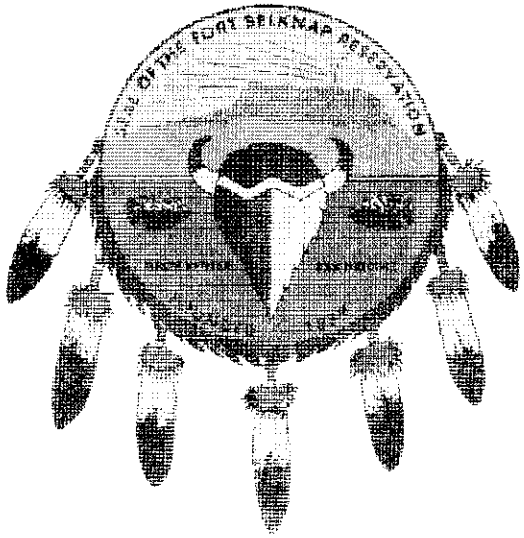

Environmental Protection Program
Fort Belknap Indian Community
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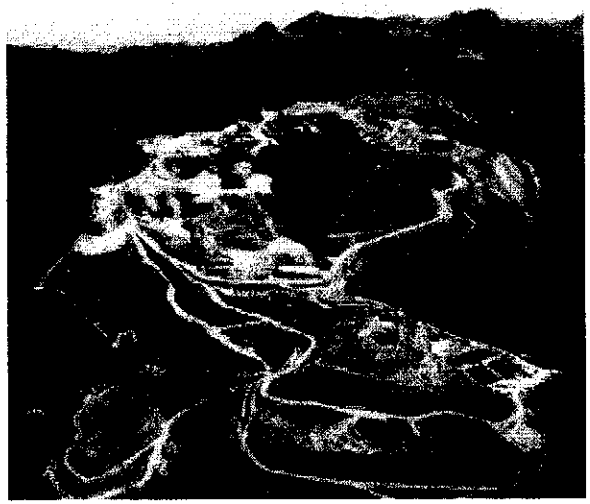
HEARING RESOURCES AND CLAIMS
EXHIBIT NO. 1
DATE 4-6-05
BILL NO. HB379

The Struggle to Save the Little Rocky Mountains



"The Mountains are the Heart of the People"

The History Surrounding the Struggle Against Zortman Mining, Inc.

The Fort Belknap Reservation located in north central Montana is home to the Gros Ventre (White Clay) and Assiniboine (Nakoda) Indian Tribes. The Reservation landscape embodies lush green river bottom land, rolling prairie, and beautiful mountains and foothills.

A stark contrast to this beautiful landscape is the ominous presence of one of the world's largest open pit cyanide heap leach gold mine operations, the Zortman and Landusky mines. These mines are owned and operated by Zortman Mining, Inc. (ZMI), a wholly owned subsidiary of Pegasus Gold Corporation (Pegasus). Pegasus and ZMI have been PLAGUED BY SERIOUS, DOCUMENTED PROBLEMS, INCLUDING VIOLATIONS OF THE FEDERAL CLEAN WATER ACT AND MONTANA WATER QUALITY ACT.

The foremost environmental concern by the Fort Belknap Community Council (FBCC) and Reservation residents are the risks of water contamination from these mines, which are located adjacent to the reservation at its southern most boarder. They directly pose threats to the Little Rocky Mountain ecoregion and to the health of the surrounding communities. FBCC and Reservation residents believe our community is being unjustly exploited at the expense of the mining industry, despite our ardent efforts to stop the expansion.

The Betrayal of the Land

Nothing the Great Mystery placed in the land of the Indian pleased the white man, and nothing escaped his transforming hand. Wherever forests have not been mowed down, wherever the animal is recessed in their quiet protection, wherever the earth is not bereft of four-footed life—that to him is an "unbroken wilderness." But, because for the Indian there was no wilderness, because nature was not dangerous but hospitable, not forbidding but friendly, Indian philosophy was healthy—free from fear and dogmatism. And here I find the great distinction between the faith sought the harmony of man with his surroundings; the other sought the dominance of surroundings.

In sharing, in loving all and everything, one people naturally found a due portion of the thing they sought, while, in fearing, the other found need of conquest.

