



Great Basin Resource Watch

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

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Federal Court Protects Nevada's Water by Denying Mt. Hope Molybdenum Mine Federal Permit

Reno, NV, on [March 31 the US District Court in Reno "vacated"](#) (i.e. invalidated) the BLM's Record of Decision (ROD) that approved of the proposed Mt Hope Molybdenum mine. The lawsuit was filed by Great Basin Resource Watch (GBRW), the Western Shoshone Defense Project (WSDP), and the Progressive Leadership Alliance of Nevada (PLAN) in late 2019.

The Mt. Hope Mine, proposed by Eureka Moly Co. (EML), would be one of the largest open pit mines in the country, and would primarily extract and process the metal molybdenum. The Mine would directly disturb 8,355 acres and indirectly disturb 22,886 acres, create 1.7 billion tons of waste rock, and 1.0 billion tons of tailings waste by the end of the 44 years of ore processing. The mine's waste and tailings would bury federally protected springs, known as Public Water Reserves (PWR), and the surrounding lands permanently. A PWR is a federal reserved water right established to protect public uses of water.

President Calvin Coolidge created PWR #107 by executive order in 1926, which withdrew qualifying springs and their surrounding land "to prevent monopolization of water needed for domestic and stock watering purposes." This withdrawn land remained subject to the Pickett Act, which provided that "all lands withdrawn under the provisions of this Act shall at all times be open to exploration, discovery,

occupation, and purchase, under the mining laws of the United States, so far as the same apply to metalliferous minerals.”

The court agreed with GBRW et al that for the lands to qualify for this exception to the PWR 107 withdrawal, there must be valuable deposits of metalliferous minerals on the lands. And that the right of ‘occupation’ under the Mining Law depends on valuable minerals having been ‘found’ on the land in question. According to the decision, “the record contains no evidence that the PWR 107 springs or surrounding lands contain molybdenite ore or any other metalliferous mineral. BLM admits that it made no attempt to determine whether EML’s mining claims are valid.” The court concluded that, “Because BLM has not prepared any analysis regarding whether valuable mineral deposits exist on the PWR 107 lands, the Court finds that it is appropriate to remand to the agency so that it can conduct the proper analysis in the first instance.”

Without valuable minerals on the thousands of acres of land to be buried by the waste and tailings, the waters and lands at and around the PWR107 springs are protected under federal law and the mine cannot proceed. The court applied the recent decision from the Ninth Circuit Court of Appeals in the “Rosemont Mine” case, which held that mining companies do not have rights to use and occupy federal mining claims without showing that valuable minerals exist on the claims.

“The decision is an important protection placing our public water above a poorly conceived mine that would dump millions of tons of mine waste on federally protected springs. Mining companies need to develop their mine plans to minimize damage to our water, a vital shared resource. I hope this ruling will trigger mining companies and the BLM to work with the directly affected communities and the public in a substantive and meaningful way to avoid unnecessarily damaging mine plans. The Mt. Hope mine as it was proposed would also deliver a significant blow to the nearby ranching and farming community,” said John Hadder, Executive Director of GBRW.

Plaintiffs’ attorney Roger Flynn, of the nonprofit public interest law firm Western Mining Action Project, stated that “The court correctly found that BLM failed to protect the public’s waters and surrounding lands. This is the fifth major mine case in recent years, and the second time for BLM’s approval of this mine, where the federal courts have ruled that BLM in Nevada violated federal environmental and public land law. It’s time BLM put the interests of protecting Nevada’s precious water and our public lands first, instead of approving yet another large open pit mine on the public’s land without adequate review and safeguards.”

“Our water here in Diamond Valley is very limited and the Mt. Hope would take a huge amount of water. At least for now we don’t have to worry that the mine will be taking our water, ” said Carolyn Bailey, a member of one of the region’s oldest ranching families, and a resident of Diamond Valley nearest to Mt Hope.

As stated by the late Larson Bill, former Western Shoshone Defense Project Community Planner, "The Western Shoshone that toured the Mount Hope site all agreed that the impacts to the water resources, loss of mature pinyon/juniper forest, and destruction of cultural sites is too high of a price for this mine. The Interior Department needs to remember that this is our Treaty Land, and they have an obligation to consult with the Western Shoshone in a meaningful way."

"The court's decision to vacate the approval of the proposed Mt. Hope Molybdenum is indeed a victory for Newe Sogobia (Western Shoshone homelands) and to the Western Shoshone who hold to their ancestral and cultural teachings to protect the land. The Bureau of Land Management (BLM) has done little to protect our homelands and yet does everything in their power to allow the mining industry to decimate and destroy our land, water and air. Yes, indeed, this is a victory to perpetuate and sustain all that is life. It brings me joy knowing that the spiritual and sacred elements of this mountain will remain intact from the ravages and pillaging perpetrated by the mining industry. Mt. Hope is a source of life rather than a resource. Like all mountains it catches the clouds whose snow and rain feed the groundwater table and the creeks and streams and in turn helps to sustain the lives of humans, plants, animals, fish, and birds. It brings me comfort knowing that the springs and streams will not be exploited to the satisfaction of the mining industry and that the pinyon and juniper trees and other medicinal and edible food plants will continue to thrive and sustain us as the Creator intended," said Mary Gibson, Western Shoshone

"There is no community in Nevada that is worth sacrificing," said Laura Martin, Executive Director of the Progressive Leadership Alliance of Nevada "We are glad that the Court held the Bureau of Land Management accountable to the people, and we will continue to work with our partners who are fighting to protect the Great Basin and all living things that call it home. Government agencies should be working on behalf of the people, not corporate profits."

Mining the open pit would result in an excavation of approximately 2,300 feet below the existing water table and create a pit lake that is anticipated to form in the open pit is expected be 1,000 feet deep. Water quality in the pit lake is predicted to exceed water quality standards for a number of pollutants. The Mine would pump groundwater at a rate of 11,250 to 12,050 afy (acre-feet per year) equivalent to 3.92 billion gallons per year for a total of up to **168.8 billion gallons** over the roughly 44 years.

The court's decision can be found at:

<https://gbrw.org/wp-content/uploads/2023/04/COURT-ORDER-vacating-ROD-3-31-23.pdf>