets bonds for all mining operations in the state, only obtained a $4.7 million bond from Summitville Consolidated. And Summitville's parent company, Galactic Resources Inc., of Nevada, has also gone under.

As an angry Colorado public and EPA officials confront the state Mined Land Reclamation Board over the disaster, the story that unfolds reveals an environmental and financial boondoggle that state officials say they were helpless to prevent.

Seven people sit on the Mined Land Reclamation Board. They are appointed by the governor and affirmed by the state Senate. Critics say that generally results in a slight industry bias, but board members say that isn't the problem.

"The key reason why things turned out the way they did is the (Colorado) Mined Land Reclamation Act," says environmental lawyer and six-year board member Luke Danielson. "There is a strong pro-industry bent in the way our law is written."

Danielson, one of two board members appointed to represent the conservation community, says the chronology of Summitville illustrates what's wrong with the law. In a heap-leach gold mine, ore is crushed, piled in a heap and then sprinkled with cyanide. As cyanide filters through the pile it dissolves the gold. The "pregnant" solution is then pumped out, the gold recovered and the cyanide reused. Summitville won a permit for a "valley-fill" heap-leach in 1984. Valley fill means instead of building a special heap-leach pad, the company simply dammed up a small valley.

Danielson says the design, which also buried a creek under the pile, should never have been approved. However, under state law the Division of Minerals and Geology only has 120 days to review a mining application before a permit is automatically granted. Danielson says the law allows extremely narrow grounds to deny a permit. Moreover, the division is limited in what restrictions it can enforce and how high it can set reclamation bonds. As a result, the mine won easy approval with an initial bond of less than $1 million.

To make matters worse, in 1986, the year Summitville went into operation, the Colorado Legislature eliminated the division's entire budget. Says chief geologist James Pendleton, there were no mine inspections anywhere in Colorado for one and a half years. Thus, the agency didn't find out until 1989 that Summitville's heap-leach pile had a dangerous water imbalance, with more water coming in than going out.

In addition, the company reported that cyanide was leaking through the plastic liner and into groundwater below. The attempted repair — trapping the contaminated groundwater and pumping it back into the heap-leach pile — did not work. Danielson says the rising waters threatened to breach the dam.

"The mine couldn't be shut down without causing more problems than we already had," says Danielson. Without an emergency cleanup fund, or a higher bond, the mining board members felt that the state's only option was to try and keep Summitville in business so it could control the problem.

Ultimately, the company was fined $100,000. In negotiations with state officials, mine officials also agreed to raise their bond to almost $5 million and build a water treatment plant to start emptying the tailings pond.

Although state officials such as Danielson and Pendleton have taken the heat for the disaster, they say the blame lies with the state Legislature and the state's powerful mining lobby.

"This is what happens when the Legislature decides to take a political pot shot at a state program," Danielson says. He wants the Legislature to fix the problem by creating an emergency reclamation fund and by giving more money and authority to the Mined Land Reclamation Board and its staff in the state Division of Minerals and Geology.

Summitville, Danielson warns, may not be the only problem: In 1988, a smaller, yet mirror image of Summitville occurred near Cripple Creek, where the earthen dam on a cyanide pond owned by the bankrupt Newmont Mining Corp. burst. In that case, the state had only required a $60,000 bond; the cleanup bill ultimately exceeded $250,000. Danielson says many of the state's 350 operating mines may have inadequate bonds, or, because of a rule that bars adding inflation rates, bonds that are significantly outdated.

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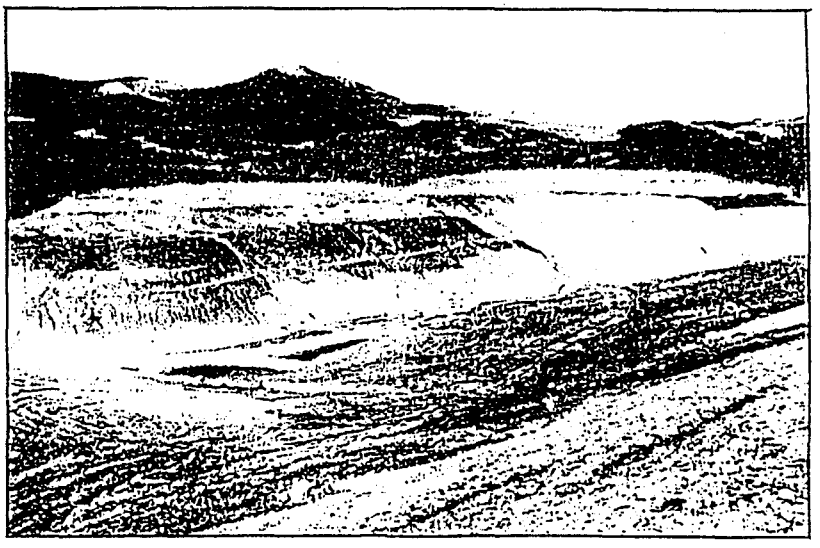

Division of Minerals and Geology

A Summitville waste pile, partially reclaimed, foreground, with the heap leach pad behind

State and national environmental groups worry that more disasters are primed to happen. But Division of Minerals and Geology spokesman Mike Long says the bulk of the problems were fixed in 1990, when the division won permission from the Legislature to fund its programs by charging higher fees. Now inspections are up.

"The level of expertise on our staff has increased by leaps and bounds," adds Long. "We have taken great pains to make sure our people have the proper backgrounds."

Long and his department will soon have a chance to show that they are up to speed. The largest cyanide gold mine in the state will open near Victor, Colo., later this year (*HCN*, 5/18/92). Long says the proposal for the so-called Cresson Mine is receiving "more scrutiny" in the wake of the Summitville debacle.

But Jim Lyon of the reform-minded Mineral Policy Center in Washington, D.C., says added training won't solve Colorado's ills. "It doesn't have as much to do with expertise as it does with political will," Lyon says.

Lyon fears that given the historic power of the mining industry in Colorado, the state can't be trusted. The EPA should be involved in permitting and enforcement, not just cleanup, he says. "There will be more Summitvilles unless there is a federal approach."

— Steve Hinchman, Harry Noreen

THE DENVER POST
Friday, January 22, 1993

EXHIBIT 7
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SB 320

Mine gets refund; taxpayers hold bag

Bond pared just before bankruptcy

By Gary Thelmer
Special to The Denver Post

ALAMOSA — A Colorado agency charged with protecting the environment from mine pollution got a surety bond for about $7.2 million from a mining company for a massive cleanup — but refunded $2.5 million just 1½ months before the company declared bankruptcy.

Yet a report issued Aug. 30 — more than 1½ months before the refund — had said reclamation and remediation at the gold mine south of Del Norte could cost up to $70 million.

Now the cleanup is costing U.S. taxpayers about $37,000 a day. The U.S. Environmental Protection Agency will hit its $2 million spending limit on the cleanup Feb. 15. The EPA team then must find more money or stop operations.

Unless nature cooperates, the EPA said this week, more than 100 million gallons of cyanide-laced water could spill next spring into a creek, the Alamosa River and perhaps the Rio Grande. If the cleanup stops, that is certain to happen, the EPA says.

The Alamosa River, downstream from the mine, supplies water to San Luis Valley farmers and ranchers through a series of canals and enters the Rio Grande below Alamosa. Aquatic life in the Alamosa River is dead for 17 miles because of previous spills at the mine.

Summitville Consolidated Mining Co. filed for Chapter 7 bankruptcy protection Dec. 3, not long after it got the $2.5 million refund from the Colorado Department of Natural Resources's Division of Minerals and Geology.

But in July, Summitville, the state division and the Colorado Department of Health had signed a settlement agreement in which the min-

Please see BOND on 20A.

THE DENVER POST
Friday, January 22, 1993

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Cleanup bond partly repaid before mine goes bankrupt

BOND from Page 1A

ing company agreed to start reclaiming land on the site. In return, the state was compelled to refund some of the company's money in three installments beginning Oct. 20.

The company had provided the state with bonds worth $7.2 million to ensure that the site, near Wolf Creek Pass, would be restored and rendered harmless to the environment. That amount was to be reevaluated after publication of an amended reclamation plan, which the division requested after many discharge violations by the mine operator.

The amended plan was completed Nov. 30. Summitville notified the state of its intention to file for bankruptcy the next day, Dec. 1.

"We were going along in good faith and 'boom,' " said Mike Long, who became division director early last year. State officials had become concerned that the cost of operating the mine's water-treatment facilities, while completing land reclamation, would far exceed original estimates.

The final report by Golder Associates in Lakewood set cleanup costs at $20.5 million, far less than the original $70 million estimate.

State-mandated criteria changed considerably by the time the final report was issued, said Dirk Van Zill of Golder Associates. And the state division should have known that its cleanup money would be inadequate, he added.

Summitville apparently already had been preparing for the worst.

"I think it goes back to the fact that everybody saw the writing on the wall," said Mike Holmes of the EPA's office of external affairs. "We heard from some of their former employees that they stopped maintaining their equipment in April."

Since the EPA began operating the site, six more people had to be hired just to keep up with repairs, Holmes said. "We hired most of the Summitville employees, but that wasn't enough."

The EPA team took control of water purification and snow removal Dec. 16 after Summitville Mining and its Canadian parent, Galactic Resources Ltd., told the state that they no longer could afford to protect the environment while reclaiming land at the open pit gold mine high in the San Juan Mountains.

The mine's three water-treatment plants must operate to prevent water laced with cyanide and with high concentrations of heavy metals from spilling into surface streams.

Galactic operated Summitville since 1986, extracting 280,000 troy ounces of gold worth more than $130 million.

Having signed the July settlement, however, the division had to refund the company's bond money, pending Golder's final report.

To prevent such problems in the future, Long said, "We're looking at writing good permits, doing good inspections and improving the bonding process."

But, "if you're going to pick one, I think it's definitely the bond ... the ability to look at and evaluate the bond needs to be improved."

Since 1986, Summitville received seven violation notices from the division for release of polluted water into Cropsey drainage, Wightman Fork and eventually the Alamosa River.

Why was the company allowed to continue processing gold?

"I wish I could answer that," Long said. "But if you look at Battle Mountain Gold, you'll see we handled that very differently. We made them shut down.

"If the Summitville violations happened today, we would shut them down, too."

The Colorado Mined Land Reclamation Board will meet Wednesday to decide whether to keep Summitville's remaining $4.7 million bond.

And the EPA and the Office of Mined Land Reclamation will update the board on the status of reclamation efforts.

The Denver Post
January 1993
RECEIVED 5 JAN 1993

The mine that killed a river

GIVEN ALL the rivers that have been desecrated by mining in Colorado — among them the Arkansas, the Eagle and the San Miguel — the state should have insisted on getting watertight anti-pollution guarantees when it permitted a huge gold mine to open on the headwaters of the Rio Grande several years ago.

Regrettably, however, the authorities failed to impose adequate safeguards on the project. Cyanide-laced wastes leaked out of leaching piles at the Summitville mine and escaped downstream, killing virtually all aquatic life in a 17-mile stretch of the Alamosa River south of Del Norte.

Worse, the Canadian firm that owned the mine was never required to post a bond to rectify such problems, and now that it has filed for bankruptcy, state officials are scrambling to find the $10 million to $20 million it will take to head off further contamination.

This shameful mess can be blamed in part on a gap in the statutes, which required that the company provide only enough money up front to reclaim the site once the mine played out — not to address the water-quality problems that might have been foreseen as well.

But bureaucratic laxity aggravated the situation. Neither the Colorado Department of Health nor the Department of Natural Resources moved to revoke the mine's operating permit for violations of environmental laws, even though a pattern of non-compliance was apparent within a few years after the mine opened in the mid-1980s.

Instead, the operators were penalized with modest fines and told to fix things — presumably because a shutdown would have put a lot of miners out of work. This reasoning now looks lame indeed, considering that the Environmental Protection Agency has had to step in on an emergency basis and hire 45 workers to run waste-treatment systems at the mine until the polluted discharges can be more permanently controlled.

Moving to contain the damage, state officials have obtained $6 million in cleanup funds by claiming proceeds from the sale of mining properties owned by Summitville's parent company in Nevada and South Carolina, and they hope to obtain more within a few months from similar liquidations in California.

But these efforts may fall several million dollars short of the total necessary to put a permanent remedy in place. It's likely, therefore, that the Summitville mine eventually will be declared a Superfund site — meaning it might be a decade or more before real restoration is begun.

In the meantime, this sorry case seems sure to stimulate a new debate in Washington over the need for federal oversight of active mining operations, which obviously can wreak as much havoc as sites abandoned decades ago if state authorities fail to police them properly.