For one man the word was full of beauty; for the other it was a place of sin and ugliness to be endured until he went to another world, there to become a creature of wing, half-man and half-bird.

Forever one man directed his Mystery to change the world He had made; forever this man pleaded with Him to chastise his wicked ones; and forever he implored his God to send His light to earth. Small wonder this man could not understand the other.

But the old Indian was wise. He knew that man's heart, away from nature, becomes hard; he knew that lack of respect for growing, living things soon led to lack of respect for humans, too. So he kept his children close to nature's softening influence.

Chief Luther Standing Bear
Oglala Sioux

funding, function of technical working group, and preferred alternative identification.

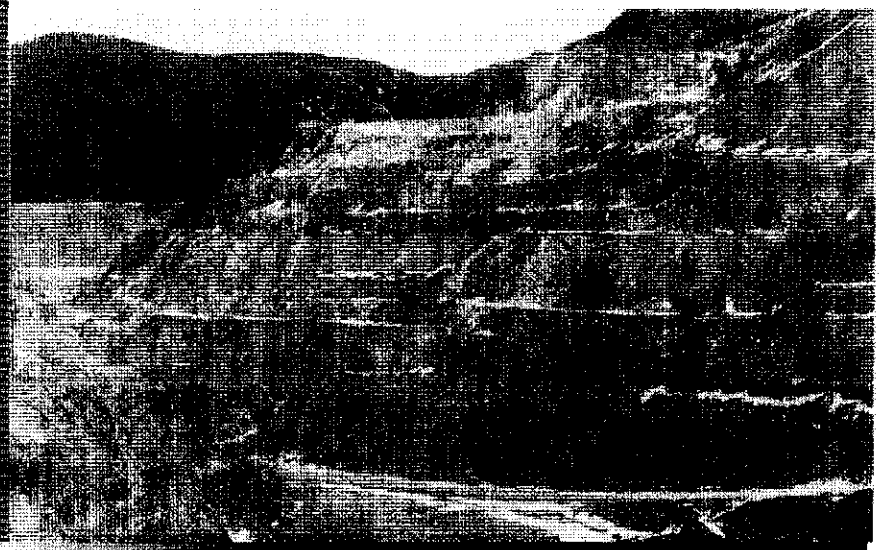
- **November 8, 2000** – Meeting in Helena between BLM, DEQ, EPA staff and Jim Kuipers to discuss SEIS content regarding analysis of compliance with applicable laws and regulations.

- **November 2000** – MOU between BLM, DEQ, EPA, and Fort Belknap on preparation of the SEIS is signed by all parties.

- **November 30, 2000** – Working drafts of SEIS text provided to all technical working group parties for their consideration and review.

- **March 2001** – Draft SEIS for Reclamation of the Zortman and Landusky Mines.

- **January 2002** – Final SEIS for Reclamation of the Zortman and Landusky Mines.



- **1855** - The Assiniboine and Gros Ventre tribes move to what will later be known as the Fort Belknap Reservation, named for a U.S. Secretary of War.

- **Late 19th century** - Pike Landusky and Pete Zortman strike gold in a corner of the reservation.

- **1895** - Threatened with starvation, the tribes sign the Grinnel Agreement, selling the U.S. government the gold-laden land. Miners stream into the mining towns of Zortman and Landusky.

- **Early 20th century** - Mining companies tunnel into the Little Rockies for gold while tribal members use the mountains for vision quests and hunting. Underground mining continues until 1950s.

- **1979** - Pegasus Gold Corp. and its subsidiary, Zortman Mining Inc. (ZMI), build two connected cyanide heap-leach mines named after the original prospectors, Zortman and Landusky. The companies promise not to mine sulfide ore, which creates a lethal brew called acid mine drainage when exposed to air and water.

- **1979-1990** - The mining complex grows. The state health department and the federal Bureau of Land Management approve nine expansions without once asking for a full-scale EIS, even though several state agencies report cyanide spills and other violations of the company's operating permit.

- **1990** - The Native American group Red Thunder joins with environmental groups to appeal federal permits for Zortman-Landusky's 10th expansion, warning that it will cause acid mine drainage. The appeal is denied.

- **1991** - Pegasus offers scholarships and environmental monitoring to the Fort Belknap Community Council if tribal members stop opposing the mine. The council refuses.

