When we wrote this, small advances were being made in North Dakota to protect land sacred to the Standing Rock Sioux tribe and the waters of the Missouri River from the Dakota Access Pipeline. In Michigan, the Menominee Tribe is currently finding few means to save the waters of the Menominee River, burial sites and other tribal legacies from a proposed mine project which could ultimately affect the Great Lakes.

Here in Nevada, the destruction of land sacred to the Western Shoshone by mining is repeating itself at the ancient, extensive Tosawihi Complex in the north central part of the state. This “landscape-wide” site is significant as a central place of ceremony, healing, hunting and plant gathering place for the ancient ones, ancestors of the Western Shoshone, until present time. Tosawihi is most well known as the source of volcanic tuff transformed by hydrothermal activity into rare cryptocrystalline, or white opalite. Quarried in many separate sites here for making projectile points for at least 10 thousand years, it is linked, by interconnection and centrality of function, to Shoshones all the way to Canada.

Another desecrated Western Shoshone treasure, GBRW and the Western Shoshone lost a case in the 9th Circuit Court of Appeals in 1999, which failed to prevent the literal obliteration of sacred Mount Tenabo by Cortez Gold.

For the Western Shoshone, the pervasive pattern of destruction to exploit mineral wealth has prevented them from having an adequate land base and threatened their literal survival since white people came, especially since modern mega mining methods started tearing up the earth in their homeland. In fact, “Western Shoshone lands now account for the majority of gold produced within the U.S.”

Hundreds of thousands of artifacts were removed from Tosawihi in the late ’80s and early ’90s, to save them from the immediate threat of destruction from mine-building but without Western Shoshone consultation. They now are warehoused near Carson City where virtually no one has access to them, and no plan has been developed to repatriate the artifacts to the Tosawihi site or somewhere closer to the complex. The Ruby Pipeline Project was built through the site in 2011, resulting in the removal of many more thousands of artifacts.

No federal laws such as The Native American Graves Protection and Repatriation Act regarding the “…treatment, repatriation, and disposition of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony…” or BLM provisions are interpreted by agencies in ways that maintain the integrity.
November 8, 2016 will be remembered as the day our already stuffed work plan burst at the seams. We will need to be vigilant with the Trump administration and the new Congress, which may pass numerous bills and make budgetary changes which could seriously hamper our work. Some of the concerns on the horizon are: a return to land patenting (i.e. privatizing) for mining projects, substantial reduction in public input on the environmental review of mine projects as mandated by the National Environmental Policy Act, and significantly restricted ability to legally challenge mine projects.

We have relied on NEPA provisions to require transparency about a proposed mine and for public input to be considered, which can substantially change outcomes (see the article, this issue, about the Bald Mountain Mine). Failure to comply with NEPA is subject to litigation in federal court, which GBRW has done on a number of occasions. Currently, GBRW is in federal court regarding the Mt. Hope mine in a case that involves several NEPA-based arguments. But this can only occur because Mt. Hope and most large mines in Nevada are at least in part on public land. Without this nexus no NEPA process is triggered.

The State of Nevada’s permitting process will still exist if NEPA is gutted, but it’s no substitute for the full compliment of requirements under NEPA. If land patenting returns under the 1872 Mining Law, then mining companies could avoid NEPA by purchasing the federal land for a project. There may also be land transfer bills that take land in Nevada (or elsewhere) out of federal control; those lands would also not be subject to NEPA. As we stated earlier, NEPA itself may be considerably weakened by gutting the public input process and by making legal challenges too onerous and expensive for organizations like GBRW to seek redress in court.

All in all, we anticipate many more calls to action in the next four years to try to prevent changes to regulations that protect our communities and environments from nearly unchecked mining development. Hold on to your seats in 2017.
On January 29, 2016 the U.S. Court of Appeals for the District of Columbia ordered the Environmental Protection Agency (EPA) to promulgate financial assurance regulations required by section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“CERCLA”), 42 U.S.C. §§ 9601–9675. GBRW is one of many plaintiffs on this case that began back in 2008 and is finally coming to fruition.

