

## Proceedings from Natives Impacted By Mining

September 22-24, 2009

Atlantis Casino & Resort

Reno, Nevada

### **Summary**

#### **Introduction**

On September 22, 2009, the Inter-Tribal Council of Nevada Tribal State Environmental Liaison Program sponsored a conference to gain knowledge with concern to mining impacts within the State of Nevada. Conference participants included Tribal Environmental Professionals, State Agencies, Non-profits, Consultants and Federal Entities.

The objectives of the workshop were to:

- Provide a sense of how Agencies and Industry are doing in addressing mining impacts
- Highlight Natives Impacted By Mining (NIBM) concerns
- Learn solutions from communities that have concerns to mining practices

#### **Organization of the Conference**

The Conference opened with a prayer from a Battle Mountain Elder. An overview of the Natives Impacted by Mining was highlighted. Presentations were conducted as a part of the education of the programs that participated.

Participants were able to ask questions after each presentation. A variety of observations and recommendations were made. The discussion points have been included at the end of the section.

#### **Discussion Points and Recommendations**

A summary of the main discussion points and recommendations on Mining Impacts are presented below:

- There is a new rule through EPA on the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). It was mostly written for the industry for financial assurance that provides oversight.

- Hard rock mining royalties are a minimum of 10%
  - If funds were submitted in taxes, this would alleviate problems and initiate revenue sharing
  - Economic diversification would be a good practice for mining companies, where recycling could occur, waste dumps would not be created and to find something else to fulfill business demands for jewelry, circuitry and other material.
  - Geothermal is the by-products of seismic activity. Faulting is the key exploration tool, which reservoirs are used to because of ancient seismic activity. Studies must be done to present energy resources. The target is not necessarily deep and there are different types of rocks that hold the reservoirs. Geothermal explorations are relatively shallow, where heat pumps are installed to draw hot water. The biggest concerns with geothermal exploration are the cultural impacts to hot springs. The systems are closer to the surface so there is less impact. In exploration, you want to be able to build and develop a system.
  - Are transmission lines a concern? Al Coyner of the Nevada Division of Minerals replied that his office permits all wells in the State, but not public lands.
  - Are there any existing leases or permits from the Tribes? Dan Allen of BIA reported that there are fish farms and greenhouses for a direct use permit, but there are no contracts that he has knowledge of a particular project. The Pyramid Lake Paiute Tribe administers its own geothermal permit being that it is on tribal land. Churchill County has a right of way on a transmission line. Are there existing permits for direct use? Mr. Allen replied that this is a question for the Minerals and Energy Office and he was not able to answer this question. There are federal grants that provide funding opportunities for tribes. The Fallon area is a significant area for geothermal energy. Nevada Geothermal Power has worked with Blue Mountain Gold exploration; it is a blind system, where hot water is injected into the ground permitted by the State of Nevada.
  - Daryl Crawford of ITCN had mentioned that Tribes have small land bases and desire future development, but do not want to exploit their lands. There is some electric generation that is being researched, but nothing completed. At the last ITCN Board meeting, there is a cooperative effort with Tribes that is new in development. The Pyramid Lake Paiute Tribe and the Fallon Paiute-Shoshone Tribe have areas that are land-locked and creates an issue with long-term leases. Tribes do not have resources to research energy development and there is a 40-

50% unemployment that Tribes have throughout the State of Nevada. Tribes are currently reviewing alternative energy for housing projects. The BIA National office provides solicitations of proposals in green energy services to analyze electrical systems, but again Tribes do not have the staff to complete necessary research. There may be tribes that are keeping their discussions on energy development within their tribal chambers and as a tribal organization sometimes we may not know the Tribe's thoughts or ideas. There are consultants that have visited with tribes, but tribes are very limited on resources and are unable to proceed on energy endeavors.

- The Gila River Tribe has a small land base, but was able to utilize algae as biofuel. Also the Navajo Nation at the McKinley Mine is in discussion with BLM and BIA on the coal mine for renewable energy and solar projects.
- A suggestion was made to Great Basin Gold Limited on community involvement to offer a private meeting to the Western Shoshone people as public meetings are not a comfortable place for Tribes to comment on mining activities.
- Equal rights are a concern in reference to BLM, where sacred sites are being destroyed. Priority should be given to the native people. There is a division between the BLM Reno and Winnemucca office, where information is not shared between office sites.
- Are there plans for Native American representatives to sit on the Nevada Minerals Commission? There is a seat at large for the public. The regulations would need to be changed since it is a Nevada Revised Statute (NRS).
- The state and BLM have 260,000 abandoned mines, but what about the open pit mining that is occurring, what are the processes or plans for closure of those mining operations. There are ghost town mines that are just sitting there with no operations in place. When will the State and Federal Government revise or get rid of the 1862 Mining Law. The Cortez Pipeline has been around for approximately 250 years. There should be a fund set up for closure in the future. Closures are a big issue, because it appears that mining companies want to be able to walk away from these mining areas. For an example, the Gold Quarry pit show physical hazards, which have four feet deep holes. We need a Mining Law reform because property rights are number one in that law and it is not intended to be environmentally protective.