- **December 1992** - Pegasus and ZMI apply for permits for Zortman-Landusky's 11th expansion.

- **May 1993** - EPA & the State of Montana (State) conducted a compliance inspection of ZMI's mining operation in response to a report of acid mine drainage at the mining sites. The inspectors found that ZMI/Pegasus Gold was discharging without a permit from locations at both mines.

- **June 1993** - Island Mountain Protectors (IMP) and Red Thunder send notice of intent to file citizen suit against ZMI/Pegasus Gold under the Federal Clean Water Act to the State of Montana & EPA.

- **July 1993** - EPA issued a Notice of Violation (NOV) to the State of Montana and ZMI/Pegasus Gold for discharging without a permit from 3 sources at the Zortman mine & from 4 sources at the Landusky mine.

- **August 1993** - The State filed a civil case against ZMI/Pegasus Gold in state court in Phillips County, MT, where the mines are located. In October 1993, the Phillips County case was dismissed & another

- **September 7, 2000** – Managers meeting at Fort Belknap. BLM Deputy State Director, DEQ Director, EPA Acting Regional Administrator, Fort Belknap Council, and respective staffs discussed MAA process, interim reclamation and concurrence on its continuance, funding sources, jobs training and development of interagency MOU on preparation of the SEIS.

- **September 2000** – BLM amends Fort Belknap Assistance Agreement to provide them another $15,000 to fund their participation in the technical working group and SEIS efforts. Total award now at $30,000.

- **September 19, 2000** – Technical working group meeting in Zortman on 9/19 and 9/20. Reviewed MAA scores on Zortman and Landusky mines. SEIS team meeting on 9/21 with all parties in attendance to discuss SEIS preparation.

- **October 17, 2000** – SEIS Team meeting in Billings. Attendance includes members of the technical working group from all parties.

- **November 2, 2000** – Technical working group meeting in Billings. Discussed finalizing MAA and continued role of working group in SEIS preparation.

- **November 3, 2000** – Managers meeting in Billings. Attendees included BLM Deputy State Director, DEQ Director, EPA Deputy Regional Administrator, Fort Belknap Council President, and respective staffs. Discussed status and schedule of SEIS,

- **April 25, 2000** – Fort Belknap files complaint against U.S. in Federal District Court. Allege BLM, BIA and IHS have violated trust responsibilities by allowing the mining. Seek court order to implement their reclamation plan.

- **April 26, 2000** – Letter from EPA to DEQ and BLM. Says they will provide the technical input we requested. Lists people assigned to team to assist agencies and says awaiting clarification on role we want them to play in the SEIS.

- **July 25, 2000** – Technical work group meeting at Zortman on 7/25 and 7/26. Work on consensus scoring for the Landusky MAA and other items. Tour of the minesite provided for several Fort Belknap Council members.

- **August 2, 2000** – Management meeting in Billings. Participants included BLM Deputy State Director, DEQ Director, EPA Acting Regional Administrator, Fort Belknap President, and various respective staffs. Discussed funding sources and status of the SEIS.

- **August 3, 2000** – EPA Acting Regional Administrator Rebecca Hamner tours the mines with Fort Belknap Council members.

- **August 28, 2000** – Technical working group meeting in Bozeman. Includes management and legal staff. Two simultaneous group meetings. One to discuss SEIS preparation and one to discuss MPDES permit development and water resources monitoring program.

case was filed in Lewis & Clark County, MT.

- **April 1994** - Numerous interim measures have been taken at the mines to collect & treat discharges. ZMI/Pegasus Gold constructed a new water treatment plant to treat the mine wastewaters.

- **June 1994** - The plant began operating after the State issued an administrative compliance order, specifying discharge conditions & effluent limits for discharges from the facility.

- **September & December 1994** - EPA Region 8 referred to the Department of Justice 2 civil cases against the ZMI/Pegasus Gold (1 for the Zortman mine & 1 for the Landusky mine) for discharging without a permit.

- **November 1994** - Gros Ventre & Assiniboine Tribes send notice of intent to file citizen suit against ZMI/Pegasus Gold under Federal Clean Water Act (CWA) to EPA.