Financial assurance regulations under CERCLA are badly needed and long overdue. CERCLA creates a liability scheme for addressing waste cleanup, including for hard rock mining. Under CERCLA, companies that deal with hazardous substances are liable for the costs of any needed cleanup – but if the responsible entities are in bankruptcy and/or without funds to cover the cleanup, then the cost of the cleanup falls to the taxpayers. Superfund (the existing fund under CERCLA) is not adequately funded to allow for thorough and timely cleanup of all orphaned sites.

By requiring the facilities that are most likely to create contaminated sites to establish and maintain evidence that they will be financially able to clean up their waste, financial assurance rules under CERCLA will prevent the cost of additional cleanups from falling to the public. While many states and some other federal entities have some financial responsibility requirements in place for some industries, these requirements are generally inadequate and have not prevented cleanup costs from being borne by the public.

The Anaconda mine site in Yerington, Nevada would have been covered under CERCLA by financial assurances had the EPA developed the regulations as prescribed by law. We expect that cleanup funding would be forthcoming at that site, albeit slowly: however, significant cleanup could have begun much earlier if the new regulations had been in place. Perhaps even the groundwater contamination could have been arrested sooner.

Nevada is one of the states with good financial assurance (bonding) regulations, and the Division of Environmental Protection is concerned that the regulations will duplicate existing financial assurance mechanisms here. For example, the Phoenix Mine site near Battle Mountain is likely to require long-term management, and the State of Nevada currently has about $569 million in surety for this site. On the other hand, the Robinson Mine near Ruth, also a problematic site, is bonded for about $76 million, which may not cover long-term costs. The Robinson site has not had consistent ownership and is more likely to end up as a Superfund site. Thus, the new EPA regulations could fill in some potential holes in Nevada’s financial assurance structure.

In December, the EPA will publish the draft regulations for public comment. GBRW will be sending out an action alert about this. Here are some general talking points:

- Financial assurance must be in a form that is secure, independently guaranteed and readily accessible. Corporate guarantees or “self-bonding” are NOT an acceptable form of financial assurance and should not be authorized by the rules.
- Existing financial assurance programs via states or federal land management agencies (Forest Service and BLM) are not sufficient to address the liability of clean-up costs from hazardous materials.
- EPA states that it is possible that once a baseline financial assurance amount is established for a site, then it could be reduced if the companies demonstrate that proper controls are in place. While we encourage the rules to incentivize best practices, it is critical that the financial assurance amount should not be reduced without demonstrating that implementing those controls will actually reduce cleanup costs. The fundamental purpose of these rules is to ensure that financial assurance is in place to cover the FULL cost of cleanup.
- Public review at all phases of the financial assurance process must be an integral part of the rules.
- Existing financial assurance programs fail to proactively provide for financial assurance for sites with a high risk for water treatment in perpetuity.
A compendium of some of the projects we watch and challenge when we must. We’re the Lone Ranger when it comes to closely monitoring mining impacts in Nevada.

FALLON NAVAL BASE
Expansion Plans Announced
By Susan Juetten

In August, the Fallon Navy Air Range Training Complex, east of Reno, announced plans to expand their warfare training area. The Navy is asking, subject to the National Environmental Protection ACT (NEPA), for an additional 604,789 acres of public land to be withdrawn from current management for their exclusive use, for more airspace, and to renew use of the existing approximately 232K acres they already manage and control for bombing and other training of personnel.

The proposal includes parcels in the Stillwater National Wildlife Refuge, purchase of privately owned land, and BLM managed land acreage.

GBRW staff attended the NEPA Notice Period Open House in Reno on August 26 to learn more.

In the EIS, the Navy will analyze the potential impacts on these areas:

• Air quality/climate (airplane pollution is a recognized threat to climate.)
• Airborne noise
• Biological resources (including desert bighorns, sage grouse, eagles, water fowl)
• Cultural resources, including a large number of Native American traditional resources
• Grazing
• Land use and recreation, including off-highway vehicles
• Wilderness
• Minerals and mining
• Public health and safety
• Socioeconomics and environmental justice
• Soils
• Transportation
• Water resources and quality

To single out just two impacts, sonic booms will be heard all over north central Nevada. The proposed airspace expansion near Duckwater will include aircraft flying as low as 200 feet above the earth.