- There is a security tenure that occurs. We all have cell phones and cars, these are materials that are mined to use in electronics and other essential products. The active mines at present are getting better at compliance. However, the older mines have left a legacy of issues, where permitting issues and the planning processes have demonstrated this issue. Closure and reclamation of a mine involves a lot of resources. \$1.2 million in the State has prevented problems from these issues from happening again.
- A huge issue is open pit mining. Big holes in the ground do not make it safer for the community. The loss of a loved one in an abandoned mine can never be replaced. When mines leave open pits that are 50 feet deep and it fills up with water, you have the danger of putting your children at risk of drowning in the pit. A suggestion would be to backfill the open pits so that is not a risk.
- On the land management side of abandoned mines, fences will not stay up forever. For instance, there was person who rolled down the hill in 1952 at the Yerington Anaconda Mine site and was killed. There was also another incident at Golden Eagle Mine in Virginia City, where someone jet skied and jumped off the side of the mine. Backfill is not economic or environmentally good being that there would be too much sediment, which would create another issue to the environment. In the State of California, a precious mine is required to backfill mine site. The other issue is out at Newmont, where acid generation is created. Fences are limited to safety hazards.
- The Western Shoshone people went out to the Placerdome mining area to collect pinenuts and other medicinal plants, they were denied access, where they were met with a blocked county road. The Western Shoshone requested a written apology letter from Placerdome, but has not received anything as of this date. The Western Shoshone should notify the county that Placerdome blocked the road for access. This is a historic site, where burms and huge rocks were placed intentionally to keep the Western Shoshone people out of the area. There was another area called, Shoshone Wells, where the WSDP wrote a letter to the mining company that stated access shall not be impeded.
- It was suggested that the Western Shoshone people request access to visit minesite.
- If there was true government to government consultation, there should have not been road access issues.

- Exploitation and profitability are not the values of tribal people, they do not place value on metals or gold, this is a western custom and tribes depend on the environment for their survival.
- A suggestion was made on the rationalization and patronization from Federal and State agency staff. There have been many times that Tribes have been treated unfairly because of this practice, and just want to be treated the same way that you would want to be treated.
- Where is the mitigation in these mining issues? It appears there have been poor business practices, where clay liners have been created but have not provided protection. Why is there not a trust fund for mitigation of these issues to work towards solutions?
- For many generations, prevention has been made through ponds, which had no standards. There have been unlined ponds and asphalt as the early 90's mining technology. Leviathan is a messy sulphur mine that had a design that met regulations in the past. Presently, the mines are required to conduct an engineering study and bonding can be a great tool.
- The new mines are still not adequately constructed well. There are certain mines that emit toxic pollutants, where dewatering has occurred and water tables are being depleted. In another 10,000 years the water tables will not be there anymore. Open pit mining has a cyanide heap leach process and this is a concern to the native people that are impacted by these processes. A suggestion is to provide better inclusion, exchange, information and communication to the indigenous people in these areas.
- Another suggestion is to respect tribal traditional ways of the older generations. We are not being shown this respect and our ways are being destroyed. The 1872 Mining Law is what America tells us we as Tribal people have sovereign rights, and our land is being disputed. This is not right for the US to push this down our throats it is not ethical or traditional and does not show any type of respect.
- The mining leases should be shared revenue for the Tribes because we have a right for our cultural values and should be included as royalties to tribes.

- We need respect from the government for our traditional ways. We have to deal with the loss of our water, which is sacred. The pumping of our water has depleted our natural springs, where our animal life has also disappeared.
- In visiting of many mining areas, the companies are saying one thing and doing another.
- Wherever there is gold, there is desecration of sacred sites. There needs to be something in place to prevent impacts from occurring. This is treaty land, and we don't know how the government is getting away with this. Indigenous people are aware and pressure has been put on the US Declaration of Indigenous People. Politicians, such as Harry Reid are protecting that Mining Law of 1862. People are suffering, and there is no voice for indigenous people.
- It is believed that mining companies have hired people to make mining claims. The mining law supersedes the US Constitution. There are Eastern Senators and lobbyists that are being paid to keep this 1872 mining law.
- The Indian Claims Commission states that encroachment is not a legal term. Is that justice? Here in Northern Nevada, there is core drilling and damage made to the land. This type of behavior would not be tolerated in Europe. Gradual encroachment is where they take land and select a specific race. Europe does not allow open pit mining, but here in the US you can destroy a whole countryside and get away with it.
- In terms of tribal consultation, a letter is sent and scoping meetings are attended. However, there are mine expansions where ranches are being bought and they are not required to comply with the National Environmental Policy Act (NEPA). Scoping meetings are not a place for consultation, and tribes should be contacted in advance within the process.
- In the NEPA process, tribes do not want to disclose specific sites. BLM prefers specific locations, but they will accept general location for document purposes.
- BLM's perception of aboriginal lands is only taken from documents and does not include outreach to specific tribes. The Treaty of 1863 is a government to government agreement and the law requires consultation with tribal governments. Western Shoshone Defense Project is a non-governmental organization and has not been addressed by federal agencies. Tribes that receive federal funds are held back from speaking up to the federal government.