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The Denver Post

Bankrupt mine costly to EPA

Agency spends $800,000 a month to clean up cyanide wastes

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By Mark Obmascik
Denver Post Environment Writer

The Environmental Protection Agency is being forced to spend $800,000 a month to prevent a bankrupt gold mine from polluting the Alamosa River with millions of gallons of cyanide-laced wastes, officials said yesterday.

EPA managers said they have hired 45 workers to operate waste-treatment systems at the troubled Summitville gold mine near Del Norte. Summitville already has been blamed for wiping out virtually all aquatic life in the 17 miles of the Alamosa River downstream from the mine.

Federal intervention was required after state regulators failed to require the mine operator, Galactic Resources of Vancouver, British Columbia, to post a reclamation bond big enough to cover cleanup costs.

EPA officials are concerned that Summitville pollution will kill wildlife, hurt irrigation supplies for downstream San Luis Valley farmers and taint shallow drinking-water wells used by residents of the small town of Capulin.

The Summitville site now is contaminated with at least 170 million gallons of cyanide-contaminated liquids. But money shortages may force the federal government to stop treating up to 30 percent of the polluted discharges from the mine, said EPA site manager Hays Griswold.

"It's a bit disturbing what was put out here," said Griswold, who's directing the crew of workers. "We're trying to do the best we can, but because of the cost factor, we're going to have to scale down."

EPA hopes to cut pollution-control costs to $250,000 per month, Griswold said. But the agency still

Please see **MINE** on 5B

EPA may run out of money to pay for gold mine cleanup

MINE from Page 1B

is expected to run out of money to control Summitville contamination by May, he said.

The Summitville project is being paid by the federal Superfund, which is financed by a tax on petroleum products.

One of Colorado's biggest mining operations, Summitville opened in 1984 and extracted an estimated 280,000 troy ounces of gold before the company declared bankruptcy this month.

State regulators usually require mine operators to post a bond adequate to cover cleanup costs. But the Colorado Mined Land Reclamation Board only required Summitville to put up $4.7 million — far short of the $20 million needed for cleanup.

Both Gov. Roy Romer, who appointed six of the mine board's seven members, and Colorado Department of Natural Resources Director Ken Salazar, who is a board member, declined to comment yesterday on the Summitville fiasco.

Mike Land, director of the state division of minerals and geology, said the $4.7 million would have been sufficient if Summitville had obeyed its state operations permit. The state levied $130,600 in fines against the mine company for repeated environmental violations before Summitville filed for Chapter 7 bankruptcy protection.

Rio Grande County District Judge John Kuenhold this week made permanent a temporary injunction preventing the Summitville operator from abandoning the mine site. But the effect of that order is unclear because the EPA already has taken over mine operations.

"This is a tragedy," said Mark Hughes, an attorney with the Sierra Club Legal Defense Fund. "State government saw the tragedy coming, but everybody who had the levers of power in state government didn't do anything about it. The state blew it."

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The Denver Post

Crown, Newmont drop out of projects

RECEIVED

By Adriel Bettelheim
Denver Post Business Writer

Two Denver gold companies yesterday said they were pulling out of mining projects in Washington state and Costa Rica because of economic considerations.

Crown Resources Corp. said it was withdrawing from the Kettle River joint venture, a gold mining project in eastern Washington it was developing with Canadian mining giant Echo Bay Mines. The move will result in Crown taking a fourth-quarter, after-tax charge of about $1 million.

The resources company said continued involvement in the project would have led to a net negative cash flow of $5 million over the next two years, with little hope of reducing the principal on a loan funding the project.

"The project did not provide sufficient economic benefit to the company in the current and foreseeable gold price environment," Crown said in a statement.

Crown said the withdrawal leaves it in a strong financial position, with about $6 million in cash and bullion.

The company had been active in the Kettle River project since 1988 and owned a 30 percent stake in the property. Ore reserves at the site have been estimated to be 635,000 ounces of gold.

Meanwhile, Newmont Mining Corp., North America's largest gold producer, agreed to withdraw from a joint venture that was exploring the Rio Chiquito gold and silver property in Costa Rica. The project is owned by Mallon Resources Corp.

Crown's withdrawal leaves it in a strong position, with $6 million in cash and bullion.

In a statement, Mallon said Newmont indicated the proven reserves in the project's pit area didn't meet its minimum size requirements, which are thought to be 1 million ounces of recoverable reserves.

Newmont will continue to pay Mallon $30,000 a month through March 31, 1993, the original expiration date for the joint venture. Newmont made the decision at year's end to avoid some of the project's carrying costs.

Had Newmont opted to continue in the project it would have obtained a 51 percent interest in the Rio Chiquito project.

The Denver company continues to explore and produce gold in foreign countries such as Peru and Thailand, where labor and production costs are cheaper than the United States.

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DATE 3-11-93
SB 320

Associated Press
January 1993

Mining board delays decision on cleanup of cyanide leaks

The Associated Press

DENVER — The state Mined Land Reclamation Board has delayed action on two cyanide leaks at a controversial gold mine near Wolf Creek Pass as it continues to discuss plans on shutting the mine down.

The state and the mine's owners are in the midst of prolonged negotiations about how the sprawling site will be shut down, cleaned up and reclaimed.

Some board members in a two hour meeting on Wednesday questioned whether $2.2 million in reclamation bonds are adequate to cover the entire cost of reclamation.

Peter Guest, president and chief executive officer of Galactic Resources Ltd. of Vancouver, B.C., has said it might cost $9 million to $15 million to shut down the operation and reclaim the site over the next three years.

Galactic owns Summitville Consolidated Mining Co. The firm will have extracted an estimated 300,000 troy ounces of gold from the area by next spring — 33,000 ounces more than 50 underground mines in the area produced in 60 years.

Board members had many questions about how Summitville plans to flush out and detoxify 354 acre-feet of cyanide-laced water in the 48-acre leach heap. The cyanide-water mixture is used to extract gold from ore. One acre foot of water equals 325,850 gallons.

The company has been fined more than $130,000 for cyanide leaks prior to the most recent leaks in September and November.

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DATE 3-11-93
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The Denver Post
Tuesday, December 29, 1992

Bankrupt mine exceeding water pollution limits

EXHIBIT 7
DATE 3-16-93
SB 320

By Mary George
Denver Post Environment Writer

Water leaving the bankrupt Summitville gold mine is carrying more poisonous copper than the facility's permit allows, even though the Environmental Protection Agency is spending $37,000 a day to control water pollution there.

EPA environmental scientist Melanie Pallman confirmed yesterday that effluent from Summitville's water treatment plant carries up to 5 parts per million of copper. The state permit for the mine, located near Wolf Creek Pass, allows a daily average of only 0.30 parts per million.

Scientists say the excess copper poses a threat to fish in the Alamosa River downstream of the plant. But the EPA is allowing the discharges to avoid a more disastrous springtime overflow of the 280 million gallons in the mine's "heap leach" field contaminated with cyanide, copper and other heavy metals, Pallman said.

"There are 300-400 parts per million of copper in the heap water," she said. "Having that overtop would be a lot worse than discharging copper at 5 parts per million."

Aquatic life already killed

Cyanide-laced waste from the gold extraction already has killed off aquatic life in 17 miles of the Alamosa River.

EPA's standard for copper in the Alamosa is set at 0.012 parts per million, and the state's standard is 0.125, much lower than what's now reaching the river, said EPA environmental engineer Bruce Zander.

"If only 1.5 parts per million of copper were coming off the site, by the time it reached the Alamosa, it would be about 0.125," Zander said. "But a brook trout will withstand only short periods at 0.1 parts per million." EPA still is studying the copper's effects on irrigation and crops.

EPA took over Summitville under the tax-financed Superfund hazardous waste clean-up program on Dec. 16, 12 days after mine owner Galactic Resources Ltd. of Vancouver, British Columbia, filed for Chapter 7 bankruptcy. Galactic had operated Summitville since 1986, extracting 280,000 troy ounces of gold.

Cleanup costs estimated

Last week, clean-up costs were estimated at $800,000 a month. Yesterday, that figure was revised upward to $1.11 million monthly, largely because of rising labor costs at the 12,000-foot site, officials said.

The mine's treatment plant uses hydrogen peroxide to neutralize the cyanide used to extract gold from ore in the heap, but it isn't equipped to extract all the copper from the effluent, said EPA environmental engineer Dana Allen. "If we had a great deal of money and time, you could meet that limit (for copper). But we're talking about much more money and time than is available to us now."

Mark Hughes of the Sierra Club Legal Defense Fund said he was surprised that EPA wasn't meeting standards. "It indicates that the scale of the problem may be of a larger magnitude than the public is aware of."

The Denver Post
22 December 1992

RECEIVED 2 3 DEC 1992

THE DENVER POST

EPA to take over Summitville mine

Action taken to halt cyanide-laced liquid from leaking into river

By Mark Obmascik
Denver Post Environment Writer

The pollution-plagued Summitville mine in southwestern Colorado will be taken over temporarily by the U.S. Environmental Protection Agency, officials announced yesterday.

Environmental officials said the takeover was needed to stop one of the state's biggest gold mines, built near Wolf Creek Pass above Del Norte, from leaking thousands of gallons of cyanide-laced liquid into the Alamosa River.

The Summitville Consolidated Mining Co. Inc., an affiliate of a Vancouver, B.C., Canada, corporation, filed for Chapter 7 bankruptcy protection this month after extracting more than 280,000 troy ounces of gold. Officials said rising environmental costs helped destroy the profitability of the eight-year-old gold operation.

The bankruptcy means that the mining company will stop operating the pumps and treatment systems preventing at least 100 million gallons of cyanide-tainted fluid from flowing into the headwaters of the Rio Grande.

In an agency statement, EPA official Hays Griswold said the federal government will operate the mine's pumping system on "a limited basis while state and federal officials assess both the possible legal actions, and the long-term needs at the site."

Colorado state mining officials have estimated that Summitville will require at least $20 million of cleanup work. But state environmental regulators only required Summitville to post a $4.7 million cleanup bond.

It still isn't determined who will pay the $15 million difference.

Summitville was regulated since its inception by the Colorado Health Department and the Colorado Mined Land Reclamation Board. State regulators fined the mine $130,000 for a string of environmental violations. But the EPA statement yesterday said the Colorado Health Department asked the government to take over operations at the site.

EXHIBIT 7
DATE 3-11-93
SB 320

Alamosa Valley Courier
16 December 1993

RECEIVED 2 8 DEC 1992

Galactic eyes bankruptcy

By ERIN MACGILLIVRAY SMITH
Special to the Courier

DEL NORTE — A district judge's ruling last week could push the beleaguered Summitville Consolidated Mining Co.'s parent company, Galactic Resources, Ltd., of Vancouver, Canada, into bankruptcy itself.

However, area residents have been assured that detoxification of the cyanide in the gold heap leach will continue no matter who assumes operation of the mine site today.

Summitville, as part of its Chapter 7 bankruptcy, announced it was closing its Summitville mine site about 25 miles southwest of here in the San Juan Mountains.

The announcement prompted Colorado state agencies to take the matter to district court.

Last Friday night in Alamosa, District Judge O. John Kuenhold granted Colorado a temporary restraining order against Galactic. Kuenhold signed the order Tuesday.

The order requires Galactic to step in and continue the detoxification efforts at Summitville, until a hearing on a permanent injunction can be held on Monday in district court here.

Galactic's responsibility

If ordered, a permanent injunction can require Galactic to continue the operation indefinitely.

However, in the case of both a temporary restraining order or a permanent injunction, if Galactic can show it cannot possibly perform the task, it can be freed of the obligation. Otherwise, it can be cited for contempt of court.

In court on Friday, Galactic chief executive officer and president Peter Guest and Galactic financial affairs vice president Victor Bradley testified that Summitville Mine has not been a profit-making operation.

Outside the hearing, Guest said that reclamation likely would cost from $10-$13 million, not the $18-21 million the state thought it would cost. He indicated the reclamation cost likely would come from the sale of other Galactic subsidiaries, including a

(Continued on page 10)

Galactic

(Continued from page 1)

gold mine in California Galactic is trying to sell for about $12 million.

Guest indicated that his company would have difficulty taking over the Summitville operation, indicating that such court action is "unheard of" in mining annals.

Guest testified Galactic does not have the means to take over the mine. Its assets from the sale of 12 of about 14 Galactic subsidiaries are exhausted.

Galactic assets

Guest told the court the only assets Galactic has left are $500,000 plus whatever the sale price is on the California mine.

Rio Grande County land use administrator Kelly Yeager said Tuesday he was assured earlier in the day that even if Galactic does not take over the operation today, the government won't let the clean-up cease.