- **June 1995** - The Department of Justice filed a complaint in Montana District Court in Billings, MT, on behalf of EPA against ZMI/Pegasus Gold for violations of the Federal CWA. The State filed a supplemental complaint for violations of the Montana Water Quality Act. The FBCC, on behalf of the Gros Ventre & Assiniboine Tribes, & the IMP, also filed a complaint in Montana District Court for violations of the Federal CWA.

- **July 1996 · The lodging of the Consent Decree is announced by DOJ, EPA and the State in a joint news conference held in Billings, MT. Pegasus & ZMI must spend up to $32.2 million to implement a comprehensive compliance plan for the discharge of all mine wastewater, complete a comprehensive study of all ground water around the mine, pay a $2 million civil penalty (evenly divided between the U. S. & the State), perform 3 Supplemental Environmental Projects (SEPs) to improve the health & quality of life of residents of the Fort Belknap Reservation at an estimated cost of $1.7 million, pay the Tribes $1 million in partial settlement of a past claim, & increase the Tribes & IMP involvement in future actions.**

- **October 1996** · Despite the judgement against the mines, the Montana State Department of Environmental Quality (DEQ) gave approval for Pegasus & ZMI to expand their operations at the Zortman & Landusky mines, a threefold increase in land disturbance (from 401 to 1,292 acres).

- **January 1997** · The Tribes, jointly with National Wildlife Federation & Montana Environmental Information Center, subsequently filed a major lawsuit against Montana State DEQ to halt mining operations. The lawsuit alleges that DEQ's decision to allow the largest expansion to date of operations at the mines violates state law.

- **June 1997 · Tribes win mine expansion delay - The Interior Board Land Appeals granted the Island Mountain Protectors (IMP) and the Tribes' request to block the expansion permit the BLM granted in** they want to be a cooperating agency on the SEIS. Technical work group presents plan for interim reclamation in 2000 and 2001. Fort Belknap endorses decision to prepare SEIS. Expresses desire to continue working with agencies even during the lawsuit they intend to file in Federal Court on trust issues.

- **March 28, 2000** – Fort Belknap requests EPA provide technical assistance on both the MAA and with the SEIS process.

- **March 29, 2000** – Conference call between Yellowtail, Simonich and Hamilton (plus staff). Discuss EPA providing funding assistance and the recent SEIS decision.

- **April 7, 2000** – Phone conversation between Scott Haight and Jim Kuipers. Mr. Kuipers stated that Fort Belknap was not interested in being a cooperating agency on the SEIS. Would be providing input through the consultation process instead.

- **April 12, 2000** – Fort Belknap makes public announcement that they are suing BLM and others over trust responsibility issues.

- **April 17, 2000** – Receive written concurrence from Fort Belknap on interim reclamation plans for year 2000 and 2001.

- **April 18, 2000** – Technical work group meeting in Polson on 4/18 and 4/19. Work on development of Landusky MAA and discussed revegetation study needs.

- **February 25, 2000** – Fort Belknap and their attorneys meet with Secretary Babbitt in Washington D.C. and visit congressional offices. Secretary discusses trust issues with Fort Belknap and Grinnell lands issue.

- **March 8, 2000** – Fort Belknap sponsors a public meeting at Hays to explain the MAA process to residents and get their input. BLM and DEQ attend.

- **March 9, 2000** – Fort Belknap sponsors a public meeting at Lodgepole to explain the MAA process to residents and get input. BLM and DEQ attend.

- **March 10, 2000** – Bruce Reed (Field Manager) Scott Haight and Wayne Jepson (DEQ) met with the Fort Belknap Council. Discussed MAA and success of working group. Confirmed agenda for 3/24 decisionmakers meeting.

- **March 20, 2000** – EPA responds to BLM-DEQ letter of 2/17 requesting technical assistance. Says staff may not be available and they will let us know.

- **March 23, 2000** – Technical working group meets in Zortman. Discuss MAA, monitoring and Land Application Disposal (LAD) issues.

- **March 24, 2000** – Larry Hamilton and Mark Simonich (plus staffs) meet with Fort Belknap Council. Review MAA process. BLM and DEQ announce they have decided to prepare a SEIS on the final reclamation plan. Ask Fort Belknap if

October. The Board found the "RISK OF LONG-TERM, IF NOT PERMANENT, CONTAMINATION OF GROUNDWATER & ITS EFFECTS ON THE PEOPLE & THE ENVIRONMENT OF THE AREA OUTWEIGHS THE ECONOMIC HARM" to the mining company.

