



# Great Basin Resource Watch

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## *Working with Communities to Protect Their Land, Air, and Water*

September 9, 2021

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50 Bastian Road  
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Electronic Submission: directly to Scott Distel - [sdistel@blm.gov](mailto:sdistel@blm.gov)

Re: *Scoping Comments for the Proposed Goldrush Project*

Dear Mr. Hurrell,

Great Basin Resource Watch (GBRW) and the Western Shoshone Defense Project (WSDP) submit the following comments, and will be collectively referred to as Commenters. We further incorporate all previous comments and court filings by GBRW, Great Basin Mine Watch, and the Western Shoshone Defense Project on Deep South Expansion, Cortez Hills, Pipeline, and Cortez mining projects into these comments.

In general, we found that BLM has not taken a hard look at how mine expansions in the region will affect communities and the environment. Overall, the expanding Cortez complex will result in permanent changes to landscape, loss of cultural value, and wasting of Nevada's precious water (in dewatering and pit lakes).

### **Draft Environmental Impact Statement (DEIS) Comment Period**

The Goldrush project is a very large project proposal related to multiple operations in Crescent, Grass, and Pine Valleys and the Cortez Mountains. Commenters anticipate that review of the draft EIS will involve many existing technical supporting documents in addition to the DEIS, which are considerable in size as well, as part of our and the general public's comment process. The complexity and sheer scope of this project requires at least 90 day comment period for the public to have time to assemble materials and assess them. There may also be continuing COVID complications, so BLM should be open to extending the DEIS review to beyond any published time period. Even our organization, accustomed to reviewing EIS documents like this, will be hard pressed to be able to fully analyze the DEIS in less than 90 days let alone the average citizen in the region.

Overall, the proposed timeline for permitting the Goldrush project is very accelerated. The BLM needs to heed the significant permitting errors in the Thacker Pass project, which was permitted in just under one year, and is now in federal court. We urge BLM to allow time for the public to

fully engage and understand the proposed Goldrush mine plan, so that optimal scoping and DEIS comments are formulated to BLM and the proponent, and lessen to chance of litigation.

### **Content of the EIS**

In preparation of the EIS, BLM needs to include all of the relevant information in the document itself. We anticipate that given the existing mines in the area that there will be a temptation to merely reference much of the analysis conducted in previous EIS's such as Deep South, Cortez, Hill etc. However, this will require the public to effectively review much of those documents as well requiring more time and making the process more convoluted. We urge BLM to lift the needed analysis from those previous EIS's and make the necessary adjustment for Goldrush to be added to the Goldrush EIS thereby simplifying the process and increasing the transparency of the review. In this way BLM will receive more clear and better DEIS comments, which should be the goal of the BLM.

The EIS must also analyze all effects including cumulative of the ore hauling and processing remotely as part of the proposed Goldrush project.

### **Water Issues**

1. Mining water requirements and dewatering. According to the Plan of Operations (PoO)<sup>i</sup> "non-consumptive water pumping is 11,294 acre-feet (7,002 gpm) annually and will be used for dewatering the mine." (p. 3-14). However, the following paragraph states, "The average rate of up to approximately 4,500 gpm annually will be needed to dewater underground workings during the peak year." These statements appear to contradict each other. The EIS needs to clarify the water use; consumptive and non-consumptive.

The EIS also needs to determine the consumptive water use as a result of evaporation and evapotranspiration due to the rapid infiltration basins. Further, the EIS needs to clarify if this consumptive use has been permitted. Is this included in the water right applications and considered in the overall consumptive water use of the mine.

The POO does not indicate the existing water use (consumptive and dewatering) and only states dewatering will remain within existing permitted levels. Significant detail will be needed in the EIS to assess changes in seeps, springs, and surface water from existing operations, and explore the affect of the increased dewatering. The analysis needs to include how the four valleys, Carico, Crescent, Pine and Grass Valleys will be affected by the deep draw down.

Neither the Final Supplemental Environmental Impact Statement for the Cortez Hills project (CHFSEIS) nor did the Final EIS for the Deep South Expansion (DSFEIS) adequately address protection of sources of springs. In the first place these documents did not acknowledge the use of spring for cultural activities that has been discussed extensively by Western Shoshone. In fact the FSEIS actually cited the testimony of Bill Wilson, a non-native prospector, as a source as to whether Western Shoshone had conducted any cultural or religious practice at Shoshone Wells, or elsewhere.<sup>ii</sup> The EIS needs to correct that assessment, or at the very least reevaluate the cultural importance of the springs in the region. Furthermore, the mitigation procedures discussed in the CHFSEIS do not provide protection of cultural value of springs, which require that the sources of the springs remain viable.<sup>iii</sup> Commenters would like to see BLM take a hard look the use of reinjection wells to preserve the sources of springs with cultural value by preventing the dewatering cone of depression from damaging those sources.