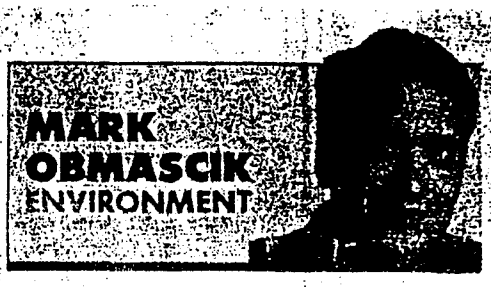
EPA intervention possible

Attorneys on both sides of the matter last week told Kuenhold that the Environmental Protection Agency will take over the site if no one else will, retaining the current employees at the mine site.

7
3-11-93
SB 320

The Denver Post
12 December 1992

Taxpayers get $15 million shaft in Summitville mine fiasco



Ever since Colorado voters approved the Amendment 1 tax-limitation measure, most government officials have been trying to cut costs and increase efficiencies. But Gov. Roy Romer's environmental regulators responded differently.

They wasted $15 million.

In a pathetic series of stumbles and bumbles, state officials let a Canadian mine company transform a southern Colorado mountain into a festering toxic stew — and then stick taxpayers with the cleanup bill.

State regulators knew from the very beginning that the Summitville gold mine posed a major environmental risk. Constructed near the headwaters of the Rio Grande near Wolf Creek Pass, the Summitville operation involved spraying millions of gallons of cyanide-laced fluids onto huge piles of crushed ore.

The plan was for the cyanide to separate the gold chemically from the rock. The fear was that the cyanide might leak out and pollute the surrounding national forest.

It didn't take long for fear to become reality. Work crews built the Summitville heap-leaching pile with a faulty protective liner, officials say, and cyanide soon began oozing out.

The first environmental violations were detected in June 1986, two years after Summitville began operations. State mine inspectors slapped the Vancouver-based company on the wrist with a $3,600 fine for failing to do required cleanup work and hurting a nearby creek.

THAT SAME MONTH, the state found cyanide seeping through the protective liner. Regulators ordered mine executives to build a pumping system to contain the contamination.

In June 1987, Summitville's pumping system broke down. The mine operation dumped at least 85,000 gallons of cyanide-laced water into a Rio Grande feeder creek — and the Colorado Health Department slapped Summitville's wrist again with a $27,000 fine.

By 1990, concentrations of several heavy metals had doubled in a creek downstream of Summitville. Cyanide pollution levels were 25 times greater.

Summitville's wrists were slapped again with a $100,000 fine in 1991. But that penalty was couched further by a special state exemption that permitted Summitville to violate standards for silver pollution for another 16 months.

By then, though, the pollution had taken a heavy toll. State wildlife officials said almost all aquatic life was wiped out in 17 miles of the Alamosa River downstream of the leaking mine.

Once again, the mine managers promised to do better. Once again, the state regulators took them at their word. Instead of shutting down Summitville for repeated environmental law-breaking, the state gave the mine another chance.

But last week, Summitville went bust. Complaining of rising environmental costs, the mine company filed for Chapter 7 bankruptcy protection.

ROMER'S WATCHDOGS didn't anticipate this maneuver. All they required of Summitville was to post a $4.7 million bond for cleanup. But officials say cleanup will cost $20 million — a burden that usually falls on government.

So, Summitville will keep leaking more toxic wastes until taxpayers kick in the extra $15 million.

Thanks to Romer's regulators, the mine operators got to haul off 280,000 troy ounces of gold.

Taxpayers got the shaft.

Mark Obmascik's environmental column appears on Saturday in Denver & The West.

7
3-11-93
SG 320

The Alamosa News
Saturday, December 12, 1992

EXHIBIT 7
DATE 3-11-93
SB 320

Government takes charge of cleanup

By Gary Theimer

Members of the U.S. Environmental Protection Agency's Emergency Response Team will be at the Summitville Mine next week to ensure that the company's water treatment plant keeps operating.

The agency's on-scene coordinator, Hays Griswold, said he fully expects to be in charge of plant operations next Wednesday, after employees of Summitville Consolidated Mining Co. and its parent, Galactic Resources Ltd., are expected to leave the job.

"If Galactic had any money," he said, "we might expect them to continue with the cleanup effort under our supervision."

However, Mr. Griswold said he had no reason to believe the company would take any responsibility for day-to-day operations after next Tuesday.

"We had a meeting with Galactic earlier this week and I'm not reassured," he said.

Peter J. Guest, president and chief executive of Galactic, said Thursday that his company had put $215 million into the Summitville project and only retrieved $130 million in gold and other minerals. He claimed that his company could no longer afford to operate with that kind of loss.

On Dec. 1, Summitville Consolidated Mining filed for Chapter 7 bankruptcy liquidation in federal court, saying that it could not afford to continue operation of the mine's water treatment plant, or to finish construction of a waste water management system, now only 70 percent done.

Under the direction of Mr. Griswold, the federal agency will take the lead in the cleanup. He said that first the agency would establishing a "holding action" to ensure that no further degradation to the site or water quality occurred. After that, they would try to get ahead of the problem.

Jim Horn from the Durango office of the state Department of Health said he was convinced that the agencies could make the treatment plant work, but changes made to the plant last month have not improved its performance. Water sent through the system the first time does not meet quality standards and has to be recycled a second time before a new batch of water can be processed. Mr. Horn explained that on the first pass through the system, water taken out of the leaching pond has very high concentrations of cyanide and heavy metals.

"Copper may be 200 ppm above permitted levels," he said. "Once treated it may be only 2 or 3 ppm out of tolerance.

Mr. Horn said that by operating the treatment plant in this way, it will never be able to achieve maximum performance.

How much the cleanup will cost and the role each agency will will play is still very much in doubt.

What is not in doubt is who is calling the shots. Mr. Griswold of EPA made it very clear.

"The federal government has taken over and we're in charge," he said.

Alamosa News
12 December 1992

EXHIBIT 7
DATE 3-11-93
SO 320

RECEIVED 28 DEC 1992

Mine ordered to run

Judge grants request to keep firms on the job

By Ray James

District Judge John Kuenhold on Friday ordered the owners of the Summitville mine to keep an access road to the high mountain site open and to continue running the water purification plant through the winter.

The judge said allowing Galactic Resources Ltd. and its subsidiaries to escape responsibility for the cleanup presented an imminent danger to the public because of potential cyanide pollution of the Alamosa River. However, federal and Canadian bankruptcy judges may make the final decision in the case.

Lawyers from the state Attorney General's office said the ruling makes it clear to the operation's owners that they must live up to a settlement reached last summer with the Canadian mining firm, Galactic Resources Ltd.; its American subsidiary, Galactic Resources Inc.; and the operating company, Summitville Consolidated Mining Co., to clean up the cyanide heap-leaching process at the mines.

Peter Guest, president and chief executive officer of Galactic, and Summitville, said he was devastated by the judge's decision. Galactic's attorney, Thomas Quinn, said Judge Kuenhold's ruling "sounds the death

See COURT on Back Page

Et Cetera

Harry Posey (on the witness stand center), a geologist with the state Division of Minerals and Geology, testified Friday on a restraining order to keep Summitville Consolidated Mining Co. working on a cleanup at the Summitville Mine. Left is Assistant Attorney General Amelia Whiting questioning Dr. Posey. To his right is court reporter Jan Klara and at far right Judge O. John Kuenhold. / Staff photo by Ray James

COURT

Continued from Page 1A

knell for my client's company.

"The state Attorney General's office thinks they won a great victory," Mr Quinn said, "but they really haven't accomplished anything except to destroy the company and the plan it had for cleaning up the site."

He labeled the suit by the state unnecessary, saying that Galactic was working to abide by its agreement and had already agreed to put all of its resources into the cleanup effort.

Mr. Guest said on the witness stand Friday that until a California subsidiary of Galactic was sold, the company had no more money to put into the cleanup.

"If you want the last four or five hundred thousand dollars we have, you can have it, but we consider that nothing (toward solving the problem)," said Mr. Guest.

The president said that he expected $12 million from the sale of the California property, also a gold mine, and expected that money to go toward the cleanup as had money from the sale of company subsidiaries in South Carolina and Nevada.

When asked by Judge Kuenhold if he had known his company was in financial trouble when he made the reclamation agreement with the state, Mr. Guest said he thought there would be enough money available to finish the job but the sale of the California operation, Galactic's last in the United States, had not gone well. He said he was on his way to California to check on that after the hearing.

Mr. Quinn said that the temporary restraining order puts all of the parent company's plans in jeopardy. He added that the decision may force Galactic itself into bankruptcy and that would let a Canadian trustee determine what to do with the rest of the company's assets. He said Galactic had planned to put those into the Summitville project.

The judge explained in his decision that he believed an emergency situation existed; that there was imminent danger to the public's health and the environment; and that Galactic and its subsidiaries must get the clear message that they have to live up to the agreement they made less than six months ago.

That agreement calls for treatment of the water coming from the mine and complete repair of the Summitville site damage caused by the cyanide-heap leaching process and damage, some as old as 100 years, caused by previous operations.

The state had estimated cleanup costs at between $18 million and $23 million , but Mr. Guest said those figures have never been verified and he believes them to be closer to the $12 million, about what his company should have available.

Mr. Guest also said that at a meeting in Denver with Summitville's bankruptcy trustee, Tom Connelly, he repeated his company's promise to meet its agreements until it was no longer able to do so and said that the U.S. Environmental Protection Agency had promised to step in and continue the cleanup, especially the water treatment, the day after Summitville and Galactic stop operations.

The EPA said it would interview Summitville employees already familiar with the operation if it has to take over the cleanup project. That would could mean fewer of the 52 employees still working at the mine would be out of work.

Mr. Guest said that it was costing between $250,000 and $300,000 a month to clean up the site, and that Galactic had been paying that, but the company would no longer be able to do so after Dec. 15.

He said the parent company had been paying the bills for Summitville since he took over the parent company 2 1/2 years ago and had never made anything back.

"This has not been a gold mine," Mr. Guest said. "It's been a water treatment and a land reclamation project."

The mine has earned more than $130 million from the sale of gold but the firm spent $215 million to do it.

Lawyers for both Galactic and the state said they were uncertain what effect Judge Kuenhold's restraining order would have on an emergency agreement being worked out between the EPA, the state and the trustee, but said that could be determined Monday at a meeting among the parties.

Judge Kuenhold set a hearing on a preliminary injunction against Galactic for Dec. 21 and 22, at which time he could make the temporary restraining order permanent.

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Alamosa Valley Courier
11 December 1992

Hearing moved

By ERIN MACGILLIVRAY SMITH
Special to the Courier

CONEJOS -- The illness of an assistant attorney general in the middle of a court proceeding here Thursday afternoon forced District Judge O. John Kuenhold to continue a hearing on a state request to prevent Galactic Resources, Ltd. of Vancouver, Canada, from abandoning its Summitville Mine in the San Juan Mountains about 25 miles southwest of Del Norte.

Kuenhold said he has continued the matter until 1:30 p.m. today in Alamosa District Court.

Assistant Attorney General Amelia Whiting became ill during the court hearing in Conejos District Court, requiring the continuance.

Last week Galactic announced in The Wall Street Journal that it was closing the controversial mining operation on Dec. 15.

Several state agencies, including the Colorado Mined Land Reclamation Board, which learned of the possible action on Friday after the national article appeared, became concerned.

Meeting Monday in Denver, several members of the CMLRB were angered at what they considered a breach of "good faith" in that no one from Galactic was present to answer questions about the Summitville Consolidated Mining Co.'s Chapter 7 bankruptcy proceeding, intention to pull out of Summitville and quit the cleanup of cyanide in the heap from which it was extracting gold.

The CMLRB gave the reclamation division permission to use the $4.7 million in Summitville reclamation bond money to continue detoxification should the company abandon the site without conducting a hearing.

However, since the CMLRB would rather the money remain for reclamation, it is trying to obtain a court order stopping Summitville, whose parent company is Galactic, from closing down.

EXHIBIT 7
DATE 3-11-93
SB 320

Et Cetera

RECEIVED 2 8 DEC 1992

Mine's bankruptcy could be devastating

By Gary Theimer

Businesses and county government stand to lose more than a million dollars as a result of the bankruptcy filing by the Summitville Mine.

"Summitville employees were charging for supplies up until the day we found out about it," said Terry Haynie, owner of the Del Norte NAPA Auto Parts Store. "The press release said the papers were filed on Dec. 1, but we weren't notified until the third."

While Mr. Haynie would not reveal the specific amount owed to his company by Summitville Mining, he acknowledged that he and Bill Keeling of Keeling Oil were probably the two major creditors.

"It's still early enough that we don't know if we'll see any of the money," he said. "I've dealt with bankruptcy filings in the past and we haven't been successful yet." Mr. Haynie said Summitville informed him that there was still "some money flowing through the company" but didn't know what that meant in regard to debts owed to his business.

When contacted at his office in Del Norte, Bill Keeling said the amount owed to his firm was about $25,000. Keeling Oil had been supplying Summitville Mine with gasoline and diesel fuel for nine years, he said.