- **July 1997** - Pegasus applies to Montana Board of Investments to use tax-free bonds to finance parts of reclamation at 3 of Pegasus Gold's subsidiary mines - Zortman Mining Inc., Beal Mountain Mining Inc., & Montana Tunnels Mining Inc. The bonds would be used for environmental work at ZMI that is required in June 1996 Consent Decree. Three (3) hearings held in counties where reclamation would take place. Investment Board adds extra hearing in Helena on Pegasus bonds.

- **August 1997** - Investment Board expected to decide bond issue at next meeting.

- **September 1997** - Federal and state environmental agencies fine Pegasus and ZMI $25,300 for violating the clean-water settlement by polluting a stream in the Little Rockies. John Pearson, director of investor relations for Pegasus, says discharges were the result of "acts of God" during "extraordinarily heavy rains."

- **October 1997** - In order to resume mining, Pegasus proposes to buy private land in the Sweetgrass Hills adjacent to areas where the BLM has banned mining for 20 years. Pegasus would then give this land to the BLM in exchange for land near the Zortman-Landusky Mine. This would allow Pegasus to resume mining on these lands without a permit.

- **November 1997** - Low gold prices and high operating costs force Pegasus to shut its recently opened Mount Todd gold mine in Australia. After Pegasus reports an annual loss of more than $400 million, its stock, which had been as high as $17/share in 1996, falls to under $1/share. The company warns that if it doesn't get its permit to expand the Zortman-Landusky Mine, it will not be economical to keep leaching gold from the current heap-leach pads after Jan. 1, 1998.

- **December 12, 1997** - Pegasus Gold Australia, a wholly owned subsidiary of Pegasus Gold, files for bankruptcy in Australia. The future of Pegasus Gold is unclear, and the state of Montana wonders if Pegasus' bonds will be sufficient to pay for reclamation at its four mines.

- **January 16, 1998** - Pegasus Gold files for Chapter 11 bankruptcy protection in federal court in Reno, Nevada, blaming low gold prices for its financial problems.

- **March 13, 1998** - Pegasus Gold's Zortman-Landusky expansion cancelled stating the expansion is no longer feasible at today's gold prices.

- **April 28, 1998** - Bankruptcy Judge rules that Pegasus gold Corporation will be allowed to retain a multimillion dollar bonus & severance package for key executives.

- **May 16, 1998** - Pegasus Gold Corporation asks insurance companies that backed its environmental bonds to pay for cleanup at Zortman-Landusky Mines.

- **January 21, 2000** – Bill Yellowtail meets with the Fort Belknap Indian Community Council to discuss mine reclamation and possible need for a Supplemental EIS.

- **January 24, 2000** – Technical work group subgroup meets at Zortman to discuss regulatory triggers that might require preparation of a Supplemental EIS.

- **January 25, 2000** – Technical work group meets in Zortman. Starts development of the MAA on the Zortman Mine reclamation.

- **February 9, 2000** – Major meeting of the technical working group to score MAA on Zortman Mine reclamation alternatives. Decisionmaker meeting on 2/9 that includes Bill Yellowtail, Larry Hamilton, Joe McConnell and Mark Simonich. EPA announced they were stepping back from the consultation process and only responding to specific requests for technical assistance. Expanded meeting on 2/11 that included individuals and traditionalists from Fort Belknap. They provided input for the MAA on cultural and social issues and their relative importance.

- **February 17, 2000** – Letter from BLM State Director and DEQ Director to Bill Yellowtail confirming EPA is pulling out of consultation process and only responding to requests for technical assistance. BLM and DEQ letter requests assistance in several key technical areas from EPA specialists.

- **September 1, 1999** – Letter from BLM Field Manager to Fort Belknap requesting concurrence on phase 1 interim reclamation for 1999.

- **September 10, 1999** – Distribution to technical working group of final comparison report on groundwater conditions by Kathy Gallagher. Generally confirms FEIS description of groundwater conditions.

- **September 14, 1999** – Letter from Fort Belknap in general agreement with phase 1 interim reclamation efforts for 1999.

- **September 20, 1999** – Technical work group conference call. Discussed Montana Consensus Council contract, work plans and conduct of the multiple accounts analysis.

