

# BRISTLECONE



Mount Denabo, May 2011. Photo: Terry Dempsey

## FIGHTING THE DESTRUCTION OF A SACRED PLACE — MT. DENABO

by John Hadder

*Great Basin Resource Watch (GBRW) has in its 16 years of existence never outright opposed a mine except the Cortez Hills Gold Mine at Mt. Denabo (typically misspelled as Tenabo) in central Nevada, east of Crescent Valley. The cultural impact to the Western Shoshone from the Cortez Hills mine is so severe that in 2008 GBRW decided to “pull out the stops” to prevent Barrick Gold Corporation from developing this large open pit mine at Mt. Denabo. Unlike the perspective of the U.S. Bureau of Land Management and U.S. law, we do not agree that mining is suitable and “best” use of public land in almost all cases. We view the Mt. Denabo area as one place that should be off-limits to mining and other industrial development.*

For the Shoshone bands, who are indigenous to the Great Basin, the cultural history of Mt. Denabo is very rich and the spiritual connection very deep. So rich and deep that it would be accurate to state that Mt. Denabo is at the heart of who Shoshone people are, and is central to their long presence in the region. It is a prominent element in Western Shoshone creation stories. According to Joyce

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## GBRW IN TRANSITION by John Hadder

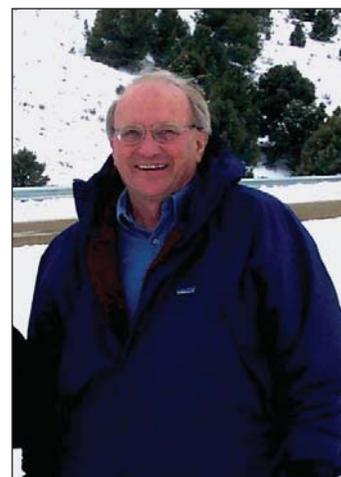
In 1995 Great Basin Resource Watch (then Great Basin Mine Watch) was founded to support communities dealing with resource extraction in the form of hardrock mining. Our focus has been technical review to help people anticipate potential environmental impacts to their communities, and support action to protect their culture and environment.

Four years ago we changed our name from GBMW to GBRW for two reasons; 1) there are other resource related projects and actions that we have been poised to address from our expertise and experience, 2) to be able to capture a wider interest within the funding community. We have been active in non-mining resource related issues, especially this past year, such as our work on energy policy in Nevada; however, as of yet it has not garnered significant grant-related funding.

In the current economic climate many of our traditional funders have had to pull back some of their support. This has left GBRW in a difficult situation with a large volume of work to do, but insufficient funding to carry it out effectively. There continue to be communities that need help in resource extraction projects issues, but engaging foundations in core work here in the Great Basin remains a large hurdle. Many foundations have been migrating towards more “sexy” issue work. The fact remains that technical and strategic analysis forms the backbone of how to best protect potentially impacted communities, and inform the needed mining reform work. You, our members, know this, but many out of state foundations have trouble understanding this.

GBRW board and staff have been diligently working to address this critical funding dynamic. Over the course of the next four months we will be embarking on a process to reorganize (reinvent) GBRW so that there will be sustained funding for our unique mission. By fall 2011 we will emerge from this process and be able to fully detail our structure and how our mission will be addressed, i.e. extent of our work. In the meantime we invite you to send us your comments and perspective on our work and what you see as being most important, and how GBRW has benefited you and your community.

During this transitional period we will continue to act on our mission as possible and appreciate your continuing support.



GBRW board member and founder Glenn Miller at Mt. Denabo, 2009. Photo: John Hadder

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## News about Yerington's Anaconda Mine

by Susan Juetten

Readers of previous issues of this newsletter know that last year, the EPA confirmed publically that groundwater contamination is migrating offsite from the closed Anaconda Mine near Yerington, Nevada, 80 miles south of Reno. Neighbors north of the site, including the Yerington Paiute Tribe and private homeowners, are in the path of the plume. Some are drinking bottled water provided by Atlantic Richfield Company (now owned by British Petroleum), current owner and primary responsible party for the site.