A considerable volume of excess dewatering water is destined for infiltration basins and to be used in irrigation. These will also affect the water dynamics of the region and needs to be evaluated. The EIS needs to analyze the recovery of the deep aquifer and the effectiveness of the infiltration basins and irrigation to return water to these deep aquifers from which it has been pumped. The EIS should also include reinjection alternatives to maximize the return of water to the deep aquifer directly.

2. Hydrology. A complete characterization of the surface waters and springs and an understanding of groundwater movement appears to be available from an analysis dated January 2016 that compiled a four basin analysis that may have been undated since. Commenters expect that existing data will be augmented with data taken since the last action to update the hydrological model. The existing water monitoring network needs to be reassessed to assure that the goals of the network will continue to be satisfied.
3. Geochemical analysis. The geochemical analysis of waste rock, heap leach and tailings materials must updated using data gathered since the last analysis for potential acid production, including crystallographic analysis to determine the extent of fracturing expected upon blasting. In this regard the full range of static and kinetic tests need to be preformed: determine the NAPP and NAG values, for example. The EIS should contain a plan to handle acid generation, or a contingency plan accounting for markedly varying acid generation capacity as the mining proceeds that is not expected from preliminary testing. In our experience, predictions are often far off the mark, so detailed plans are needed for public review to assure that the various operations will be able to mitigate in the event of acid generation.

The geochemical attachment to the POO for Goldrush does show that a high percentage at about 21% of waste rock is potentially acid generating (PAG), so care much be taken to avoid acid mine drainage. The plan to managing the must be detailed with long term infiltration analysis to ensure that polluted water does not leak for waste rock dumps and long term reclamation can be successful.

4. Water Quality. Commenters remain concerned about the potential of the infiltration basins to degrade groundwater. The EIS needs to examine how dissolved salts from the infiltration basin can be carried into the aquifer, and develop mitigation strategies to prevent this degradation. BLM should require groundwater monitoring data on existing infiltration basins in Crescent Valley to track whether salts are becoming dissolved and reaching groundwater. If monitoring wells do not exist to address this issue, then BLM needs to require that Nevada Gold Mines install the necessary wells to get the data needed.

Undertground working may also have the potential to contamination groundwater, so detailed studies will be required to determine the integrity of the backfill and cemented backfill, and potential of migration of toxins into groundwater.

A complete plan for handling and treatment of dewatered water is necessary as well, including the groundwater chemical analysis. According to the POO a water treatment facility will be constructed to remove elevated levels of arsenic, antimony, manganese, and iron from the dewatering water. The POO also states, "Dewatered solids will be transported to the Pipeline tailings storage facility or the Cortez TA-7 tailings storage facility in the Cortez

Mine Plan area,” (p. 3-15). The EIS needs to analyze the potential affects to groundwater from the addition of these additional toxins in the event of tailing waste ump failure.

### **Wildlife Issues**

1. Flora and Fauna. The impact to local flora and fauna due to changes in water dynamics needs to be examined; for example, potential loss of springs or changes in the water table. Analysis must address the potential loss of riparian areas, and whether the springs are on wildlife migratory routes, and, if so, how migrations will be affected.
2. Migratory species. An understanding of migratory routes needs to be discussed, and the impacts of the loss of these migratory routes from the various land disturbances should be addressed.
3. Sage Grouse. Commenters are concerned that sage grouse habitat will be destroyed in the region due to the cumulative effects of the various mining operations. Previous documents have indicated that no additional NEPA analysis is needed for sage grouse. We do not agree. The EIS needs to evaluate the effectiveness of the sage grouse measures to date. In addition, the Interior Department this fall intends to formally reopen sweeping Obama-era greater sage grouse management plans. The analysis for Goldrush needs to address concerns that have arisen that has spurred this Interior Dept. action. The EIS needs to make it clear what are the sage grouse protection measures.

Commenters are concerned that the approach contained in the 2013 *Memorandum of Understanding Regarding the Establishment of a Partnership for the Conservation and Protection of the Greater Sage-Grouse and Greater Sage-Grouse Habitat* mentioned in the PoO involves an unproven sage grouse preservation method. The EIS needs to produce evidence of the effectiveness of the method as outlined in the MOU.