Referring to Peter J. Guest, president and chief executive of Galactic Resources Inc., of which Summitville Consolidated Mining Co. is a subsidiary, Mr. Keeling said, "I'm shocked that Guest would not pay local merchants first."

He explained that the mine had been a good customer until now and he thought nine years of doing business together should count for something.

Mr. Keeling also owns Quick Stop Food Stores in Del Norte, South Fork, and Monte Vista.

"A lot of Summitville people traded at those stores," he said. "I'm concerned about how this will affect my employees. We're looking at reduced hours."

He said he may have to cut hours at the oil company just to reduce expenses.

"This single loss would be more money than all other losses I've suffered in bad credit in the past twenty-five years combined," Mr. Keeling said. "It's going to take more than several years to recover from this. It's bad."

Businesses aren't the only ones disturbed by the news of Summitville's bankruptcy action. Rio Grande County Treasurer Billy Jean Garretson said there was about $287,000 still owed the county on last year's tax assessment. This is the amount owed on the assessed value of the mine's buildings and their contents.

Ms. Garretson said the land taxes, once in arrears, have been paid. She was quick to point out that the amount owed did not include this year's assessment, to be mailed out in January. Ms. Garretson explained the county was perhaps better off than some of the Summitville creditors because if the taxes are not paid it can seize the mine or sell it, but admitted "there's lots to sort out yet."

Bob Davie, Rio Grande County assessor, tried to put things in a more favorable light.

"One way to look at it is that Summitville was going to close in another year or two and the county was going to lose that money anyway."

Still, Mr. Davie estimates that adding the $287,000 owed on last year's taxes to amounts due this year means the total loss to Rio Grande County may approach $800,000.

Hardest hit will most likely be the Del Norte School System. Superintendent of Schools Marlin Janas said they were expecting a $180,000 check from the mine next month.

"Right now, I'm sick over the thing," said Mr. Janas. "We were already looking at a budget shortfall for next year of 9 to 15 percent."

That translates to a loss of at least $230,000, which could go as high as $383,000, he said. Coupled with the lost tax revenues and the restrictions of Amendment 1, which requires that all tax increases must be put to a vote, the results could be devastating.

County and local businesses are continuing to explore options. Many said it's early and more information is needed before deciding how to deal with possible losses due to the bankruptcy. But the shared feeling of helplessness and dismay was probably best summed up by Terry Haynie at NAPA. He said that he had always done business with Summitville in good faith.

"I don't think it's right," he said with a touch of anger in his voice.

EXHIBIT 7
DATE 3-11-93
SB320

9 December 1992

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RECEIVED 1992

Pullout would create tax issue

Summitville hearing Thursday in Conejos

By ERIN MACGILLIVRAY SMITH
Special to the Courier

DEL NORTE — District Judge O. John Kuenhold has slated a tentative hearing for 3 p.m. Thursday in Conejos District Court on a request by the Colorado Attorney General to prevent Galactic Resources Ltd. of Vancouver, Canada, from abandoning its Summitville Mine in the San Juan Mountains about 25 miles southwest of here.

Although Kuenhold set the hearing on Tuesday, no pleadings had been filed by the end of the day by the state. Because the mine is in Rio Grande County, the filing would be in district court in Del Norte, but Conejos is part of the 12th Judicial District for which Kuenhold is a judge and Conejos will be sitting in that county on Thursday.

Last week Galactic announced in The Wall Street Journal that it was closing the controversial mining operation on Dec. 15.

Several state agencies, including the Colorado Mined Land Reclamation Board, which learned of the possible action on Friday after the national article appeared, became concerned.

Meeting Monday in Denver, several members of the CMLRB were angered at what they considered a breach of "good faith" in that no one from Galactic was present to answer questions about the Summitville Consolidated Mining Co.'s Chapter 7 bankruptcy proceeding, intention to pull out of Summitville and quit t cleanup of cyanide in the heap fro which it was extracting gold.

The CMLRB gave the reclamati division permission to use the $ million in Summitville reclamati bond money to continue detoxificati should the company abandon the s without conducting a hearing.

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However, since the CMLRB would rather the money remain for reclamation, it is trying to obtain a court order stopping Summitville, whose parent company is Galactic, from closing down.

"Galactic said it agreed with its unit (at Summitville) that they will jointly quantify its reclamation liabilities. Upon approval of this agreement by a bankruptcy court in Denver, the company said it will pay Summitville $200,000 to cover current costs," the Journal stated.

Loretta Pineda, public information specialist for the CMLRB's division of mineral and geology, said Monday evening how the cleanup will occur and who will do it is not clear.

Rio Grande County Administrator Suzanne Benton said Saturday that the county won't be required to do the work as the state made it apparent long ago the county was not involved.

But the county is being injured by the pullout. Not only is the area losing jobs but also Summitville is leaving without paying all its property taxes. It owes the county $287,000 in 1991 taxes, County Treasurer Billie Jean Garretson said Saturday.

Mrs. Benton said most of tho taxes would go to the Del Norte Scho District.

Mrs. Garretson, with the approv of the county commissioners, did n put the taxes up for sale at la month's tax sale because Summitvil assured her it will pay them by t end of December.

"Anything they've told me, they've done," Mrs. Garretson said.

Taxes are held in abeyance and are not sold at tax sales if a company is in bankruptcy, Mrs. Garretson added.

It is unlikely that a buyer at the tax sale would have picked up the company's taxes even if they had been sold, Mrs. Benton and Mrs. Garretson indicated.

Mrs. Benton said if the taxes aren't paid once the company comes out of bankruptcy and Summitville has not completed its cleanup, it is unlikely a private individual would pay them with an eye to obtaining the property eventually and the county would not accept deed to them either because of the environmental hazards on the land.

"I think it's a legal mess," Mrs. Benton said. "but they can't come back to the county because the county has never been involved."

Mrs. Garretson was among half a dozen landowners who leased their property to Summitville. Last week she was notified that the leases were being returned to the owners in anticipation of the bankruptcy filing.

She said she is luckier than some of the other owners because when she learned Summitville planned to dum cyanide-tainted heap leachings on h property, she instructed her lawyer go to court and obtain an injunctio against the company. Her proper was unscathed.

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1992 Alamosa 81101; Ft. Garland, 81133; La Jara, 81140; Monte Vista, 81144, Colorado

7
3-11-93
SB 320

Galactic files for bankruptcy

CMLRD to request Summitville injunction

By ERIN MACGILLIVRAY SMITH
Special to the Courier

DEL NORTE — The Colorado Mined Land Reclamation Division and the Colorado Department of Health's Water Quality Control Division expect to file a request for an injunction in district court here sometime today asking the Galactic Resources Ltd. of Vancouver, Canada, not abandon its Summitville Mine in the San Juan Mountains about 35 miles west of here.

The decision, along with authorization to the CMLRD by the Colorado Mined Land Reclamation Board to revoke Summitville's $4.7 million bond without hearing if necessary, was made at an emergency meeting of the board on Monday afternoon in the wake of an anouncement by Galactic that it was closing down its Summitville Consolidated Mining Co.-run mine on Dec. 16.

Galactic, parent company for Summitville Consolidated Mining Co., last week announced it is seeking Chapter 7 bankruptcy for Summitville.

Loretta Pineda, public information specialist for the CMLRB's division of mineral and geology, said Monday evening that the board's emergency session also resulted in approval of revoking the bond so the money can be used for detoxification of the site should Summitville Mining be allowed to close down as it announced last week.

Ms. Pineda said the state would rather see the bond money used for reclamation than for operation of the site.

Bruce Humphries, supervisor of the CMLRD's minerals program, said his agency believes it would take $230,000 a month to run the site's water treatment plant. At detoxification of 400 gallons a minute, the heap should be detoxified of the threatening cyanide by August 1994, Humphries said.

Although Galactic announced earlier that it has spent more than $10 million in reclamation at Summitville, Ms. Pineda said the CMLRB puts the amount closer to $2 million.

At Monday's hearing attended by 40 to 50 people, four vendors, including at least one from Pueblo, told the board they remained to be paid for their work at Summitville, Ms. Pineda said.

The bond, which was up to $6.5 million at the time Summitville and three governmental agencies reached an agreement last July as to cleanup, cannot be used to pay the vendors, Ms. Pineda said.

The board has released more than $2 million of the bond as reclamation efforts have occurred, she added.

Bankruptcy attorneys for Galactic told the board the company intends to pull out Dec. 16. "They said not much will happen at Summitville after Dec. 15," Ms. Pineda said.

Ms. Pineda said the Environmental Protection Agency is pursuing avenues similar to the CMLRD and the Water Quality Control.

EPA plans to send a contractor to the area later this week to evaluate the situation. Dr. Harry Posey, a reclamation specialist for the CMLRD, was at the site Monday making a similar evaluation, Humphries said.

All three governmental entities are putting together an emergency plan for the are should Summitville Mining Co. be allowed to pull out.

Alamosa Valley Courier
8 December 1992

THE DENVER POST

Bonds' use OK'd for mine cleanup

7
3-11-93
SB 320

By The Associated Press

Colorado authorities were given the go-ahead yesterday to collect more than $3.8 million in bonds posted by a gold-mining firm that was trying to clean its mountaintop site when it ran out of money.

Mined Land Reclamation Board members, angered at what they felt was misleading information from the mine company and its parent company, voted to grant collection powers to the state division overseeing cleanup of the Summitville Consolidated Mining Co. site near Wolf Creek Pass.

The forfeited bonds would help continue the cleanup and water protection programs in progress.

Board members angry

Chairman James B. Cooley and member Luke Danielson were angered that they and other members, Maxine Stewart and Catherine Kraeger-Rovey, were not advised of Summitville's pending financial crisis when they were given a tour of the site less than a year ago.

A new lawyer representing parent company Galactic Resources Inc., Rodney D. Knutson, told the board he didn't have specific information about the reasons for Summitville's financial problems. "We got no notice of this (bankruptcy and financial situation) until Friday," Knutson said.

Danielson said: "What use is counsel if he is not able to answer questions? It's not a sign of good faith. . . . No one for the company is here at all."

Another lawyer, Tom Quinn, responded that "the resources ran out before the problems ran out."

Cooley noted that he felt the board had been misled. "It's only a few months since we had a blue ribbon tour," he said. He said it appeared then that Galactic was "well funded."

Closed last spring

The open pit mine and gold-extraction operation 24 miles southwest of Del Norte shut down last spring. Its money all but depleted in unanticipated environmental costs, Summitville filed for Chapter 7 bankruptcy last week, with several years of work left and millions needed before the cleanup's completion.

The bankruptcy action brought several contractors to yesterday's meeting, complaining they hadn't been paid for machinery and consultation. They wondered where they stood following the bankruptcy filing.

They were told the state has no hand in paying Summitville's bills, and that a bankruptcy trustee would have to be contacted for debts the company owned.

EDUCATIONAL MATERIAL FROM
MINERAL POLICY CENTER
1325 MASSACHUSETTS AVE. NW #550
WASHINGTON, D.C. 20005

142ND YEAR TUESDAY, NOVEMBER 12, 1991 50 CENT

THE SANTA FE NEW MEXICAN

Cyanide leak from Colorado gold mine annihilates life in rive

Staff and wire reports

ALAMOSA, Colo. — Water carrying cyanide from a gold mine near Wolf Creek Pass has killed all aquatic life in a 17-mile stretch of the Alamosa River and the Terrace Reservoir, state and federal officials said.

And leaks from Summitville Consolidated Mining Co. continue, despite a $100,000 fine levied against the company this year; agreements to take remedial actions; closure of the once-popular fishing reservoir after a massive fish kill; and complaints from downstream users.

State and Environmental Protection Agency officials said the leak even may have reached the Rio Grande.

"We went up to the mine last month to investigate reports of an environmental disaster and we found an environmental disaster," said Mark Hughes, an attorney with the Sierra Club's Legal Defense Fund.

In northern New Mexico, the Pegasus Gold Corp. wants to use the cyanide heap leach method to extract at least one million ounces of gold in the Ortiz Mountains south of Santa Fe.

J.R. Phillips of Pegasus said he would have a hard time commenting on the leaking leach pad in Colorado because he doesn't know the intricacies of the Summitville operation.

"You have to realize there are differences in methodology," Phillips said. "They have a different climate, a different environment. I'm sure there are a number of conditions that are different."

Jeanie Cragin of the Friends of Santa Fe County, however, said the only difference between the two operations is that the Pegasus proposal is larger. If approved in its current form by county commissioners, the Pegasus operation will include a leach pad of more than 100 acres.

"This is exactly the problem we're concerned about," Cragin said. "While we don't have a river, w very concerned about our gro water resources. This mining ope tion will have a very, very la impact on Santa Fe County."