Based on groundwater studies conducted so far, the EPA found that arsenic levels in some areas range from less than 10 to over 600 parts per billion (maximum contaminant level for human consumption is 10 ppb). Uranium levels in some areas range from less than 10 to over 2,500 parts per billion, where maximum contaminant level is 30 ppb.

This year, data from many new and existing shallow zone, intermediate and deep wells should assist in better determining both the extent and source of the contamination (naturally occurring, from the mine site, or both). Because the newer data will soon be available, the groundwater technical meeting scheduled for June by the EPA has been rescheduled for August in Reno (tentatively for August 16-18).

Other news:

- In February, neighbors filed a class-action lawsuit in the Reno U.S. District Court against BP and Atlantic Richfield, claiming the corporations intentionally concealed the extent of the contamination leaking off the site. The suit seeks a minimum of \$5 million on behalf of at least 100 residents.

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# MINING PROPOSAL THREATENS HISTORIC DISTRICTS AND HOMES

by David Toll, Comstock Residents Association

One of the state's greatest cultural assets is being threatened with severe degradation and probable destruction. Comstock Mining Inc. is preparing to dig an enormous open pit mine in the Virginia City National Historic District and the state's Comstock Historic District, the first of many pits it proposes digging over the next 25 years to extract gold ore. It has accumulated some 6,500 acres of claims that extend in a broad swath from beneath the "V" on Sun Mountain, along State Highway 341 almost to US 50.

In announcing its intentions, the company has invoked the mining heritage of the Comstock Lode while simultaneously announcing the plans to destroy it. It has announced its intention to dig a pit mine 800 feet deep on the south side of Silver City, well within the town limits.

Residents have lived through this before, during the Houston Oil & Minerals debacle of the 1980s, and we learned that pit mining and its associated truck traffic is dirty, noisy, often toxic and utterly ruinous to the natural landscape. It is heavy industry on a massive scale, an outrageous intrusion into our tranquil communities. And in the end we were left with a great empty hole plus even bigger and emptier promises.

We locals have banded together as the Comstock Residents Association (CRA) and officially registered as a nonprofit corporation with the Nevada Secretary of State. We do not oppose mining, but do strongly oppose surface mining in these Historic Districts, and are working hard to prevent it.

We sponsor events and participate in others to spread the news of what's happening here and to raise funds for our efforts. We attend public meetings to ensure the interests of the residents are represented. CRA members provide public comment, and write letters to the area papers to keep this issue in the public mind. The Storey County Planning Commission meeting on Comstock's application for a special use permit scheduled for June 2 was cancelled and rescheduled for July because the attorney hired by CRA pointed out a number of defects in the corporation's application.

We're working hard to save a national treasure in the time that's left before the digging begins in earnest, scheduled for this

year. But there aren't a lot of us, and none with any money to speak of, so to win this battle we must exert ourselves effectively on many levels.

We need three things: money, energetic volunteers on every front, and public awareness. The first two are crucial to keep the effort moving, but it's active rejection of surface mining within the historic district by the public that will be the decisive force. We've already garnered press coverage in the Wall Street Journal and the San Francisco Chronicle, among other publications.

Please visit our website at [www.comstockresidents.org](http://www.comstockresidents.org). It includes details on the many fundraising events planned, including an art sale. It includes a Paypal contributions link (small donations count big with us). You'll also find news, other links, and can subscribe to the updates we send out from time to time. You'll find email links to some of our task groups, where you can volunteer your skills; as I mentioned, volunteers are needed on every front. Will you help?



Existing pit in the Comstock. Photo: Max Winthrop

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- April 7, Lyon County Commissioners heard a presentation by EPA project manager for the mine cleanup, Jere Johnson, and discussed listing the site on the Superfund National Priorities List. According to the meeting notes on the county website, the commissioners unanimously passed a motion to draft a letter to the governor stating they do not support listing the site on the NPL at this time. Without listing on the NPL, cleanup with federal money cannot continue.
- EPA staff assigned to the Anaconda site were in Yerington on April 21 for another community-wide meeting at the Yerington Elementary School. Among other topics addressed, the staff was accepting comments on the Draft Anaconda Community