- In eastern Nevada, there are programmatic environmental assessments (EA's) where 100,000 acres are being developed for mining operations. This places tribes at a disadvantage, where the given map continues to create an issue of ancestral land base. The BLM can't answer, but maps should be followed and consistent with programmatic documents. A specific map should be provided with project plans. Leases are a significant part of the review documents, which should include formal consultation with tribes.
- Drill pad developments are taking place without proper consultation with the Tribal governments of Nevada.
- There are many areas for geothermal development. However, hot water is used for sacred reasons. A suggestion before exploration is to learn more about the area to identify the sacredness of area. Is this overall BLM policy? There are drill rigs and mining vehicles that have begun work without notice to tribes in the area. We need a forum and better communication between the tribes and the agencies.
- There is undue degradation, where BLM has experience in addressing issues ahead of time.
- There is a request for water withdraws submitted by Southern Nevada and a coal fire plant that ITCN receives as notice of projects. Copies of notices are then sent to the tribes. However, there are smaller tribes that do not have the resources or staff to respond to mailings. There are different value systems between tribes and Euro-Americans, where traditional people should be notified of projects.
- There are volumes of notices, where sites, studies and data are referenced. The Freedom of Information Act (FOIA) allows for the public and tribes to receive information. The Native American Graves Protection and Repatriation Act (NAGPRA) are not protected under the FOIA.
- The State Historic Preservation Office (SHPO) has offered for the tribes to contact her by e-mail, letter, and phone call to review potential impacts to cultural resources.
- Regardless of public or private proposals for mine claims, management of resources cannot take place unless identified. Public lands are not open for mineral resources. Once resources are identified long-term protection can proceed.

- Once properties of religious and cultural significance are identified, the mining company can hold land for protection and perpetuity. How much should tribes disclose? Examples of cultural use can be submitted as identification of sites.
- The Board of Museums and History have a commission that SHPO is a part of. Are there native people on the commission? No, it is a governor appointee. A suggestion was made to include native organizations to be part of the meeting discussions.
- There was a human skull that was found in a stream bed in Battle Mountain. The tribal member reported it to the BLM and BIA, but has not received a report on the status of the skull.
- Mt. Tenabo was filed as a Traditional Cultural Property (TCP). However, there is continuous mining exploration that has gone to the 9<sup>th</sup> Circuit Court. This area needs to be put into higher protection status. Mitigation cannot stop a mining project. Mining laws trumps federal laws. A suggestion was made for tribes in protection of sacred areas before projects are conceived to put lands in protective status.
- Designation of TCP should be made before project moves forward, which prohibits from entry of land.
- Is there any way that SHPO and BLM could provide a map? BLM is open to the possibility, the TCP would determine overall land use potential and mineral withdraw is very difficult.
- BLM is in revision of the Resource Management Plan and long-term planning is on the horizon.
- Is there a willingness to send out a Request For Proposal (RFP) to submit information through brochures and contacts?
- Terry McBride has a listing of properties and can provide tribal contacts.
- Cultural resources are a big concern with lack of coordination such as on land-use entitlements. The level of coordination has been with local governments and the counties. Submissions must be larger than one acre.
- In the state of Nevada, there are issues that impact our water such as the Ruby Pipeline and Southern Nevada water grab plan. Also nuclear waste is an issue

and this plan is backed by politicians, where great business opportunities are present. The land, air, and water are less important when it comes to unemployment in the state of Nevada.

- Traditional values include sacred things such as the sun, air, water and land. Why is there global warming? Production of gas and oil are destructive and extractive industries. The earth our mother is modeled after the female's body. What are we telling our young girls in these destructive practices to our mother?
- There is a waste dump at the Cortez Mine, and Mill #1 is where destruction of a sacred place is taking place. This area is where the snake people come from, now mine tailings cover the area. This is a prayer place. Geysers used to inhabit this area in Beowawe. Southwest of there are historical accounts where twins came down the river, and went up Rock Creek. These areas are being destroyed and what do you do about it? The Carlin Trend contains important areas and has already been destroyed.
- The BLM do not recognize the Shoshone people, but only federal recognized tribes and their tribal councils. The mines are pumping thousands of gallons of water that destroy life for economic reasons? WSDP protect traditional governments, where gradual encroachment still continues.
- We are supposed to take care of our seven generations, but it is hard to do as lands are being destroyed for the sake of greed.
- A suggestion is to have Non-Governmental Organizations (NGO's) be included in discussion of mining plans. There are red flags everywhere that archaeologist leave and where people can access those cultural items. It is spiritual genocide. It hurts to see our pine nuts in Horse Canyon disappear. There are spiritual beings out there on the land, but we no longer see them, have they disappeared? We have to protect them. Today Global Warming is in existence within our environment. The ice is melting in the north, wild fires are burning in the Bay area, and weather is erratic.
- In attendance to an Environmental Conference in Alaska, the state is fast growing. We have genetically engineered seedless watermelon. We should be planting seeds from fruit not altering them.