Bozeman, Montana
Bozeman Daily Chronicle
WEDNESDAY, JULY 21, 2004

OUR OPINION

Montanans' distaste for mining easy to fathom

Representatives of the mining industry have been quite vocal in their complaints over the treatment they get from Montana. They were particularly put upon a few years ago when Montana voters approved a ballot measure that banned the practice of cyanide heap-leach mining.

So put upon, in fact, they have successfully petitioned the repeal of that ban onto this fall's ballot.

But anyone who's paying a modicum of attention will have to allow that industry appeals for sympathy are pretty well drowned out by the steady drumbeat of news about appalling pollution messes the industry has yielded and continues to yield.

The history of the mining industry has been one of default and denial of cleanup responsibilities.

Earlier this month we learned of a new report that finds the former Anaconda Mining Co. complex on Smelter Hill in Great Falls is too contaminated with lead and arsenic to be open to the public for recreation. Protective soil placed over the nearly 100-year-old pollution on the site is either too thin or nonexistent.

A few days later, a Great Falls Tribune guest editorial published in the Chronicle told of how the CR Kendall Mine Corp. is nose-to-nose with state environmental regulators over the cleanup of its defunct gold mine near Lewistown.

On the one hand, CR Kendall is bickering with the state over who's responsible for some $58,000 worth of groundwater testing.

Meanwhile the firm is forging ahead with cleanup of the site while state regulators are still trying to determine the extent of the pollution and the appropriate course of action for the cleanup.

And those same regulators have already determined the company is failing to capture all of the runoff from the site, leaving some to contaminate nearby creeks — a charge CR Kendall denies.

And we can't forget the saga of illness and death inflicted on Libby residents by W.R. Grace's defunct asbestos-contaminated vermiculite mine near there. That story just goes on and on.

The history of the mining industry — which once ruled this state — has been one of default and denial of cleanup responsibilities that have cost the state dearly in public money and the loss of environmental quality.

If miners think Montanans have been a little hard on their industry, only a profound and prolonged change in industry behavior will change that.

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Missoulian AUG 12 1998

Mining company freed from cleanup costs

Judge: State's bills aren't different than others for bankrupt Pegasus Gold Corp.

By ERIN P. BILLINGS
Missoulian State Bureau

HELENA – A U.S. bankruptcy judge in Nevada on Tuesday denied the state's request to require Pegasus Gold Corp. to spend another $8.5 million on pollution cleanup at the company's Zortman and Landusky gold mines, a state official said.

Art Compton, chief of the Environmental Management Bureau at the state Department of Environmental Quality, said the judge ruled from the bench that the state's request cannot be placed at a higher priority than other Pegasus' creditors, or those companies to which the mining firm owes money.

The state had argued the additional $8.5 million was necessary to cover a new reclamation plan for the Zortman and Landusky gold mines near Malta. The new plan became necessary after Pegasus announced it no longer planned to expand the 19-year-old gold mines.

Pegasus, headquartered in Spokane, filed for Chapter 11 bankruptcy protection in January and recently filed its plan to reorganize its finances to survive. The new company would consist of the company's international exploration arm and its three operating mines, including two in Montana.

Under bankruptcy law, the judge must approve any new spending by Pegasus.

Compton, who didn't participate in Tuesday's hearing in Reno, said the state will not give up on its request for the additional cleanup money, to be placed in bonds. He said the state will try and obtain the money through future bankruptcy court hearings.

"We will continue to participate in the administrative proceedings to further our cause and assert our claim, but the judge was unwilling to settle us out of it before anyone else," said Compton.

"Of course when you're not able to satisfy the needs of the statute, it's disappointing," added Compton. "We were hoping the court would elevate our concerns over other creditors. That didn't occur, so now we just have to work through the process."

Pegasus has disputed the need for more bonding for the mines, saying it is excessive and doesn't account for work already conducted at the site. It has argued the $30 million currently on the books for cleanup work is more than enough and actually believes only $24.4 million is needed.

John Pearson, vice president of public and investor relations for Pegasus, said Tuesday the company is pleased with the judge's ruling and believes it is in the best interest of the company's reorganization.

See **CLEANUP,** *Page B4*

Cleanup

Continued

He also assured reclamation at the mines will get done at no cost to Montana taxpayers.

Pearson said the state, by asking the court to force the company to shell out more money, was trying to place its needs over others, which cannot be done in bankruptcy cases.

"As (the judge) pointed out, the only interest the state has is pecuniary, and that there is no threat to human health and the environment and that the state has yet to spend a dollar on reclamation and that there was no evidence that they will ever have to spend a dollar on reclamation in the future."