The open-pit Summitville min 11,700 feet above sea level and ab 16 miles southeast of the summi Wolf Creek Pass in southern Colo do near the New Mexico border.

A state Department of Hea video of the seepage showed b

Please see GOLD, Page

GOLD

Continued from Page A-1

liant blue sludge and water leaking into natural waterways from the mine site last summer.

The company, a wholly owned subsidiary of Galactic Resources Inc. of Canada, is using 40 million to 50 million gallons of cyanide-laced water in the 45-acre heap leaching process to extract gold from several million tons of ore, mine general manager Bill Williams said.

"We've got problems, there is no question about that," said Williams, who estimated that about 100 gallons of water a minute are leaking from the leach heap. That's about 144,000 gallons a day.

A system of ditches and ponds is designed to catch the leaks and either pump the fluids back to the leach pad, or treat them and then spray the treated water on the landscape.

However, under an agreement between the company, state health department and Mined Land Reclamation Board, the company ceased landscaping applications Oct. 30.

"At this point, there isn't any acid runoff from the heap," Williams said. "We feel we are on the right track, and we are going to clean this place up."

The company expects to continue leaching operations at least another six months, although it finished mining operations this fall.

State game officials in Colorado stopped stocking the Terrace Reservoir with 15,000 trout fingerlings annually after a massive cyanide leak rolled down Whiteman Creek into the Alamosa River in 1990, killing all life in 17 miles of the river and in the reservoir, which is south of Del Norte, said Jerry Apker of the Colorado division of wildlife.

The fish kill extended seven or eight miles below the reservoir. Fish were killed in at least one private farm pond, said state officials and Melanie Pallman of the EPA.

The first reported fish kill attributed to the mine occurred in 1986, shortly after the operation began. The most recent was six weeks ago, when 500 to 1,000 gallons of the cyanide-laced water spilled into Whiteman Creek.

The reservoir and 17-mile stretch of river will remain uninhabitable to fish as long as the leaks continue, officials said.

The mine has produced more than 286,639 troy ounces of gold since it began using cyanide to leach gold out of ore in the spring of 1986. It was the most productive of the 13 gold mines in Colorado in 1988, said Jane Ohl of the U.S. Bureau of Mines.

Santa Fe New Mexican
12 November 1992

EXHIBIT 7
3-11-93
SB 320

RECEIVED 14 NOV 1991

Mine's toxic leaks render river lifeless

Despite fines, promises, cyanide flowing into Alamosa River and downstream

By Kit Miniclier
Denver Post Staff Writer

Deadly cyanide-laced water from a huge gold mine near Wolf Creek Pass has killed all aquatic life in 17 miles of the Alamosa River and the Terrace Reservoir, and it may have seeped downstream to the Rio Grande, say state and federal officials.

The leaks from Summitville Consolidated Mining Co. continue, despite a $100,000 fine levied against the company this year, agreements to take remedial actions, closure of the once-popular fishing reservoir after a massive fish kill and complaints from downstream users.

"We went up to the mine last month to investigate reports of an environmental disaster and we found an environmental disaster," said Mark Hughes, an attorney with the Sierra Club's Legal Defense Fund.

"I was appalled. There seemed to be substantial leaks and runoff, and the mine operators didn't seem to know where it came from or what might be in it."

The sprawling open-pit mine is 11,700 feet above sea level and about 16 air miles southeast of the summit of Wolf Creek Pass in southern Colorado.

A Colorado Department of Health video of the seepage showed brilliant blue sludge and water — ranging in color from orange to yellow to molasses — leaking into natural waterways from the mine site last summer.

"This ought to be on the 9 o'clock news," observed the filmmaker on the unedited video.

The company, a wholly owned subsidiary of Galactic Resources Inc. of Canada, is using 40 million to 50 million gallons of

Please see MINE on 7A

Gold mine's leaks deadly for aquatic life

MINE from Page 1A

cyanide-laced water in the 45-acre heap leaching process to extract gold from several million tons of ore, said mine general manager Bill Williams.

"We've got problems, there is no question about that," Williams readily admits, explaining that about 100 gallons of water a minute are leaking from the leach heap.

An elaborate system of ditches and ponds is designed to catch the leaks and either pump the fluids back to the leach pad, or treat them and then spray the treated water on the landscape.

However, under an agreement between the company, state health department and Mined Land Reclamation Board, the company ceased landscaping applications on Oct. 30.

"At this point, there isn't any acid runoff from the heap," Williams said. "We feel we are on the right track, and we are going to clean this place up."

The company expects to continue leaching operations at least another six months, though it finished mining operations this fall.

State game officials stopped stocking the Terrace Reservoir with 15,000 trout fingerlings annually after a massive cyanide leak rolled down Whiteman Creek into the Alamosa River in 1990, killing all life in 17 miles of the river and in the reservoir, which is south of Del Norte, said Jerry Apker of the division of wildlife.

The fish kill extended 7 or 8 miles below the reservoir, killing fish in at least one private farm pond, and may have reached the Rio Grande.

The first reported fish kill attributed to the mine occurred in 1986, shortly after the operation began. The most recent was six weeks ago, when 500 to 1,000 gallons of the cyanide-laced water spilled into Whiteman Creek.

EXHIBIT 7
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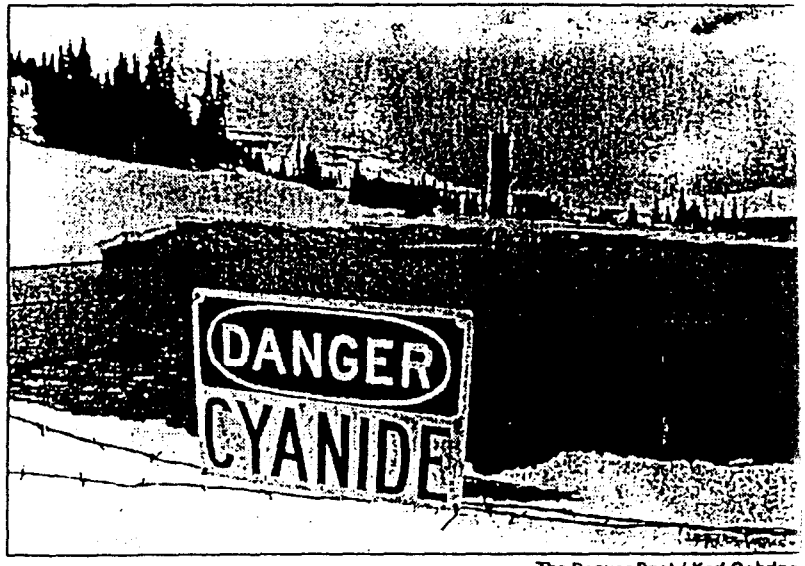
SB 320



The Denver Post / Karl Gehring

DEADLY WATER: A sign warns of the danger at one of the Summitville Consolidated Mining Co.'s holding ponds.

News

Summitville reclamation may last longer than mine operated

By JIM CARRIER
Special to the Courier

EDITOR'S NOTE: The following article is being reprinted from the Friday, April 24 issue of The Denver Post. Jim Carrier is a staff writer for the Post.

Colorado's largest cyanide heapleach gold mine, a five-year environmental and financial mess, has begun a reclamation process that could last longer than the mine operated.

On March 31, the last cyanide was sprayed on a huge pile of crushed rock that has produced about 300,000 Troy ounces of gold at the Summitville Consolidated Mining Co., 16 miles from Wolf Creek Pass.

While the mine produced $90 million in gold, the company says it lost $70 million because of environmental problems it did not expect and failures in the basic design.

"There are a lot of problems at the site," said Bob Shukle, chief of enforcement for the state health department's water quality division.

"It's been a real headache," agreed Charles Russell, senior vice president of the mine's owner, Galactic Resources Ltd. of Vancouver, B.C. He said the Environmental Protection Agency is considering the mine as a Superfund site.

This week, Galactic and the state of Colorado agreed to $10,600 in fines for two cyanide leaks last fall. The company has had four serious releases of cyanide into the Alamosa River that state wildlife officials say killed aquatic life in a 17-mile stretch. The company denies responsibility for the kill, but has paid $135,000 in fines for leaks that began within a month after the mine began operating in 1986.

Mark Hughes, an attorney for the Sierra Club Legal Defense Fund, called the latest fines "a joke" for a company that had a long list of violations. "It's like a murderer getting his charges reduced to a parking fine."

The company says it could end up spending $9 million to $15 million to detoxify the mining site, a huge open-pit at 11,700 feet on South Mountain.

"As a school, it has been incredibly interesting," said Russell, who added that Galactic was bailing out of the United States to head to South America, where mining regulations, based on World Bank standards, do not change according to political winds.

Jim Pendleton, scientific coordinator for the Colorado Mined Land Reclamation Division, s detoxification of the mine wil difficult because there is no wa eliminate silver from its w water.

The pile of crushed rock mus flushed with water for 6-12 mo until the cyanide is gone. Then solution must be treated to the l of the pre-mine stream standa which are normally as acidic Pepsi-Cola, he said. Eventually site will be regraded and cov with topsoil.

The company has posted $2 mi in bonds for cleanup, but wil required to post more as cle proceeds, said Pendleton.

EXHIBIT 7
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SB 320

Alamosa Valley Courier
25 April 1992

Sunny, Warm
High 48-53

THE DENVER POST

Voice of the Rocky Mountain Empire

November 20, 1991

20 November 1992

New curbs put on mine after cyanide leak

By Kit Miniclier
Denver Post Staff Writer

RECEIVED 2 DEC 1991

The Colorado Department of Health yesterday confirmed another cyanide leak from a gold mine near Wolf Creek Pass and announced the imposition of further restrictions on the discharge of waste waters by the Summitville Consolidated Mining Co.

Summitville officials have denied that discharges from the mine are responsible for increased toxicity in the Alamosa River. They have 30 days to consider the proposed new limits on mine discharges, prompted by a Nov. 11 cyanide leak at the facility, said Pat Nelson, industrial permits chief for the Colorado Department of Health.

Meanwhile, Jim Horn, a Durango-based district engineer for the health department, said he found evidence of a daily discharge totaling 510 pounds of copper, 5 pounds of cyanide, 180 pounds of iron and 195 pounds of zinc flowing into the Wightman Fork of the Alamosa River at the mine site during a "one-day grab sample" earlier this year.

Please see MINE on 12A

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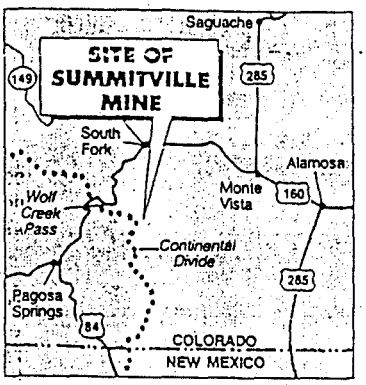

The Denver Post / Bruce Gaut

New curbs placed on gold mine discharges

MINE from Page 1A

Although neither Horn nor an independent analyst directly blamed Summitville for a dramatic increase in river toxicity which killed 15,000 trout fingerlings in 1990, both said poison levels are much higher at or below the mine site than upstream.

Summitville was fined $100,000 earlier this year after officials blamed a cyanide spill for killing all the aquatic life in 17 miles of the Alamosa River and the Terrace Reservoir. Experts said the poison may also have seeped downstream to the Rio Grande. In addition to the Nov. 11 incident, state health officials are investigating a mid-September spill.

The mine has produced more than 286,639 troy ounces of gold since it began using cyanide to leach the valuable metal from ore in the spring of 1986. Summitville's leach heap — the stack of ore from which the gold is removed — contains 40-to-50 million gallons of cyanide.

Mine to cease leaching

The mine will cease leaching operations next summer but it will take another three years to get the cyanide out of the heap and remove the threat to nearby water supplies, said David Bucknam, acting director of Colorado's Mined Land Reclamation Board.

Bucknam said he believes a $2.2 million performance bond posted by Summitville at the request of the state is enough to ensure the proper cleanup of the mine operation.

But a senior Summitville representative yesterday denied responsibility for the increased toxicity of the river.

"To suggest that we have killed all the water life for 17 miles of the stream is just not true . . . and we didn't contribute anything to kill anything in the reservoir," said Russ Russell, senior vice president of Summitville's parent company, Galactic Resources of Canada.

Company officials don't think the water quality has changed substantially since mining began in the area over a century ago, he said.

Russell denied a report from an employee at the Colorado mine that the firm tripled its environmental budget on Nov. 11, a few hours after The Denver Post first reported the cyanide spills, fines and other problems at the mine. The employee asked not to be identified.

Calls to the mine by The Denver Post were referred to corporate headquarters in Vancouver, Canada.