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# WATER USERS OPPOSE PROPOSED MOLYBDENUM MINE

by Jon Cheek

The Mount Hope Project is a proposed open pit molybdenum mine and processing facility located on public and private lands 22 miles northwest of Eureka, NV. The molybdenum-porphry deposit ranks as one of the world's largest and highest-grade. If approved, this mine will be in operation for an estimated 44 years, produce 40 million pounds of molybdenum a year in the first five years of production, employ 1,000 during construction and 400 during operation, and generate nearly 8% of the world's molybdenum production annually. Molybdenum is being used more and more as an alloy in stainless steel, the world's fastest-growing metal. China does not have sufficient domestic deposits of molybdenum, and China is a significant investor in General Moly, the developer of this site. General Moly plans to develop another molybdenum mine site north of Tonopah called the Liberty Project.

General Moly seeks to change current water rights – they own 16,000 annual acre-feet of water in Kobeh Valley – from agriculture to mining. The project could also affect nearby Diamond Valley, which supplies municipal water for the town of Eureka and two water districts. Local opposition comes from Eureka County and the Eureka Producers Cooperative, a group of alfalfa producers in Diamond Valley. Both groups are concerned that water use for the mine could impact irrigation in Diamond Valley. According to the 2006 Plan of Operations, a water supply of 10,000 gallons per minute would be needed during the period of highest production. General Moly claims their water use will not impact Diamond Valley, even though the projected life of the mine is 44 years.

Mark Moyle, a Diamond Valley alfalfa grower, recently discussed with GBRW the potential impacts that the mine dewatering may have on local water supplies. Contrary to what the company states, Diamond Valley growers fear that the dewatering in Kobeh Valley will negatively affect the water supply in Diamond Valley, and are protesting Mount Hope's water usage. This is another example of how the mining industry can change the way of life for an agricultural community, which is rooted in 60 years of hard, dedicated work in Diamond Valley. Mark also told us that residents are nervous

about the potential impacts of 1,000 workers and their temporary housing will have on the community. Because of the potential creation of jobs for an extended period, other residents welcome the eventual opening of the mine.

In addition to water use concerns, Mount Hope, elevation 8411 feet, has areas of significance that will be destroyed by the large mine complex, such as springs, archaeological sites, and pinyon pine forest which provide an essential food source to wildlife and the Western Shoshone people. The mine will essentially remove the mountain's south face and peak, and surround the mountain with waste rock.

The issuance of the preliminary draft Environmental Impact Study (DEIS) by the BLM Battle Mountain District Office was initially delayed due to flaws in the hydrology modeling study but finally approved in April 2011. General Moly now estimates the BLM will release the DEIS in the third quarter of 2011 with final permitting six to nine months later, and a record of decision issued late this year or early 2012.

If you want to be heard regarding the Mt. Hope project, requests to receive the Draft EIS or comment on it may be sent to: Christopher Worthington, BLM Battle Mountain Field Office, 50 Bastian Rd., Battle Mountain 89820. Also, please check the state water engineer's website, [www.water.nv.gov](http://www.water.nv.gov), for the date of the next hearing on the water impacts of the project.



Mt. Hope viewed from the south. Photo: Terry Dempsey

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Involvement Plan for the Anaconda site.

- On April 27, 2011 the mining exploration company Singatse Peak Services announced they had completed purchase of portions of the closed Anaconda site with intentions to mine copper there once again. The effects of possible remining and processing on groundwater contamination, fugitive dust and other environmental hazards are not yet determined. New jobs in recession-strapped Lyon County may be created by the project.

GBRW has been involved in the unfolding issue of contamination at the Anaconda Mine since 2002.

McDade, Western Shoshone elder, “Denabo has significance for Western Shoshone, it means the writing on the rock walls of the mountain (White Cliffs) put there by our Creator. We go to pray to our Creator to give us strength to keep us going. How can we pray to our creator when the place in being blown up?”

During the initial stage of the legal challenges brought by the plaintiffs, the South Fork Band Council of Western Nevada, Shoshone of Nevada, Timbisha Shoshone Tribe, Te-Moak Tribe, Western Shoshone Defense Project and Great Basin Resource Watch to stop the mine, January 2009 found us in the U.S. Federal District Court in Reno where testimony was given describing the significance of the Mt. Denabo area to the Shoshone people. One witness, Shawn Collins, who works for Newmont Mining Corp. and is a third generation miner, related a particularly striking experience with Mt. Denabo.