### **Air Issues**

1. Mercury emissions. The DEIS needs to update the analysis of environmental impacts from expected mercury emissions is also needed including fugitive emissions. The Cortez-Pipeline operations were part of a fugitive emission study that was presented publicly in November 2009 that indicated that fugitive emission are non trivial. Two mines were used in the study, Twin Creeks (Newmont) and Cortez-Pipeline (Barrick), where it was estimated that the fugitive emissions accounted for 19% (12 to 21%) and 17% (15 to 31%) of total at Twin Creeks and Cortez-Pipeline respectively. Thus, according to this analysis the increase in emissions due to fugitive emissions was calculated at 23% (13 to 27%) and 20% (17 to 46%) for the mines respectively.<sup>iv</sup> The DEIS needs to discuss mitigation strategies to minimize fugitive emissions as well as thermal stack emissions, which is controlled under the State of Nevada Mercury Control program.
2. Hazardous Air Emissions. Analysis and mitigation of other gaseous emissions (such as sulfur oxides, nitrogen oxides, etc.) from all mine facilities and vehicles is needed.
3. Greenhouse Gases. The DEIS should analyze the project’s contribution to carbon dioxide and other significant greenhouse gas emissions.
4. Particulates. The expected amount of airborne particles as dust or diesel vehicular emissions from all aspects of the project needs to be determined with concentrations for varying wind factors. Impacts of the “dust” should be evaluated for inhalation health impacts, visibility

impairment, and resettling on surface water and vegetation. In the case of resettling on surface water there should be a chemical analysis of the dust to determine whether the dust could have an adverse effects on the chemistry of the water. In general, there needs to be a plan for dust control.

### **Land Issues**

1. Viewshed. There also needs to be an analysis of whether the loss of scenic views will affect economic and ecological viability of the area. The visual aspects of the site should be returned as closely as possible to its natural existing appearance so as to restore the inviting quality that now exists.

### **Cultural Issues**

1. Archeological. The project area must be surveyed for historical and archeological artifacts, and mitigation plans must be developed for any of these sites.
2. Native American Cultural. In the American Indian Religious Freedom Act (AIRFA), Congress stated that “[i]t shall be the policy of the United States to protect and preserve for American Indians their inherent freedom to believe, express, and exercise the traditional religions.” 42 USC § 1996 (1982). The BLM must analyze the cumulative impact to the ability of Native Americans to fully practice the traditional religions within the study area. The analysis must include both known sacred and spiritual sites as well as traditional food and medicine gathering, important components of traditional practice.

The mining operations have already severely negatively affected the cultural and religious quality in and around Mt Tenabo. Western Shoshone have used the region, especially Mt. Tenabo, since time immemorial. Mt. Tenabo holds a special place in Western Shoshone religious life and is utilized as a central part of Western Shoshone religious practices. The site has been an integral part of Western Shoshone religious tradition and is currently and regularly visited by Western Shoshone for individual and communal prayer ceremonies, sweat ceremonies, vision quests, the gathering of sacred/spiritual plants and medicines, among other religious practices. The EIS needs to discuss how existing operations have affected the special significance of Mt Tenabo as a spiritual and cultural center. To do so will require that BLM conduct interviews and sponsor site visits for Shoshone cultural leaders to relate the impact of the operations on the cultural and spiritual uses and values.

The discussion of impacts needs to include a wider area than the BLM-designated Properties of Cultural and Religious Importance (PCRIs), defined in previous NEPA documents, as the top of the Mountain and in Horse Canyon. These PCRIs, although of course important, are just a subset of the larger sacred lands and religious use areas on and around Mt. Tenabo. These areas include the larger Traditional Cultural Property (TCP) referenced in the EIS for Cortez Hills Expansion and ethnographic reports, as well as the sacred lands and waters noted in Western Shoshone Declarations. At a minimum, the area containing Western Shoshone sacred lands and religious uses that must be protected are encompassed by the TCP boundary shown in the January 2004 Rucks Ethnographic Study, at Figure 5, p. 48. See *also* Rucks Report Figure 3 (showing TCP boundary).<sup>v</sup> This includes the whole of Mt. Tenabo as well as areas intricately tied to the spiritual/religious importance of Mt. Tenabo such as the “Shoshone Wells Ceremonial Site.”

In general we do not support continued mining exploration in the region surrounding Mount Tenabo, which destroys Western Shoshone cultural aspects of the Mount Tenabo/Horse Canyon area.