The expansion proposal would encompass 3 Wilderness Study Areas – The Stillwater Range, Job Peak and the Clan Alpine Range. There would never be another wilderness proposal for the area. No civilian can ever visit these lands again if the Navy gets their proposed alternative.

It is important to comment on as many issues as possible in the NEPA process. The Scoping period, closed December 12. Remember, the proposed lands and airspace above them will be closed to all other public uses.

A “no action” alternative is possible for a final decision, under which NAS Fallon would retain current boundaries.

Visit www.frtcmodernization.com to learn more and comment.

BALD MOUNTAIN
Public Pressure Affects Mine Plan
By John Hadder

The Bald Mountain Mine expansion (south of Elko) moves forward with a smaller footprint, thanks to public pressure. The original proposed expansion by Barrick Gold was for 7,097 acres, whereas the BLM preferred expansion alternative in the EIS document is 5,266 acres, with an addition reduction of 2,169 acres that were previously authorized that will not be developed, for an overall reduction of 3,989 acres. The reduced mine plan is designed to better accommodate mule deer migration and involves considerably less groundwater pumping.

The reduced footprint does not eliminate all concerns about this mine. It will still greatly affect the overall environment, and most likely continue to negatively affect mule deer migration, sage grouse habitat, and other sensitive species. Plans for exploration in the area are still on the books, and may occur in the future.

Many groups and individuals, including both environmentalists and sportsmen, commented on this project, calling attention to the effect the expansion would have on the largest mule deer migration in Nevada. Apparently, the message was heard by the BLM.

The results show that public input can make a difference, and how important public process is. The upcoming federal administration and Congress may well attempt to silence public voices by gutting this key provision in the National Environmental Policy Act. In fact, Nevada Representative Mark Amodei has attacked public process in bills twice, and is expected to try again, now that a potentially sympathetic president will be in the White House.

Pressure on Amodei to kill similar legislative will be needed, and comments to Senators Dean Heller, and Catherine Cortez Masto will be essential to stop the gutting of NEPA via Senate action. GBRW will be sending out Action Alerts on this.
On October 18, 2016 attorney Roger Flynn stood before the Ninth Circuit Court of Appeals in San Francisco to argue GBRW’s case on the proposed Mt. Hope Molybdenum Mine in Eureka County.

Our case has three central points: (1) Failure to Protect Federal Reserved Water Rights and Withdrawn Lands, Unauthorized Disposal of Federal Property in These Waters and Lands, Violation of Public Water Reserve No. 107 and Related Laws (2) Violation of the National Environmental Policy Act (NEPA) (3) Violation of the Federal Land Policy Management Act (FLPMA).

Federal water reserves, known as public water reserves or PWRs, were created by executive order of the Calvin Coolidge administration in 1926. PWRs were created to insure people settling in the west would have water for ranching and farming. The public law requires protection of the springs, including physical access. The ground water withdrawals associated with the mine are predicted to cause many springs and/or waterholes to be eliminated or have substantially reduced flows. In addition construction or location of mine facilities such as the massive waste rock dumps will be located/constructed either right on top of, and/or immediately adjacent to, these springs. Thus, the Mt. Hope mine plan is expected to adversely affect the springs and block access to the PWRs in the vicinity.

Under this Executive Order and related laws, the BLM cannot authorize activities that will impair the public use of any reserved waters and/or lands. BLM’s approval of dewatering and other activities associated with the project is not in compliance with these requirements. BLM cannot dispose of federal property such as PWR 107 reserved water rights without congressional authorization; such authorization has not occurred here.

If the court agrees with GBRW on the deficiencies related to general environmental protection, then most likely there will be a supplemental EIS ordered by the court vacating the existing mine permit by the BLM, which will further delay the mine development. Much of the general mine plan will most likely still proceed, and once financial backing is secured the mine can move forward.