At the 2011 Western Shoshone Defense Project Spring Gathering, Mt. Denabo: Damian Smith, Kayley Smith, former board member Julie Cavanaugh-Bill, Courtney Rose and Carrie Dann, Western Shoshone elder. Photo: Terry Dempsey

Probably about 2002, 2003, I was diagnosed with cancer, they found a tumor in me, so we had that situation taken care of, you know, medically-wise. But as being Newe, I have to also take care of my emotional side, my spiritual side, you know, after the human, the physical side was taken care of, I have to go and more or less cleanse myself and make sure that it's taken care of on spiritual side, spiritual world and this world.

So when that happened, I went to a gentleman from Montana, he's from the Siksika Nation, which you would interpret the Blackfoot Nation up there on the Montana-Alberta border, and he's a bundle holder for his people, which was – his bundle is the beaver bundle as they refer to that, and that's where his power comes from is that bundle. So me and my wife, we went to go visit him, and I told him, I says, I would like you to pray for me, to more or less doctor me, [Newe word] is how we would say it, it means work on you, you know. And so he said he would, and so I paid him, you know, offered him payment which was I gave him tobacco, which is sacred to the native people, and I gave him a blanket, a Pendleton blanket, and that's another significant gift you can give to a native person. ]

And when we began there, he – we smoked a pipe, you know, pipes are holy to our people, and all different nations throughout the country has one, some sort of pipe or another. So he took out his pipe, and he offered it to me, and he says when you take that pipe, he says, you pray about what's bothering you, you know, about these things, how you don't want this thing to progress in your body, that it stop, that it was cured, taken care of. So I did that, and then I gave him his pipe back. Next thing he told me, he says, lay down here, and he had this grizzly bear rug that he had laying there, and

he says lay upon that bear hide, and I did, and then he was sitting behind me or at the – above my head there, and he took out his rattle, and he started – he told me, he says, I'm going to start singing. He says, I'm going to take you out of your body, that's what he says, and he says I'm going to take you to your holy place. And I'm laying there thinking, holy place, I said there's a lot of places here in Nevada that means something to me so I really didn't have any idea of where I was going to go, and he told me, he says, when you get to that place, he says, my helper, meaning his helper, is going to be standing there, and he says your helpers will be standing there.

Okay. I could feel myself leave, traveling, traveling, spiritually-wise. You know, you guys have to understand this, spiritually-wise. And when I touched down to the earth, I looked, and it was in the springtime when I was there, there was snow on the mountains, and I seen this man there dressed –tt dressed this certain way, and that's the way his people up north dress, and then when I looked, I seen these four old ladies standing there. There was my great-great-grandmother, Mary Hall, my great-grandmother, the one who passed on a lot of these stories to me and traditions, Eva Pifferel. There was Mary Hall's sister, half sister was named Maggie Machado. There was another elder that I was always told by my great-grandmother, Eva Pifferel, to call her your grandma, and her name was Una Silva.

So my grandmas took me by the hand, Eva and Mary, took my hand, laid me on this earth there. It was black dirt what I seen, and I laid down on the earth, and then the old ladies, they all stood there, and they started throwing dirt on top of me, more or less burying me. So this man, he kept singing, and then he said whenever

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you're ready, he says, get up. He says, just whenever you feel yourself come back, get up. And, so I laid there for a few minutes, and then I could feel myself coming back, and when I all come together physically and spiritually, I raised up, and I already knew what I needed to do before he said it, he said shake yourself off like a buffalo. When a buffalo – he'll roll on the earth, and then when he gets up, he shakes his whole body like you're shaking that dirt off. So that's what I did to shake that mother earth off, [Newe word]) is how we say mother earth because that's how – that's what we consider this earth. So I shook that earth off of me.