Rancher's complaints

Rancher Don Grett, who takes irrigation water from the Terrace Reservoir, insists the water quality has declined. He said fish began dying in his ponds last summer after he used reservoir water.

Grett said he and several neighbors, who live 15 to 20 miles downstream from the reservoir and 10 miles from the point where the Alamosa meets the Rio Grande, have tried to determine whether the high concentration of acids and metals that killed their fish might also be damaging their crops, livestock or drinking water.

They are awaiting a lab report from the federal Environmental Protection Agency.

Horn, other health state officials and the division of wildlife agree with the mine owners that area waters contain high levels of metals and acid because of heavy natural minerals and old mining operations.

Increase in acidity

However, an increase in acidity and metal content since Summitville began operating have raised the toxicity beyond the tolerance of fish or other water life, DOW fish biologist John Alves said.

"If we find cyanide you know it has to come from the mine, that is the only reason it would be in the water," Alves added as he examined the dead reservoir 23 miles southwest of Monte Vista recently.

The Denver Post

Mining company goes bust

Ongoing cleanup efforts in question

By Mary George
Denver Post Environment Writer

The company that owned one of Colorado's largest gold mining operations has filed for bankruptcy, leaving questions about how the environmental mess it created near Wolf Creek Pass will be cleaned up.

Strangled by $70 million in unanticipated environmental costs in operating the mine, Summitville Consolidated Mining Co. filed for Chapter 7 bankruptcy this week, a couple of years and millions of dollars before the scheduled completion of a massive cleanup at its Summitville Mine.

The open pit mine and gold-extraction operation 24 miles southwest of Del Norte shut down this spring.

But in the five years that the company sprayed cyanide on huge piles of crushed ore to leach out the gold, leaks of cyanide-laced water killed almost all aquatic life along 17 miles of the nearby Alamosa River.

The company had been repeatedly cited by the state for environmental violations.

The cleanup, which was being conducted by Summitville Mining Co., is expected to cost more than $20 million.

The company this week announced plans to lay off all its workers Dec. 15.

The Colorado Mined Land Reclamation Board, which directs the state division overseeing the cleanup, will hold an emergency meeting at 1 p.m. Monday to discuss what happens next.

The meeting is open to the public and will be held in Room 0112 at the state Capitol.

Summitville already has spent more than $2 million on grading, topsoil replacement and surface water controls.

The state holds a $4.7 million bond for further reclamation of the 1,231-acre site.

The bond includes about $3.8 million in cash and treasury bills, and $900,000 in mine assets the state has authority to liquidate.

But dismantling the structures on the site likely will cost as much as they can be salvaged for, said Bruce Humphries, state minerals program supervisor.

The remainder of the bond "will allow us to do a traditional reclamation," restoring the land to productive use, he said.

But the money won't begin to solve water quality problems caused by leaking cyanide.

Summitville is a subsidiary of Galactic Resources Ltd. of Vancouver, Canada.

Galactic President Peter Guest said yesterday his staff has met with Colorado officials to work out a reclamation plan.

"We are trying to meet all the reclamation and closure obligations," Guest said.

"The problem for us is that if we continue along these lines, the whole company will be pushed into bankruptcy, and that wouldn't do anybody any good."

Galactic has agreed to forfeit the cleanup bond and has pledged $2.3 million from the sale of a gold claim known as the Bodie Property near Mono Lake, Calif., Guest said.

EXHIBIT 7
DATE 3-11-93
SB 320

EDUCATIONAL MATERIAL FROM
MINERAL POLICY CENTER
1325 MASSACHUSETTS AVE. NW, #550
WASHINGTON, D.C. 20005

EXHIBIT 8
DATE 3-11-93
SB 320

SB 320

Mr. Chairman, members of the committee,

I am strongly opposed to SB320 in its' present form. I was a firm backer of the bill in its' original form. This bill has been amended to the point that it is a determent to industry and the workers of the State of Montana. I strongly urge you to amend this bill back to its' original form and vote for its' passage.

We must keep the workers of Montana in mind. This bill if amended would do just that. The State is ready to ask the working men and women in this state to "kick in more taxes". The least you can do is to let us work with out being threatened by lawsuits that do not have a clear and concise environmental concern. Special interest is presently attempting to shut down mining in this state. If a true environmental concern is present it should come out in the permitting and review process, not two or three years later. The families of this state do not deserve this type of harassment. We should have the right to make plans for our future.

If you take a good look at the original bill and look at it from " a people perspective " I think you will see that it is a good bill for Montana and its' people.

I urge you to amend SB 320 back to its' original form and support it on the House floor.

Thank you

Ron Dorvall

Ron Dorvall
102 Edwards Addition
Whitehall, Montana 59759

Fort Belknap Community Council

(406) 353-2205
R.R. 1 Box 66
Fort Belknap Agency
Harlem, Montana 59526

EXHIBIT 9
DATE 3-11-93
SB 320

Fort Belknap Indian Community
(Tribal Govt.)
Fort Belknap Indian Community
(Elected to administer the affairs of the community to represent the Assiniboine and the Gros Ve Tribes of the Fort Belknap Indian Reservation)

John S. Fitzpatrick
Director, Community and Governmental Affairs
Basin Creek Mine
5944 Hwy 12 West
Helena, MT 59601

February 25, 1993

Dear Mr. Fitzpatrick;

Just a short note to thank you for the testimony you provided at the hearing on S.B.320. I believe you told lies to the committee that really strengthens our position, because the enclosed resolutions clearly state that the Little Rocky Mountains are sacred to the Fort Belknap Tribes. I don't know how you coerced that Martin kid to state that "there are no sacred sites in the mountains", but it is truly criminal that you did. These resolutions were passed before he was even born, so maybe he didn't know that they existed. I think you owe the Ft. Belknap Community Council and the State Senate Natural Resources Committee an apology for publicly mis-stating the facts about the issue.

Finally, as a good public relations gesture for Pegasus Gold Corporation, you should immediately resign.

Sincerely,

Vera Garmann

for William T. Main, Tribal Chairman
Fort Belknap Community Council

Fort Belknap Community Council

EXHIBIT 9
DATE 3-11-93
SB 320

(406) 353-2205
R.R. 1 Box 66
Fort Belknap Agency
Harlem, Montana 59526

Fort Belknap Indian Community
(Tribal Govt.)
Fort Belknap Indian Community
(Elected to administer the affairs of the community and to represent the Assiniboine and the Gros Ventre Tribes of the Fort Belknap Indian Reservation)

Bob Bachini, Chairman
Natural Resources
409 19th Street
Havre, MT 59501

February 25, 1993

Dear Chairman Bachini;

We are submitting the attached tribal Resolutions in response to Mr. Fitzpatrick's, Community and Governmental Affairs Director, Pegasus Mining Inc., testimony: On Friday, February 12, 1993, Mr. Fitzpatrick emphatically stated in his testimony on behalf of S.B. 320, the "Bad Bonding" Bill, that there were no known religious sites in the Little Rockies as claimed by the Tribes of Fort Belknap . He also stated that the protests surrounding the sacred sites occurred only after mining had been initiated in 1979. These comments are not substantiated by fact - they are, rather, blatant lies. Sadly, Mr. Fitzpatrick manipulated a young Native employee of Zortman Mining Inc., into following his insidious lead in attempting to discredit the Fort Belknap Tribes, and those community representatives testifying, by also asserting that there are no sacred sites in the Mountains. This witness, too young to know the truth, was deeply misled.

The fact of the matter is that Tribal Resolution 45-71, (attached) states:

> A RESOLUTION of the Fort Belknap Indian Community, Fort Belknap Indian Reservation, Montana, Requesting the Assistance of the congressional Delegation in Having the "Little Rockies" Returned to the Fort Belknap Indian Community.....
>
> WHEREAS, part of the Little Rockies have traditionally been held as sacred grounds and have even today special religious and historical meaning to the Fort Belknap Indian Community justifying a return of these lands to the Fort Belknap Indian community;...

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DATE 3-11-93
SB 320

(Resolution adopted by a unanimous vote of the members present - Chairperson not voting. Dated, May 3, 1971.)

In addition, Tribal Resolution 84-73, reiterates the above Resolution as:

> WHEREAS, A Resolution updating Resolution 45-71, of the Fort Belknap Indian Community, Fort Belknap Indian Reservation, Montana, Requesting the Assistance of the Congressional Delegation in having the "Little Rockies" Returned to the Fort Belknap Indian Community;....
>
> WHEREAS, parts of the Little Rockies have traditionally been held as sacred grounds and have even today special religious and historical meaning to the Fort Belknap Indian Community justifying a return of these lands to the Fort Belknap Indian Community;...

(Resolution adopted by a unanimous vote of the members present. September 21, 1973.)

The enclosed newspaper articles further strengthen the claims of damages to the Mountains and the sacred sites. The people of Fort Belknap have never ceased to assert our claims of ownership of these lands, nor ceased our quest for the recovery of the Mountains. Moreover, we have continuously maintained our claims of damages to our land, our water, our people and our spiritual way of life. These articles, as well as our statements, magnify the distortions of truth which Mr. Fitzpatrick so assiduously perpetrates.

These Mountains are sacred. They always have been and always will be sacred to us. Destruction of the Little Rockies by Pegasus Mining Company is analogous to the Fort Belknap Tribes blowing up Saint Peter's Basilica in Rome or Arlington National Cemetery. These Mountains are our Church.

We are requesting that S.B. 320 be killed in its present form and demand that Mr. Fitzpatrick publicly retract the lies he stated at the hearing of February 12, 1993, publicly apologize to the Fort Belknap Tribes, the Montana Senate Natural Resources Committee, and the Montana public in general.

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DATE 3-11-93
SB 320

As a public relations gesture to the Fort Belknap Tribes, Pegasus Mining Inc. should seriously consider replacing Mr. Fitzpatrick as their Community and Governmental Affairs person.

Sincerely,

William T. Main, Tribal Chairman
Fort Belknap Community Council

Vera Garmann, Vice-Chairman
Fort Belknap Community Council

Donovan Archambault

Harvey King

Joseph McConnell

Thelma Stiffarm

EXHIBIT 9
DATE 3-11-93
SB 320

To: Whom It May Concern

From: Harvey King HK

Re: Little Rocky Mountains

This topic of strip mining has been on more than one person's mind. Some choose the route of denial. Just say nothing, muttering to themselves that maybe it will go away. Don't look up there at that ugly scarred hill. Others see it as an employment opportunity. Someone related, at the onset in public meetings, they sort of eluded to promising jobs to the residents of the reservation. Actually, most hired were not from the reservation, a lot were from out of state. Judging by the license plates and increase populace within the D-Y Junction, Landusky & Zortman areas. Mainly in visible forms of mobile home units and even canvas tents, put up.

Our surrounding area is most rural of rural. We set atop of the Upper Missouri Region, within the State of Montana. The official employees within the Interior Department, probably do not set foot upon this land. I asked an official from the Bureau of Land Management, why were the public rights of way shut off. I received a thorough non-answer. Previously, someone mentioned safety. But I counter: How can a private entity close public access?

Elders, some gone for more than 10 years, explained those roads were used for years. At the turn of the century, they would travel over the mountains in wagons. Trading with the miners, they would haul logs. The miners would in turn utilize the house logs to build their shelters. Another goods item they would trade is, fresh vegetables. The residents of the Lodge Pole area, would take and trade their goods and services, over the mountain. The old D-Y Trail mail route would sometime traverse these areas. Even today, the Dodson/Malta, U. S. Mail route goes through. Serving all the area, even as far away as Hays.

An example of how the particular government entities conduct day to day business. The Western Mountain Pine Beetle, is an insect that attacks healthy stands of timber. On a combination of public and tribal lands, thus they began approximately 20 years ago. It has become a reactionary, Catch 22 situation. Someone sold the "Great White Father" concept here, over a century ago. People probably still anticipate that, "The Federal Government will do Something." Meanwhile, everyone involved is pursing their lips, in a mock whistling fashion and twiddling their thumbs.

This is meant to be constructive and make allowances for positive change. Sometimes, the system of governmental agencies get wrapped up in the 'now', with issues at hand. Which leaves little or no ample time for anticipation of, or for future considerations.

These are commentary on the proposal to the sole mining operations within the Little Rocky Mountains. These very items of topic are complex, because they are within the abstract. Braided within moral, ethic and law, thus is enough to endeavor an uncharted course. Perhaps, if other entities enter . . . it might just serve as the abstract fog, to such an uncharted course.

One of the fuels that I think of, is when we were addressed in Council. It seems one of the public agencies addressed us and stated that - what is going on up there is okay. It was stated that some law changed and somehow these guys had been working up there before, or prior to such update of law. Which in some way, makes it okay. One of the officials stated that - if those guys had tried to get their permits now, they would not be able to move any dirt up there. Meaning, again it is okay what they are now doing. This was sometime in 1987.