State officials, however, have said they fear Pegasus is trying to abandon its reclamation responsibilities. They have said that by increasing the amount of money for cleanup, the state can ensure it has enough bonding available to reclaim the sites even if it has to do the work itself.

The state said it arrived at the additional $8.5 million based on inflationary costs and the amount of earth-moving and construction that would be required under the new reclamation plan.

Compton said ultimately if Pegasus doesn't post the additional bonding money, the state would have to find them in non-compliance with state law and could then forfeit the company's bonds at Zortman and Landusky.

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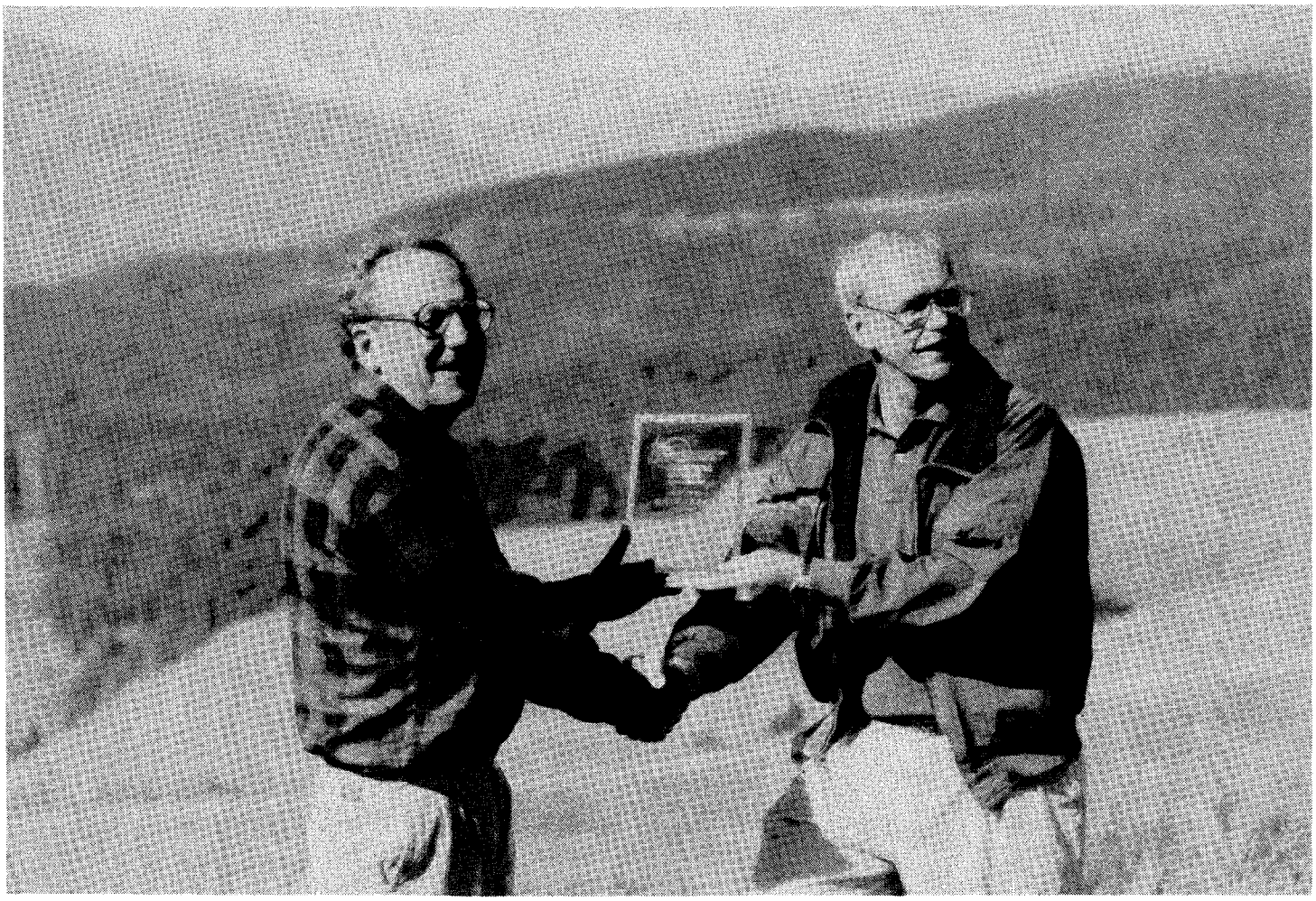

...W.R. Grace Closes Vermiculite Mine With Class

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A town left to die

Thursday, November 18, 1999

By ANDREW SCHNEIDER
SEATTLE POST-INTELLIGENCER SENIOR NATIONAL CORRESPONDENT

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LIBBY, Mont. -- **First, it killed some miners.**