The implications of the court also ruling in favor of our position on the PWRs will have immediate consequences and broader implications. Not only will the mine permit become invalid, but the mine plan will have to be drastically changed. The extent of the changes could kill the project for the near future. According to Roger Flynn of the Western Mining Action Project, the attorney representing GBRW and the Western Shoshone Defense Project:

“If the appeals court sides with us, it will be a precedent-setting decision with ramifications across the West. It would require the BLM to finally protect the public’s water above the interests of mining projects, which up to now have been able to essentially dewater aquifers across Nevada and the West with the approval and support of BLM and state agencies.”

We do not expect a decision from the court for at least six months, and we will let you know the outcome then.

GBRW and PLAN (Progressive Leadership of Nevada) personnel met with the governor’s Chief of Staff Pam Robinson to present arguments for NPL in March.

Nevada U.S. Senator Harry Reid sent a letter to the governor, stating in part “I know this designation will bring attention to the community, but we should stop acting as if [denial] means the site poses less of a risk to the health and economy of Yerington.”

Finally, at the end of March, the governor consented to listing the site, with stipulations.

On September 9, 2016 the EPA officially proposed adding the abandoned, toxic mine to the National Priorities List so that remediation can be completed.

This is an historic step forward for a situation that has been critical for at least 30 years because of the contaminants copper mining there left behind. Some toxins are headed toward or already in a major aquifer, and nearby residents must drink bottled water because of radionuclides at unacceptable levels in their well water.

GBRW has fought with affected citizens and the Yerington Paiute Tribe for a dozen years, attending meetings and engaging in organized campaign efforts.

Congratulations to the Tribe and the affected citizens, represented by Yerington Community Action Group (YCAG), especially Peggy Pauly, their point of contact, may be a little premature, but nevertheless, congratulations!😊
Chrolorgn Mountain

Under Threat of Disappearing From the Earth

By Kosal Kong

Chrolorgn, a small limestone mountain, located at Chrok Khley Village Kapot Province, Cambodia is being blasted every day by local limestone traders without using proper blasting techniques. This causes a lot of fugitive dust, flying rocks, strong vibrations, and noises to the surrounding local communities. Safety and health, which are basic needs of the local villagers are being strongly violated, and no one is in charge of it. The beauty of the mountain is also being lost gradually and in the near future, the whole mountain will be disappeared from the planet earth. Thus, the next generation of local villagers will no longer see the mountains.

Local villagers used to generate their daily incomes by using hammers to break limestone from Chrolorgn Mountain. The group of traders blasting there now have close relationships with local authorities and must follow few regulations. The farmlands and rice paddies nearby the mountain are covered with flying rocks, which make it difficult for farmers to do farming and raise their animals. Some kinds of dust-related diseases such as asthma, bronchitis and emphysema as well as hearing loss are also found among blasting workers and local villagers living around the mountain. Some animals and people get injured by the flying rocks. The strong vibrations cause the walls of villagers’ houses to crack.

The majority of the villagers are not satisfied with the mining activities because they said that the mine traders didn’t generate any economic, social or environmental values for them. In contrast, the mine traders make them live in an unsafe and unhealthy ways. One villager who requested to be anonymous said that the mountain has been blasted since 2002 and since then, the people who used to enjoy the natural beauty and raise their livestock on the foot of the mountain are no longer able to take advantage of natural resources. He added that he wants the government to preserve the mountain and plant trees to recover the natural biodiversity. All the mine blasting activities have to be stopped as soon as possible because, otherwise, the whole mountain will be gone and gone forever.

Kosal Kong is a 2016-Community Solutions Program Leader interning with Great Basin Resource Watch in Reno. He, his wife and 2 children live in Phnom Penh, Cambodia. Upon returning from the Community Solutions Program, Kosal plans to launch various projects related to educational reforms, environmental issues and water resources management program for his community.

“Let us walk with dignity and honor and never as a people without a country” said Carrie Dann, quoted in Digging Holes in the Spirit.