Okay, I cannot follow the above logic. Simply, that those guys did indeed apply for another permit - and got it. It seems there was an ending period. Then all of a sudden, when a person would think about what the official stated, they could not move a speck - those guys are at it again. It seems they were working on a patchwork quilt approach, initially. Just a few acres here, not disturbing much, and later a few acres there. Then after 10 years, they sort of take the hat in hand approach. "Ahem, . . . um, mister official, uh, sir." Those guys might state, "Since we got all this land tore up, do you think that we might could just finish up?" The public agency might respond, "Well, we really have no problem. Being you guys have all yore resources up there, now." The public officials might also say, "You know what we could do . . . is approve it, and then later on, hold some public meetings."

I haven't bought off on this above approach. It seems we were faced with the expansion, before. And something like the above had taken place. Seems like the Govenor himself, rode a plane to Zortman, and hand carried the permit. Budgets come into the picture. From a White Anglo-Saxon approach, it does sort of look as though everything is fine. Mining is the economy and visa versa, or so goes the radio spot those guys bought. The Docterine of Discovery, seems to be the charted course. To refresh your memory, that was where somebody asked if the Native Peoples of the Americas were humans. Religious leaders of the day said, "Yes." This took place in the early Seventeenth Century. It is nearly the Twenty-first Century and there seems to not be much progress. Some of our eldest of our elders can still recall the mineral lease of the mountains. Supposedly, there was a narrow strip about a mile long. We were to retain rights to the grazing, timber and all water. Next thing we know, in 1963 the courts closed the book, and it was a sale! Not to mention previous, that the government negotiators told the people at the time it was a Treaty. All this occured in the mid-1890's and the Congress stopped Indian Treaty making in 1871! The Indian Court of Claims did not consult with the people of the reservation in 1963. The land area today encompasses more than twenty five square miles. Which is up from

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SB 320

the original narrow one mile strip. Again, in the 1880's the reservation residents were faced with famine. Meaning, literally hundreds starved to death. Ten years later, the government negotiators predicted that they would starve, if they did not lend the mineral lease. This defies more than just simple logic.

Two wrongs do not make a right, seems another reservation did not get fair treatment, either. Supposedly, there is a carbon copy agreement with the Blackfeet on supposed, ceeded lands. It is well documented within the Blackfeet history, of their people starving during the hard winters of the 1880's. Later, of course the Blackfeet lands were included in the Glacier/Waterton International Peace Park. They explored for gold there first. They must have come up empty, because they converted the land into a national park. Now, there is a fiasco over there for an oil exploration permit. A few years ago I picked up a newspaper and read of a couple who rode horseback, across country. They started way down toward the southern states. Probably, New Mexico, and worked their way through Colorado, Wyoming and eventually into Montana. They stated that this area comparatively, is the most beautiful, pristine country. This oil probe or permit is near that point in Montana. So, we are not the only place getting a raw deal. Suggestion: A small town in Colorado, sat upon a huge mineral resource. The residents there decided not to mine. They wanted to preserve the area. There was a small ghost town near and they elected to go the tourism route. Why can't these options be explored? I know when we met as the Fort Belknap Council, with the Bureau of Land Management, they stated there is no management plan in place for the Little Rockies. Just some grazing and the current mining going on. Since 1965 they "managed" the mountains on an as is basis. Which really means when they traded the Lewis and Clark National Forest land, the BLM did almost nothing with the timber resource. The water is just in limbo. Again, why can't recreation be considered as an alternative? Recreation and good planning would allow the mountains to continue to be a renewable resource. For all the public to enjoy, now and in the future.

When all is summarized, it leads only to more question. It is more like when smoke hits fog, it tends to form other named substances. There are aged formation rock, within our mountain range that are unique. Exposed is some of the oldest formation known, dated to the Pre-Cambrian era. It is not agreed upon, on what is down in the fractionated zone of the rock. Even if you call more than one geologist into the room, you would not get an agreement. I recall touring the Lustre oil fields, about ten years ago. The area is within the Williston Basin. There, they showed us a drilled sample of Mission Canyon Limestone. This is about 200 miles to the East of the Little Rocky Mountains. What I am saying, is that at a previous public meeting, we were informed otherwise. We were told that the mine was not near the Mission Canyon Limestone. I still stand by the notion that no one knows what is down there, for sure. By this assertion, our fresh water aquafers are in danger of ruin. Particularly, the Limestone and sandstone formations of the Mississippian age. Aquafers, such as the Eagle Sandstone, Judith,

Madison, Bighorn, etc., all of which exist within the Little Rocky Mountains. One would have to travel for thousands of miles through the Rocky Mountains, just to see what is available in one place. Here in the Little Rocky Mountains.

There is evidence of existing data, done approximately in 1969. According to Mr. John Capture, Council man and an oral historian for our reservation, the USGS did a series of tests. They used some dye to trace the water course of the King Creek, which is on the northern divide. When the water came out, it was in the south drainage, into Montana Gulch. Another individual said when a person walks up the creek, on the Landusky side, you come to a cavern. Then when a person walks into the cave, the water comes out of the ceiling. I read that USGS report, and found out something. The personnel did not want to go into the abandon shafts to explore, it was too dangerous. As the report was perhaps, inconclusive. Nobody since has done any testing on the channel way of our water. Recently within the last year, I saw in the newspaper that there was a chemical spill over by Lewistown. The BLM said they did not have budgets to allow staffing to monitor mining activity. I do not recall the individuals name, but what they stated was odd. They not only said they did not have the staff to go look but, they stated that they did not think there was any damage done to the underground water. I would question the responsibility and or the lack, there of. Budgets should not allow public officials to shirk their responsibilities.

Armed with a compass, a correct map, the truth, and a sack lunch, I think a person could find out a lot. The mountain peaks are being scraped down. This would not allow water to perhaps, remain within the watershed, which would lend to the composition of the streams. Recharge is a bigger part of a creek to remain in existance. The Glory Hole was used, earlier by the miners to oxygenate the mine shafts. Perhaps, it is a glacier, because it was nicknamed the "Ice Cave." It sits on the north slope of Gold Bug Butte. Mixed with recharge and as the ice melts, this is the source of the King Creek. Now those guys have the mountain scraped down to this above referenced point. We live within an isolated area, and there is not much attention paid. Even within our region, no one goes to look there. The town of Malta seems happy. They should, because as the county seat, they stand to directly benefit from the tax revenues generated. Malta is over fifty miles away, out of sight and out of mind, and everything is status quoish.

I am writing this letter as a private citizen. I am on the Fort Belknap Community Council, and I just bring the information forth. This in particular, to our mountains. If the water was turned back from the south drain, to the north, I don't think we'd want to take it. It is laced with heavy metal contaminants. Also, I do not think all the governing agencies are coming together. There is just firing off of memos, here and there. There is no order, and as a result, the resources are not attended to properly. Which leaves the resources in a detriment, rather than an asset mode.

EXHIBIT 9
DATE 3-11-93
SB 320

RESOLUTION NO. 84-73

R E S O L U T I O N

WHEREAS, The Fort Belknap Indian Community is a Federally Chartered Corporation as defined by the Indian Re-organization Act of June 18, 1934, and under its Charter, Constitution and By-Laws as approved by the Secretary of the Interior has full power and authority to negotiate with the Federal, State, and local governments on behalf of the Community, and

WHEREAS, A Resolution updating Resolution #45-71, of the Fort Belknap Indian Community, Fort Belknap Indian Reservation, Montana, Requesting the Assistance of the Congressional Delegation in having the "Little Rockies" Returned to the Fort Belknap Indian Community.

WHEREAS, The Fort Belknap Indian Reservation originally included 2,750 square miles as established by the Treaty of October 17, 1885, and ratified by the Act of May 1, 1888; and

WHEREAS, The present Fort Belknap Indian Reservation land area is about 950 square miles or about 1/3 the original reservation and the original reservation included the "Little Rockies", a mountainous area at the extreme southern part of the present Reservation but was later withdrawn when gold was discovered; and

WHEREAS, parts of the Little Rockies have traditionally been held as sacred grounds and have even today special religious and historical meaning to the Fort Belknap Indian Community justifying a return of these lands to the Fort Belknap Indian Community; and

WHEREAS, the Little Rockies form the major watershed for the southern part of the Fort Belknap Indian Reservation and are very important to the economy, well-being and future of the Fort Belknap Indian Community and

WHEREAS, The economy of the Reservation is largely dependent on its Natural Resources. Agriculture on both dry and irrigated lands combined with cattle production make up the land uses. Recreation is one field with some development and the balance of the Little Rockies has much potential for jobs and businesses for the people of the Fort Belknap Reservation ; and

WHEREAS, our planned proposed use of the Little Rockies is compatible with the land use planning being completed by the Bureau of Land Management; and

WHEREAS, the Land is now owned by the United States and under the supervision of the Bureau of Land Management and all mining activities have practically ceased and the land presents no great economic or other benefit to the United States and instead is a deficit to the United States and

NOW, THEREFORE, BE IT RESOLVED, that the Fort Belknap Indian Community supports return of the Little Rockies into trust status for the benefit of the people of the Fort Belknap Indian Community from the supervision of the Bureau of Land Management;

BE IT FURTHER RESOLVED, that the Officers of the Fort Belknap Indian Community are authorized to take all deliberate and necessary steps to have said lands returned into trust for the benefit of the Fort Belknap Indian Community;

RESOLUTION NO. 84-73

BE IT FURTHER RESOLVED, being this is the fourth resolution presented by Councils of this Reservation on the return of the Little Rockies, that the Secretary of Interior be implored to take immediate action on this resolution.

FORT BELKNAP INDIAN COMMUNITY

Jerry Sorrell J. Roe - 9/20/73
TRIBAL CHAIRMAN

ATTEST:

Preston Bell

CERTIFICATION

I, the undersigned, as Secretary-Treasurer of the Fort Belknap Indian Community Council of the Fort Belknap Indian Reservation, Montana, do hereby certify that the Fort Belknap Indian Community Council is composed of 12 members of whom 6 members constituting a quorum were present at a a meeting thereof, duly called, noticed, convened, and held this 14th day of September, 1973, and that the foregoing resolution was duly adopted at such meeting by the affirmative vote of 5 for; 0 against; 1 not voting; 4 absent; and that the said resolution has not been rescinded in any way.

Preston Bell
SECRETARY-TREASURER

DATE: Sept 21, 1973

EXHIBIT 9
DATE 3-11-93
SB 320

RESOLUTION NO. 45-71

A RESOLUTION of the Fort Belknap Indian Community, Fort Belknap Indian Reservation, Montana, Requesting the Assistance of the Congressional Delegation in having the "Little Rockies" Returned to the Fort Belknap Indian Community.

WHEREAS, The Fort Belknap Indian Reservation originally included 2,750 square miles as established by the Treaty of October 17, 1885, and ratified by the Act of May 1, 1888; and

WHEREAS, The present Fort Belknap Indian Reservation land area is about 950 square miles or about 1/3 the original reservation and the original reservation included the "Little Rockies", a mountainous area at the extreme southern part of the present Reservation but was later withdrawn when gold was discovered; and

WHEREAS, parts of the Little Rockies have traditionally been held as sacred grounds and have even today special religious and historical meaning to the Fort Belknap Indian Community justifying a return of these lands to the Fort Belknap Indian Community; and

WHEREAS, the Little Rockies form the major watershed for the southern part of the Fort Belknap Indian Reservation and are very important to the economy, well-being and future of the Fort Belknap Indian Community; and

WHEREAS, the land is now owned by the United States and under the supervision of the Bureau of Land Management and the U. S. Forest Service but all mining activities have ceased and the land presents no great economic or other benefit to the United States and instead is a deficit to the United States; and

NOW, THEREFORE, BE IT RESOLVED That the Fort Belknap Indian Community supports return of the Little Rockies into trust status for the benefit of the people of the Fort Belknap Indian

I, WILBUR BIGBY, as Secretary-Treasurer of the Fort Belknap Community Council, Fort Belknap Indian Reservation, DO HEREBY CERTIFY that the Council is composed of twelve voting members, of whom 11, constituting a quorum, were present at a meeting held this 3rd day of May, 1971, and that the foregoing Resolution was adopted at such meeting by the affirmative vote of 10 members.

Wilbur Bigby
Secretary-Treasurer

APPROVED:

John Capture
Council Chairman

The terms and conditions of the foregoing Resolution are hereby agreed to and approved as of the date hereof and the Secretary of the Interior hereby certifies that no veto will be exercised over this Resolution.

UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS

By _____

_____
Title

Community from the supervision of the Bureau of Land Management;

BE IT FURTHER RESOLVED That the Officers of the Fort Belknap Indian Community are authorized to take all deliberate and necessary steps to have said lands returned into trust for the benefit of the Fort Belknap Indian Community;

BE IT FURTHER RESOLVED That a delegation is authorized to present this Resolution to the Secretary of Interior and the Congressional Delegation for appropriate action as they see fit.