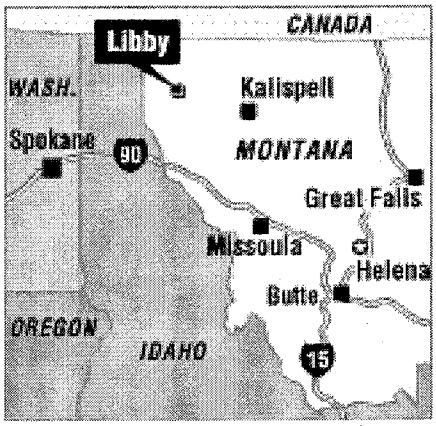
Then it killed wives and children, slipping into their homes on the dusty clothing of hard-working men.

Now the mine is closed, but in Libby, the killing goes on.

The W.R. Grace Co. knew, from the time it bought the Zonolite vermiculite mine in 1963, why the people in Libby were dying.

But for the 30 years it owned the mine, the company did not stop it.

Neither did the governments.



Not the town of Libby, not Lincoln County. Not the state of Montana, not federal mining, health and environmental agencies, not anyone else charged with protecting the public health.

Here is what is killing people in Libby:

Along with the enormous deposits of vermiculite in the earth of nearby Zonolite Mountain are millions of tons of tremolite, a rare and exceedingly toxic form of asbestos.

For eons, the tremolite lay undisturbed and harmless beneath a thin crust of topsoil. But mining the vermiculite has released the deadly asbestos fibers into the air.

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The History of Grace Co.

Dangers of asb exposure

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Day 2

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Followups (newest at top)

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■ Tribune editorial

Time for assurances is past; it's time to clean up mines

After a year of assuring Montanans that Pegasus Gold's bonding would take care of cleanup at the inactive Zortman-Landusky mine, the state has switched gears and is pursuing additional bonds from the struggling company.

It's a welcome change, driven by the prospect of Pegasus failing to provide for the cleanup.

Here are just a few instances of the view through rose-colored glasses since this time last year:

● In November, a legislative auditor raised a yellow flag, saying that if Pegasus declared bankruptcy and abandoned the mine, the state would incur transition expenses not covered in the mine bonds.

The warning was discounted by the state Department of Environmental Quality as alarmist. The expenses wouldn't be that high, DEQ said, and would last a short time.

● As the company's plight worsened, more questions about bonding were raised, not only at Zortman but also at Pegasus' other Montana mines — Montana Tunnels south of Helena, Diamond Hill west of Townsend and the inactive Beal Mountain near Anaconda.

Not to worry, DEQ said. The reclamation bonds appear to be adequate.

● Sure enough, Pegasus filed, Jan. 16, for reorganization under Chapter 11 of federal bankruptcy laws.

Assurances from the company and DEQ continued: There's more than enough bonding to cover reclamation at the Montana mines.

● Worried about the messes being left in the state, especially at Zortman where whole mountains were leveled, critics again questioned the bonds' adequacy.

But again Montanans were assured that it's not a problem. In fact, DEQ was critical of those raising the questions.

Now fast-forward to June 19. The Associated Press reported: "Officials with the Montana Department of Environmental Quality now estimate $8.5 million in additional bonds will be necessary... ."

When Pegasus didn't respond to the state's request for the additional bonds, DEQ asked the U.S. Bankruptcy Court in Reno to step in.

Now the state says Pegasus' other two operating mines in the state, Diamond Hill and Montana Tunnels, may be shut down if the company doesn't produce the added bonds.

Although DEQ attorneys were disappointed in their bid Tuesday, the agency's get-tough stance is welcome, and the ruling offered hope.

Reclamation of these mining messes, especially at Zortman's large cyanide heap-leach operation, is of paramount importance — even more than fat bonuses for company executives over in Spokane.

State suffers setback at Pegasus bankruptcy hearing

U.S. Bankruptcy Judge Gregg Zive Tuesday turned down Montana's request for additional $8.5 million in reclamation bonds from Pegasus Gold.

DEQ lawyer Tim Fox reported that the Reno-based judge "denied our motion ... in almost every respect."

If there was any good news in Tuesday's proceedings, it was in the judge's acknowledgment that many of the issues raised by the state would probably be aired before him again.

Zive has scheduled a hearing Aug. 25 on Pegasus' latest strategy for surviving bankruptcy.

That plan — notwithstanding the possibility of being banned from mining in Montana— involves continuing to operate three of the company's mines and selling three that have been shut down.

Pegasus would keep operating Montana Tunnels and Diamond Hill, as well as the Florida Canyon Mine in Nevada.

It proposes to sell the Zortman-Landusky operations, Beal Mountain and Basin Creek near Boulder.