As Joel Freedman, filmmaker on indigenous topics wrote recently after visiting the Western Shoshone for his new documentary on Western Shoshone efforts to protect its land and culture: “They, and their values, are still here.”

GBRW has begun tracking the slow destruction of the Tosawihi Complex, and will be acting however we can to help mitigate it.

*From Digging Holes in the Spirit, a publication produced by the Western Shoshone Defense Project, 1999.

** Indian Country Today Media Newwork.com, They are still Here… by Stephanie Woodard, 11/7/16.
We welcome Houston Kempton as staff geochemist who will focus on water quality and related issues at hard rock mines. Houston’s technical experience has focused on sampling and analysis of water at existing mines, and applying predictive models to estimate the effects of mine facilities (tailings, waste rock, and pit lakes) on future water quality. His work for mine operators includes projects in Peru, Chile, Canada, Burkina Faso, Russia, and the Western US. He has also been involved in projects funded by the US EPA, the US BLM, various US states (CO, MN, and CA), and Oxfam.

In response to the expanded use of computer predictions for mine permitting, Mr. Kempton’s published articles focus on refining parameters used in water quality models, including pollution release from mine waste, transport of pollutants, and the feasibility of water-treatment technologies.

We look forward to utilizing his valuable experience in addressing the numerous technical mining issues in the Great Basin. Houston is already analyzing data from a number of mine sites where we anticipate long-term management. His work will add critical information to our reform efforts as we confront the technical and policy dilemmas associated with permitting both new mining operations and mines closing that will require perpetual active water treatment. We expect a number of gold mines in Nevada may be confronting perpetual treatment scenarios as they deplete their mineral resources.

Ellen Moore & Erika Castro

Progressive Leadership Alliance of Nevada (PLAN), with offices in Reno and Las Vegas and a partner in many of our campaigns, hired staff this year dedicated to mining issues.

Ellen Moore, based in Reno, joined PLAN as the Mining Justice Organizer after nearly a decade of human rights and solidarity work in Central America. In her most recent position with the Network in Solidarity with the People of Guatemala, Ellen worked along side Guatemalan communities defending their land and livelihoods from transnational mining corporations. Ellen is a Wisconsin native who earned her undergraduate degree in Minnesota and later a masters degree in Latin American Studies from Stanford University.

Erika Castro, who lives and works in Las Vegas, started volunteering with PLAN in 2014. As an undocumented student, Erika was passionate about PLAN’s immigration work and excited to have found a way to help her community. After qualifying for President Obama’s Executive Action in 2014, she was able to start working and continue her education. In September of 2015, she began an internship with PLAN and in November began work as a mining organizer. She is passionate about protecting our land and water from extractive industries, and knows that bringing in marginalized voices to this conversation will help push our movement forward. She is currently studying Political Science at the College of Southern Nevada.

GBRW welcomes Ellen and Erika!
REMEMBERING MARGE SILL

By Susan Juetten

Nevada’s most precious outdoor places lost an advocate who worked on its behalf for 50 years.

Marge Sill of Reno died October 23 at the age of 92. Though well known as the Mother of Nevada Wilderness, less publicized was Marge’s committed support of diverse organizations, including Great Basin Resource Watch. She was a generous member almost since our founding in 1994, a wise advisor, and a friend.

“Marge was always there,” remembered John Hadder. “I recall first meeting Marge as a staff person at Citizen Alert in the midst of the battle to prevent Yucca Mountain from becoming the nation’s nuclear waste dump. I saw how Marge presented her case to the Dept. of Energy with courtesy and conviction. And, I knew that was to be my approach as well. Over the years since, Marge has always been a strong supporter, and she will always be there.”

In a press release, U.S. Sen. Harry Reid, D-NV, called Sill a friend and inspiration. “No one cared more about protecting Nevada’s breathtaking wilderness than Marge Sill, and no one fought harder to ensure it stayed that way,” Reid said. “Over the past five decades, every protected acre in Nevada has had Marge’s fingerprints on it.”

Rest in peace, dear Marge. We shall miss you.

Marge Sill Photo: Friends of Nevada Wilderness

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