- **October 18, 1999** – Technical work group meeting with facilitation provided by the Montana Consensus Council at the minesite 10/18 – 10/19. Discussed multiple accounts analysis development.

- **December 8, 1999** – Technical work group meeting in Billings 12/8 – 12/10. Discussed mass balance reports and MAA format. Overall schedule for 2000 work. Montana Consensus Council facilitated the meeting on 12/10.

- **January 6, 2000** – Conference call among decisionmakers and staff. Included Larry Hamilton, Joe McConnell, mark Simonich and Bill Yellowtail. Main issue was Fort Belknap's demand that the agencies prepare a Supplemental EIS.

- **May 30, 1998** - After Bankruptcy Judge approves bonuses for key executives, Pegasus Gold Corporation reveals shareholders may not recover their investment.

- **June 1, 1998** – DEQ and BLM issue Record of Decision selecting reclamation under Alternative 3 of the 1996 Final EIS, *Zortman and Landusky Mines Reclamation Plan*

- **June 2, 1998** - Federal Bureau of Land Management and Montana State DEQ agree to New Reclamation Plan at Zortman-Landusky Mines. Environmental groups protest.

- **November 20, 1998** – IBLA issues order that sets aside the BLM Record of Decision of June 1, 1998 and directs that, "....BLM must separately analyze, and consult with the Tribes about, potential effects on Tribal water resources and report on its actions in its decision."

- **February 1, 1999** – Field Manager Rick Hotaling sends letter to Joseph McConnell, President, Fort Belknap Indian Community Council requesting initiation of consultation discussions in reference to IBLA's decision.

- **February 5, 1999** – Meeting in Billings with BLM, DEQ, BIA, Fort Belknap, CSP2, and EPA to discuss adequacy of the Groundwater Investigation conducted under the Consent Decree and its applicability to final reclamation

- **March 9, 1999** – Fort Belknap responds to Hotaling letter of 2/1. Requests consultation begin immediately. Provides Fort Belknap's alternative reclamation plan prepared by Jim Kuipers of CSP2 for BLM consideration.

- **March 17, 1999** – BLM sends all parties a draft report prepared by BLM consulting hydrogeologist Kathy Gallagher that compares and evaluates the groundwater information from the Final Zortman-Landusky EIS, the Groundwater Investigation, and the Public Health Assessment.

- **March 24, 1999** – Consultation meeting in Helena. Attendance included Fort Belknap, BLM, DEQ, and EPA technical staff, management, and legal counsel. Arranged for meeting of technical staff at minesite to develop reclamation issues.

- **April 14, 1999** – April 14-16 meeting of technical group at minesite. Issues covered range from water monitoring to agency support for supplemental funding from Congress. The group agreed to continue discussions on possible immediate reclamation needs.

- **May 11, 1999** – BLM provides technical completeness review of Fort Belknap's alternative reclamation plan. Requests additional information on a variety of components.

- **May 22, 1999** – Interior Secretary Babbitt and BLM State Director Larry Hamilton visit Fort Belknap and hear concerns regarding the mines and reclamation.

- **May 24, 1999** – Bill Yellowtail, EPA Regional Administrator, meets with fort Belknap Community Council to discuss the situation with the mines.

- **May 25, 1999** – Bill Yellowtail and Larry Hamilton meet in Billings with staff to discuss Mr. Yellowtail's recent trip to Fort Belknap. Recommend a 30 day working period to get technical people to address problem and identify reclamation work that can go forward without conflict.

- **June 2, 1999** – BLM management and staff, plus DEQ staff, meet with Fort Belknap Community Council on reclamation options and how we can best achieve consultation. Council President Joe McConnell asks that we let the technical people develop this as much as possible.

- **June 23, 1999** – Technical working group meeting at minesite. Introduced Spectrum Engineering personnel who had been hired by DEQ to develop the reclamation plans to the group.

- **July 20, 1999** – Technical working group meeting at minesite 7/20 – 7/21. Discussed use of the Multiple Accounts Analysis and various processes for getting some reclamation work done this year.

- **August 24, 1999** – Technical working group meeting at minesite 8/24 – 8/25. Discussions with EPA on King Creek tailing removal and integration with Landusky Mine reclamation. Tour by Fort Belknap council and others of the mines and specifically of the 1999 reclamation work areas.