The Horse Canyon area is and has been a special place for the Shoshone people dating back thousands of years. The laws on mining seem to forget the land and the people who live on it, that also predate Nevada statehood and intruders looking for gold who have been taking all the resources of the Shoshone people. The expanding of Barrick's exploration activities into the Horse Canyon area tells the Shoshone people that the laws that protect tribes has no merit in legal terms. Barrick has known about this area before they purchased it from Placer Dome. I believe they were also doing exploration in Horse Canyon during court case for Cortez. Barrick also is aware that the Horse Canyon area is under the protection of "TCP" (Traditional Cultural Protection). There are things that cannot be bought that are priceless. These things are only to be recognized and talked about on both sides to come to a resolution. The 1872 Mining Law is a violation under International Human Rights Forum on Indigenous Peoples and their lands.

- Larson Bill, Western Shoshone, South fork Reservation

Commenters have worked with Shoshone people to protect the Mount Tenabo cultural region from destructive effects of gold mining. Every expansion of exploration and mining in the area further erodes the cultural value of the land. There is a phrase, "Death by a Thousand Cuts," which we view as appropriate in this case. Over the years with the permission of the US government through BLM private mining and exploration companies have been allowed to destroy the cultural potency of this region, which BLM noted previously,<sup>vi</sup> "In summary, the Western Shoshone believe that areas once unaffected by development and encompassing the Puha and spirit of their ancestors have been diminished."

The EIS needs to contain a cultural assessment from Western Shoshone on how underground mining will affect the cultural area of Horse Canyon even if there appears to be no surface disturbance.

The POO for Goldrush does state that internal collapse of some of the underground chambers are expected. There needs to be a thorough structural analysis to determine where and to what extent collapse is anticipated. The analysis needed to further examine where surface subsidence could occur and how this subsidence affect any cultural values of the land in particular the Horse Canyon TCP. For this assessment BLM must consult with Western Shoshone who bear traditional knowledge of Horse Canyon to determine cultural damage and how to avoid it.

Finally, Commenters note previous failures in EIS documents regarding the effects of mining to Native American Cultural values in the region, from our comments on the Final EIS of the Deep South Expansion:<sup>vii</sup>

We strongly object to the Native American cultural analysis.

The FEIS response to our comments on tribal consultation continues to ignore its own directive for person to person meetings to be initiated by BLM. Only the Duckwater Tribe received in person consultation, which is inadequate. See our discussion below on the consultation process.

The FEIS repeats the same ineffective and inadequate approach to delineating how Western Shoshone communities have been affected by the active mining operations in and around Mt. Tenabo. We emphasize that it is the modern culture that needs to be addressed in the FEIS. How has the mining operations affected the ability of the people to practice cultural/spiritual activities in the region. We have talked to a number of Western Shoshone who had a cultural tradition in the Mt Tenabo Region, who now say that it is “too painful” to go to Mt Tenabo. Therefore, the Cortez mining complex in Crescent Valley including the Cortez Hills mine appears to have severely negatively affected Western Shoshone culture. BLM failed to capture this in the FEIS and needs to change and update its analysis of culture impacts.

We stand by our previous comments on the DEIS regarding using ethnography from decades past as an inadequate form of cultural consultation. In response to our comments, the BLM simply stated that this use of ethnography is “industry standard”. Although this practice may be industry standard it is contrary to certain expert opinions as evident by the comment submitted by Dr. Ferguson and of UNR.

The industry standard use in the DEIS and FEIS does not adequately serve the intended purpose of determining cultural attributes to the land. It is built on a lack of understanding regarding the ethical utility of ethnography. That all cultures are changing and contested is foundational to an anthropological definition of culture. The use of dated ethnography arbitrarily ties a culture to one snapshot in time, and thus denies that cultures are changing. This lack of understanding of culture as dynamic results in an inaccurate cultural assessment. Since this use of outsider representation is only applied to a specific racial demographic based on legal pluralism, it is oppressive through an inequitable denial of self-representation. For these reasons we have grave concerns regarding this current industry standards. We maintain our recommendation that referring to the ethnographic record is not sufficient, and on-going government-to-government consultation with tribal and traditional leadership needs to be the standard.

We urge BLM to address the concerns that we have raised in the past and summarized above.

### **Cumulative Issues**

The EIS should also examine how the various impacts of this mine will add to the collective impacts of other ecosystem disturbing projects in the region. For example, could mercury emissions from the mine when taken together with other mercury sources in the region result in mercury exceedence according to the Clean Air Act. Or, does the mine disturbance further impair the regional ecosystem resulting in seriously threatening fauna and/or flora. The cumulative impact analysis needs to address cultural traditions as well, such as the pine nut harvest.