Fort Belknap Indian Community

By John Capture
John Capture, Chairman

ATTEST:

Wilbur Bigby
Secretary-Treasurer

Item: 9
Date: 3-11-93
Re: SB 320

EXHIBIT _____
DATE _____

Resolution No. 94-91

Fort Belknap Community Council

WHEREAS, the Fort Belknap Indian Community Council is the governing body of the Gro Ventre and Assiniboine Tribes of the Fort Belknap Indian Community, Fort Belknap Indian Reservation Montana, by the authority of the Constitution and By-Laws of the Fort Belknap Tribes approved on th 13th day of December, 1935, and

WHEREAS, under the Constitution and By-Laws of the Fort Belknap Indian Community, th Community Council is charged with the duty of protecting the health, security and general welfare of th Fort Belknap Indian Community, and

WHEREAS, the Fort Belknap Community Council is responsible for the health and welfare of the residents of the Fort Belknap Indian Reservation, and;

WHEREAS, there is significant mining activity being conducted in the Little Rocky Mountains immediately adjacent to the Fort Belknap Indian Reservation, and;

WHEREAS, such mining activity is being conducted pursuant a joint permitting process through the United States Bureau of Land Management and the State of Montana Department of Lands,and;

WHEREAS, the Fort Belknap Community Council is concerned that such mining activity poses a risk to the health and well-being of residents of the Fort Belknap Indian Reservation, and that insufficient safeguards have been implemented under existing law to protect Reservation residents, and;

WHEREAS, Permit Amendment No. 10 has been recently granted to expand the Landusky Mine of the Pegasus Corporation, by the U.S. Bureau of Land Management, and;

WHEREAS, it appears that such expansion has been authorized without full compliance with federal law, and such threatens numerous Reservation residents within a few miles of such expansion, and;

WHEREAS, Red Thunder, Inc., a community-based group has filed an appeal of the granting of such permit with the United States Department of the Interior, Board of Land Appeals,

NOW THEREFORE BE IT RESOLVED, that the Fort Belknap Community Council does hereby support and join the appeal of Red Thunder, Inc., to challenge the granting of Permit Amendment No. 10, expanding the Landusky Mine, and does direct the Tribal Attorney to file appropriate papers to join in such appeal, and;

BE IT FINALLY RESOLVED that the Executive Officers are hereby authorized to execute all necessary documents to effect the provisions of this Resolution.

ATTEST:

Donovan Archambault, President
Fort Belknap Community Council

Joe McConnell, Secretary
Fort Belknap Community Council

CERTIFICATION

I, the undersigned, as Secretary of the Fort Belknap Community Council of the Fort Belknap Indian Reservation, Montana, do hereby certify that the Fort Belknap Community Council is composed of 12 members, of whom 10 members, constituting a quorum were present at a meeting thereof, duly and regularly called, noticed, convened and held this 26 day of March, 1991; and that the foregoing Resolution of the Fort Belknap Community Council was duly adopted and approved by the affirmative vote of 9 for; 2 opposed; 0 not voting; 0 temporary absent; 2 absent; and that the said Resolution has not been rescinded in any way.

DATE: 3-26-91

Joe McConnell, Secretary
Fort Belknap Community Council

rtman officials say they'll cooperate

ISTOWN (AP) — State and ining regulators want in Mining Inc. to change the is mining ore in the Little Mountains, because of higher al levels of acid and met- eam.

re cooperating with the Bu- Land Management and De- f State Lands. This is not tion. There has been acid age in this area since mes," Eric Williams of He- kesman for Pegasus Gold, an it corporation, said Tues-

llings Gazette reported that agencies want ZMI, which mines at Zortman and Landusky, to identify potential acid-producing waste rock, selectively handle different types of rock, expand reclamation and increases its number of water monitoring stations.

Some of the metals exceed drinking water standards at points inside the mine permit boundary, said Scott Haight, district BLM geologist in Lewistown.

"Beyond the permit boundary we haven't detected any that have exceeded (standards) yet," he said. "We're still investigating."

Although the elevated levels were found on the Zortman and Landusky sides of the mountains, no effects to the domestic water supplies in those towns have been detected, nor have mentals been found in drainages into the Fort Belknap Indian Reservation, Haight said.

The acid and metal levels were documented by the mining company, which takes its own water tests.

Haight said the agencies first noticed the elevated levels on the July 1992 monitoring report, then looked back at older records. "We found that you could see some of that starting to creep in in 1991," he said.

Acid water — which dissolves the metals that occur naturally in rock — is created from sulfide-bearing rock. ZMI has been mining most oxide ore, which has less sulfi material than unoxided ore, so ac mine drainage hasn't been a pro lem in the past, Haight said.

"Now as they're mining deeper, think we're starting to see an i crease in the percentage of sulfi material mixed with oxide. We' saying 'Let's be a little bit mo selective in where we mine' — ide tify those potentially hot zones ar separate them."

The acidity issue is of concer because ZMI has applied to expan the mine more into unoxidized or Haight said. However, the curre situation is not considered to b extremely serious, he said.

EXHIBIT 9
DATE 3-11-93
SB 320

SPRING SALE Warm-Up

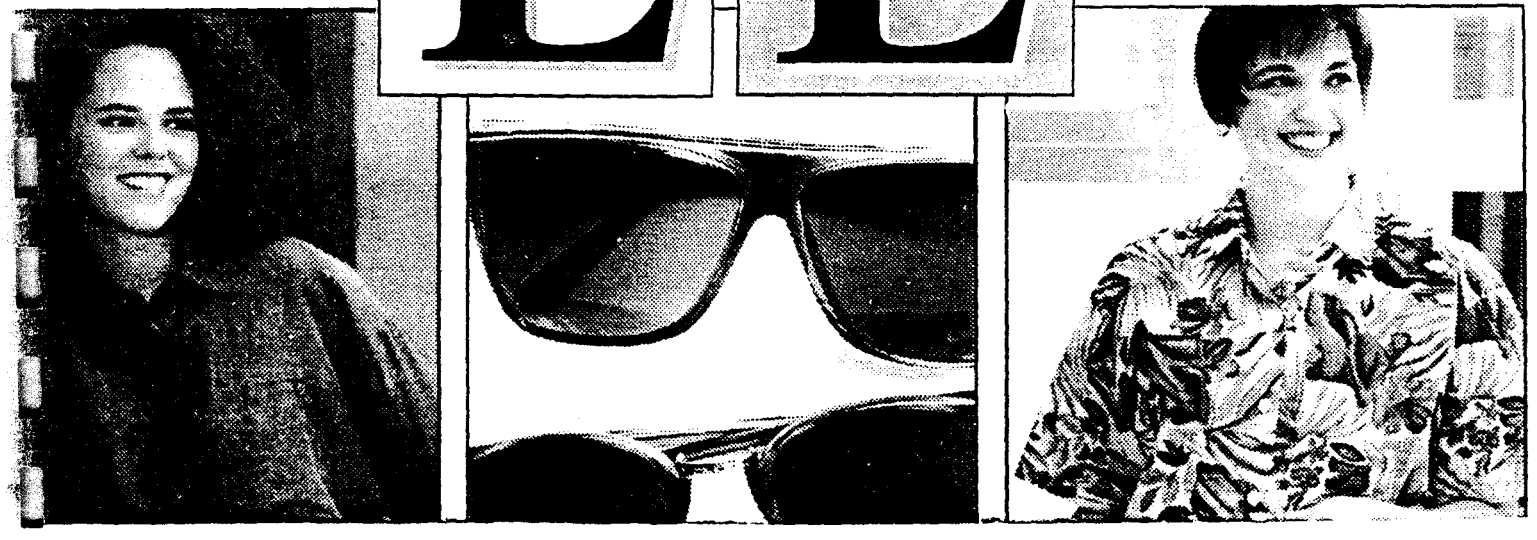

EXHIBIT 9
3-11-93
SB 320

Indians seek respect for religious sites

By CHET LUNNER
Tribune Washington Bureau

WASHINGTON — No one would dare propose building a highway through the Wailing Wall in Jerusalem or turning Mount Sinai into an amusement park, but American Indian sacred sites are routinely desecrated, tribal leaders complained Tuesday on Capitol Hill.

Some lawmakers, however, while expressing sympathy, questioned whether a new law would improve matters.

"Because we are not Judeo-Christian, because our beliefs are not written in a Bible, our religion seems to get second- and third-class treatment," said Jerry Flute, a Sisseton-Wahpeton Sioux from South Dakota who compared the Wailing Wall with Native American sites like Medicine Wheel, Wyo., or the Black Hills of South Dakota.

"At some of these sites, tribes have had the same kind of revelations," Flute, chairman of the Association on American Indian Affairs, told the Natural Resources Committee subcommittee on Native American Affairs.

Tuesday's hearing was held to gauge the effectiveness of the 1978 American Indian Religious Freedom Act, which a group of Indian and mainstream religious leaders — including the National Council of Churches — seeks to strengthen this year.

The National Congress of American Indians, citing Supreme Court decisions it says have seriously weakened the law, has declared the religious freedom campaign its top priority in the current Congress.

Flute submitted a list of dozens of Indian religious sites currently in jeopardy.

Rep. Pat Williams, D-Mont., cautioned the Native American leaders that legislation and religion can be a philosophically volatile mixture.

"It is critical ... that we retain the constitutional protections against church-state entanglement," Williams said. "The intervention of government into the affairs of religion is disadvantageous to both."

Subcommittee chairman Rep. Bill Richardson, D-N.M., said he intends to introduce a new bill later this year. Rep. Neil Abercrombie, D-Hawaii, said he feels the current law is clear enough and needs action, not amendments.

"I really don't think there's much to be done other than enforce it."

Some sites in Montana

By The Associated Press

The following Montana sites are included on a list of 44 sites that are sacred to American Indians and endangered by tourism, developers or others, according to the Association on American Indian Affairs. The information includes the site, the tribes to which it is sacred, and the nature of the threat.

Montana

Badger Two Medicine, Blackfeet, oil and gas exploration

Sweetgrass Hills, Rocky Boy, Blackfeet, oil and gas exploration

Kootenai Falls, Salish and Kootenai, hydroelectric dam

Tongue River, Northern Cheyenne, mining and railroad

Chief Mountain, Blackfeet, tourism and recreation

Medicine Tree, Nez Perce, Kootenai, highway construction

Little Rocky Mountain, Gros Ventre, gold mining

Crazy Mountain, Crow, logging

In brief

Montana and the region

Judge has last word with protesters

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO. HB320

DATE March 11, 1993 SPONSOR(S) H. McClernan

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
[illegible]	Bear Creek Council Northern Plains Resource Council	✓	
Linda McMullen	Rancher CRC NPRC	✓ w/ amendments	
Dennis Olson	NPRC	✓ w/ amend	
Martin Johnson	Whitehall Cure		✓
Brad Reel	Whitehall Cure		✓
Tommy Johnson	Whitehall and CURE		✓ unless amended
Kim Wilson	Clark Fork Coal.		
WARD SHANAHAN	Stillwater Mining		Amend
Jim Jensen	MEIC		✓/w amend
Ted Doney	ASARCO		✓ unless amended
[illegible]	[illegible]		✓
[illegible]	[illegible]	amend X	
[illegible]	[illegible]	X	
[illegible]	BSC	[illegible]	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & EC. COMMITTEE BILL NO. SB 331

DATE March 11, 1993 SPONSOR(S) J. D. Lynch

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jim Carlson	MT Ch NASW	X	
Sam Hubbard	Deaconess Medical Center of Billings	X	
Jerome Connolly	MT Chapter American Physician Therapy Assn	X	
Pat Melby	Reimmerk	✓	
Jim Bennett	Saint Vincent Hosp	✓	
[illegible]	MMHT I.	✓	
H M Black	MT Psych Asso		X
Frank Cote	S.A.O.	✓	
Tom Hopgood	Health Ins. Assn. America	✓	
Rob Hunter	Employee Benefit Management Services	X	
Mona Jamison	PT Assn.	X	
Tom Ebzery	Attyrep St Vincent Hosp	X	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO. SB 419

DATE March 11, 1993 SPONSOR(S) J. D. Lynch

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jerry Loendorf	MT. Community Finance	✓	
Bill LEARY	MT. Bankers Assn	✓	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO. SB 420

DATE March 11, 1993 SPONSOR(S) J. D. Lynch

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jerome T Loendorf	Mt. Consumer Finance assn	✓	
Farwell Smith	Rancher		✓
~~Brad Tool~~	~~CURE~~	*	✓
Bill Leary	MT. Bankers Assn	✓	
Bob Pyfer	MT Credit Unions League	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.