And I asked him, I said, what's the meaning of that, and he says you're reborn. But where I was – I came down, touched down to the earth when he took me, it was on the north side of Denabo. I faced the mountain there. That's – like I say, that's where my family has – their power comes from that mountain. And that's the spiritual significance for me of what I experienced personal, spiritual-wise with Denabo.

This testimony in particular affirmed our decision to fully challenge the mine; indeed Mt. Denabo is no ordinary place. At the heart of the case is religious freedom and irreparable harm to the Western Shoshone culture. It would seem obvious that this Western Shoshone "church" should be protected. The mine project is for gold, which is like a god to many, but can be mined in many other locations not sacred to a whole culture. Barrick's shareholders are the main beneficiaries of the millions of dollars of profit from this mine. Also at stake are a number of jobs (up to 285 at the mine and another 200 indirect jobs for about 10 years), This short term economic benefit pales against the permanent loss of a sacred site.

There are many legal impediments to protecting spiritually significant areas on U.S. public lands. Among them is the 139 year old Mining Law, which states: "The Congress declares that it is the continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in (1) the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries, ..." (US Code Title 30 § 21a.). In a majority of situations the Dept. of Interior (including BLM) interprets this to mean that mining is the best use of public land. Another impediment is U.S. case law. Courts appear to be implicitly prejudicial regarding Native American religious practice. One would expect that the Native American Religious Freedom Act would be able to protect spiritually significant areas, but the courts have chosen in recent years (as in the San Francisco Peaks case in Arizona) to interpret the law very narrowly. This narrow interpretation is evident from the line of questioning to Ted Howard (Western Shoshone Owyhee band), by Barrick's attorney, Francis Wikstrom, during the January 2009 hearing:

Wikstrom: And there's nothing about this project that is going to force [emphasis added] you to do something

that your religion prohibits you from doing, correct?

Howard: There is, sir, because, like I said, all that stuff is going to be contaminated with dust, with whatever kind of material that you're doing there, and also the noise, it's not going to be quiet any more, it's going to be disturbed.

Wikstrom: Tell me what you're going to be forced to do that your religion says you're not supposed to do.

Howard: Probably won't be able to go there and use those sites near the mountain any more.

Wikstrom: Tell me what you're going to be forced to do affirmatively that your religion says that you are not allowed to do.

Howard: That we are not allowed to do. I don't know. I guess we'll be forced not to go to Mt. Denabo any more.

Wikstrom: So in certain areas of the project you won't be able to go, but my question is a little bit different. Is there anything that you are going to be forced to do that your religion says is prohibited?

Howard: Not that I know of.

Note the use of the word "force" in Wikstrom's interrogation, and that he did succeed in obtaining the response from Ted Howard that he was fishing for, "Not that I know of." And, this is the current narrow interpretation by the courts, that so long as an action is not *forcing Native people from doing something against their religion*, then their religious freedom is not being impacted even though a very significant site used for religious practice will no longer be available. In a recent phone call with Shawn Collins he said, "I haven't been back [to the mountain]... can't go back; too disheartening to see..." The power that Mt. Denabo has had may disappear if as Joyce, Shawn, Carrie Dann and many other Shoshone say that the spirits of Mt. Denabo will be driven away by the mine. The law and how it is interpreted so far has allowed this place of unique cultural and spiritual significance to be sacrificed for a gold mine. As long as the courts hold this narrow interpretation there will be little that can be done legally in cases like Mt. Denabo to prevent a mine such as the Cortez Hills mine from proceeding on religious freedom grounds.

As of June 2011, the Cortez Hills mine is essentially built. The visual impact of the mine is evident in the panoramic view on page one taken in May 2011. Our legal challenge has so far not been able to stop the constriction of the mine largely because Barrick is moving resources from other mine sites to keep Cortez Hills in production while the court's slow process proceeds. A smaller, apparently less arrogant company may

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not have proceeded with litigation ongoing. However, Barrick is not all-powerful, and we have been able to prevent them from pumping precious groundwater as part of its “dewatering” process, needed to excavate in the pit below the water table. Our challenge of the Environmental Impact Statement (EIS) was upheld by the Ninth Circuit Court of Appeals, which resulted in a preliminary limited injunction.