A cumulative impact is *“the impact on the environment which results from incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.”*<sup>viii</sup> This definition is critical to determining the proper area to be studied in a cumulative impact assessment.

On April 16, 2021, Secretary of the Interior Deb Haaland issued Secretarial Order 3399 (“Department-Wide Approach to the Climate Crisis and Restoring Transparency and Integrity to the Decision-Making Process”). Section 5(a) states:

Applying NEPA. **Bureaus/Offices will not apply the 2020 [Council on Environmental Quality NEPA] Rule in a manner that would change the application or level of NEPA that would have been applied to a proposed action before the 2020 Rule went into effect on September 14, 2020.** Bureaus/Offices will continue to follow the Department’s NEPA regulations at 43 C.F.R. Part 46, Department Manual procedures (516 DM Ch. 1-15), and guidance and instruction from the Office of Environmental Policy and Compliance. If Bureaus/Offices believe that the Department’s NEPA regulations irreconcilably conflict with the 2020 Rule, they will elevate issues to the relevant Assistant Secretary and to CEQ.

Secretarial Order 3399 at unnumbered pages 3-4, emphasis added. This is significant because the 2020 CEQ NEPA rule removed cumulative effects as an impact that must be analyzed during NEPA, but cumulative effects analysis is included in the prior CEQ NEPA rule.<sup>ix</sup> If omi cumulative effects analysis is omitted from the Project’s EIS, BLM would be changing the application of NEPA compared to how NEPA would have been applied to the Project’s proposed action before the 2020 CEQ NEPA Rule went into effect, which is contrary to the Secretarial Order.

In addition, on June 29, 2021, the Council on Environmental Quality (CEQ) published a notice in the Federal Register extending a deadline for revising agency NEPA procedures by two years, to September 14, 2023. Federal Register Vol. 86, No. 122 at 34155. A June 21, 2021 court decision that dismissed litigation against the 2020 CEQ NEPA Rule states, “Before the 2020 [CEQ NEPA] Rule can be applied to any particular federal action, each federal agency must adopt its own NEPA procedures.” Furthermore, the court decision states, “Defense counsel has represented that following the change in Administrations, CEQ has directed agencies not to devote resources to establishing their own NEPA procedures because it expects to provide further guidance on the 2020 Rule, which it is actively reconsidering.” Wild Virginia et al. v. CEQ et al. at 27. To date, BLM has not revised its agency NEPA procedures to reflect the 2020 CEQ NEPA rule. BLM’s existing NEPA handbook directs BLM offices to analyze cumulative effects. BLM NEPA Handbook at 57 to 61.

If you have any questions regarding any of our comments feel free to contact us.

Sincerely,



John Hadder, Great Basin Resource Watch  
Larson Bill, Western Shoshone Defense Project

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<sup>i</sup> Nevada Gold Mines, “Goldrush Mine Plan of Operations and Reclamation Permit Application,” Revised June 2021.

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<sup>ii</sup> BLM, *Cortez Hills Expansion Project Final Supplemental Environmental Impact Statement*, January 2011. P. A20.

<sup>iii</sup> BLM, *Cortez Hills Expansion Project Final Supplemental Environmental Impact Statement*, January 2011. P. 3-11.

<sup>iv</sup> C.S. Eckley, M. Gustin, F. Marsik, M.B. Miller, "Measurement of surface mercury fluxes at active industrial gold mines in Nevada (USA)," *Science of the Total Environment* 409 (2011) 514–522.

<sup>v</sup> It should be noted, however, that religious practitioners do not place a boundary line on a map the lands outside of which do not contain religious significance. However, the TCP area boundary contained in the 2004 Rucks Ethnographic Report can be utilized for the purposes of delineating, at a minimum, religious use areas that need to be protected.

<sup>vi</sup> U. S. Dept. of Interior, Bureau of Land Management, Horse Canyon/Cortez Unified Exploration Project Plan of Operations (NVN- 066621 [13-1A]) and Reclamation Permit No. 0159 Plan Modification, Addendum, and Amendment, December 2014, pg. 3-81.

<sup>vii</sup> GBRW, PLAN, WSDP, "Comments on the Final Deep South Expansion Project Environmental Impact Statement," August 24, 2019.

<sup>viii</sup> 40 CFR § 1508.7

<sup>ix</sup> See 40 CFR 1508.1(g)(3): "Cumulative impact, defined in 40 CFR 1508.7 (1978), is repealed." (2020 CEQ NEPA Rule).