Who might be interested in buying three used mines with large liabilities hanging over them?

Pegasus doesn't say.

More important, Montana regulators said last week the Pegasus plan is vague and probably illegal.

Pegasus Vice President John Pearson said the proposed reorganization would allow the company to survive bankruptcy "debt-free."

Montanans don't care a whit about Pegasus' debt. To them, the most important thing is cleaning up the environmental mess made by the Spokane-based corporation.

Allowing Pegasus to walk away from its reclamation obligations would poison the well for other miners, good or bad.

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OPINION

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Tribune editorial

Not a great day for state regulators

Federal and state officials have been patting themselves on the back recently over their $37 million legal settlement with Pegasus Gold Corp., which operates the nation's first major heap-leach gold mine in northeastern Montana.

The state's director of environmental quality calls it the largest settlement in Montana history, and the regional director of the Environmental Protection Agency in Denver adds that it's "one of the most comprehensive compliance plans involving mining operations in history."

Both statements are true, but they form a sad commentary on the history of mining and mine regulation in Montana.

The settlement provides $1 million apiece in penalties to the federal governmen and to the state, plus a $1 million trust fund for the Assiniboine and Gros Ventre tribes of the Fort Belknap Reservation.

Pegasus also pledged as much as $34 million to study environmental damage to the groundwater, to build a second water treatment plant, to build wastewater capture and discharge systems, and to comply with a program that will end its toxic discharges.

In other words, it has agreed to abide by state and federal environmental laws — something it should have been doing all along.

So what has it been doing since it began mining in 1979?

In 1993, the state filed a lawsuit against Pegasus, charging that its waste discharges "present human health and/or aquatic risks in waters in and around the areas of the Zortman Mine and the Landusky Mine."

An investigator for the state Department of Environmental Quality generalized the scientific findings by saying that the mine's illegal discharges contained about as many metals as it's possible for the water to absorb, and that the acidity of the discharges would kill fish and aquatic life. See the box above for some specific examples.

Pegasus has consistently denied that it has been polluting state waters. Last week, a corporate spokesman said the lawsuits had been settled without liability and that the mining company would get on with the cleanup.

In its 1993 lawsuit, the state asked the circuit judge to order the mines shut down until Pegasus complied with water quality standards. Three years of negotiations got under way, but the company continued mining — and polluting.

Resolution of the case finally came when the Zortman and Landusky mines had extracted all the ore they had permits for. Expansion of the mines required new permits. And compliance was essential for renewed mining.

"The agreement ... clears the way for the federal and state agencies to issue permits for the Zortman Extension and allows us to get on with business," the company said last week.

If Pegasus Gold Corp. has a long history of violating the state's water quality laws, it should not receive new permits based on a new promise to comply with a law it should have been complying with for years.

Why did it take state regulators 14 years to catch up with these violations of state law? And why didn't they have the power to shut the mine down immediately if it posed a danger to the environment?

Despite the self-congratulatory words, this is not a triumph of state regulation.

What state found at Zortman-Landusky

Three years ago, the state Department of Health and Environmental Sciences filed suit in state court against Pegasus Gold Corp., charging that it was violating state water quality regulations at its Zortman and Landusky mines. Here are some of the state allegations:

- Despite a well pump-back system, seepage from the Alder Gulch Waste Dump flows into surface water in Carter Gulch and Alder Gulch. The state said the wastewater contained 840 times the amount of manganese permitted by state regulation and nearly 25 times the standard for total dissolved solids.
- At the Ruby Gulch cyanide heap leach pad, "a weeping wall of heavily contaminated seeps appeared and continues to present." Despite a seepage collection system, the surface water flowing through Ruby Gulch in 1992 showed levels of arsenic at 0.126 milligram per liter, two and one-half times the state standard for arsenic (0.05 milligram per liter).
- "Since commencement of mining, the Gold Bug Adit has discharged and continues to discharge wastewater on a continuing basis at a rate of 25 to 300 gallons per minute. Some of this water is discharged to mine roads for dust control. The remainder of this water has been and continues to be piped downstream. ... Analyses of samples of water taken from the Gold Bug Adit document contaminant concentrations in excess of surface water quality standards for contaminants that include arsenic, cadmium, chromium, copper, iron, nickel and zinc."
- "The Sullivan Pad complex has massive seeps from its base to surface and groundwater. Furthermore, defendants have been unable to recover all of this seepage with its seepage collection system and pump-back well."

Water in Sullivan Creek contained 14,700 milligrams per liter of dissolved solids (the state standard is 250mg/L), 110 milligrams of manganese (the state allows only 0.05mg/L), 536 milligrams of iron (the state permits 0.3mg/L).

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