As part of the injunctive action, the BLM was required to develop a Supplemental EIS to fix the deficiencies we pointed out in our legal challenge. Last fall the Supplemental EIS was released for comment. It did satisfactorily address many of the issues we raised except the impact to groundwater from the massive pumping to dewater the mine. Even after extensive comments by GBRW and many others, the BLM has not addressed the core of our concern around the groundwater pumping: That the culturally significant sources of springs and seeps will be protected. Therefore, on May 27, 2011 the plaintiffs (GBRW and others named above) filed in protest of the Record of Decision issued by the BLM finalizing the mine plan in the Supplementary EIS. However, soon after the Record of Decision, the courts lifted the injunction and Barrick turned the pumps on.

The waters of Mt. Denabo are also of great importance not only from an environmental perspective but a spiritual one. Joe Kennedy (chair of the Timbisha Shoshone band) put the significance of the water into perspective:

The water flowing underneath the Mt. Denabo area is especially important to maintaining the balance and power of life I value as a central tenet of my religious beliefs as a Western Shoshone. Under our religious beliefs, the water in Mt. Denabo is unique and is connected to specific spirits that reside in the Mountain and in the water. These spirits will suffer greatly, and indeed will likely be eliminated altogether, when this water is lost through the project’s dewatering operations.

The plan proposed by BLM on behalf of Barrick to address impacts to the groundwater is a replacement scheme, which does not protect the cultural aspects of the water; the “water spirits” would disappear, further eroding the power and significance of Mt. Denabo for Shoshone people.

GBRW and the Western Shoshone Defense Project have commented extensively on the remaining deficiencies of the water replacement plan, and we have proposed an alternative that would protect the source of the springs and seeps. The best way to address the concerns raised by the Western Shoshone around the groundwater is not to pump – no dewatering, or significantly limited dewatering. The GBRW proposal is the next best way to protect the water at Mt. Denabo by preventing the sources from being impacted. Our proposal would allow the mine to continue, but the BLM did not in any meaningful way analyze our alternative groundwater protection plan. Therefore, we will again challenge the BLM’s “water protection” plan in

the courts.

A key aspect of our legal case that the courts have not ruled upon is the “unnecessary or undue degradation” (UUD) of the land by the mine. According to the Federal Land Policy Management Act of 1976 (FLPMA), which also governs BLM land management decisions “In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands,” (Public Law 94–579, § 601(c)). We state in our legal brief that the FLPMA regulation supersedes the 1872 Mining Law; even though mining is considered a primary use of public land it still must not result in UUD.

The court will hear our arguments in the Reno Federal Court on October 6, 2011 and render its decision on the UUD issue. Even though Barrick has severely impacted the surface of Mt. Denabo we can still save the water and its spirits if we are successful in our UUD argument and proposed alternative water protection plan. We hope to convince the court that BLM needs to fully analyze our proposal for water protection in its obligation under the National Environmental Policy Act and FLPMA to take a hard look at impacts and possible mitigation plans.

As devastating as this mine has been to Western Shoshone culture and spiritual practice as well as the environment, it remains a steep legal climb to even limit these impacts. Our laws need to change so that mining on public land is put into the perspective of the 21st century – not necessarily the best use of the land; other values of the land can be held as equal or superior by law.

*Please see [www.gbrw.org](http://www.gbrw.org) for up to date information on the Mt. Denabo situation. Plan to join us on October 6, 2011 in Reno Federal Court to help make a collective statement in protection of sacred sites and the need for mining law reform.*



Larson Bill, GBRW board and South Fork Band member, and Steve Brady, Wells Band. Photo: Terry Dempsey

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## Your Membership Keeps us Going!

GBRW receives some grants from foundations. However, because of the unique nature of much of our work, our pool of potential funders is relatively small. That's one of the reasons we depend upon the support of our members. If you have given in the past, thank you!

If you are not already a member, please consider joining. We've reworked out giving levels to simplify things. As you must know because you care about the Great Basin, the challenges to maintaining its health are many and growing.

Please use the form on this page to contribute to GBRW, or donate through our website: [www.gbrw.org](http://www.gbrw.org). We're on Facebook! Link to our pages from our website, or search on: [www.facebook.com](http://www.facebook.com).

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