



**Protecting the Environment  
through Education and Action**

## **MINING UPDATES**

*By Jim Nash*

### **Noxon – Rock Creek Partial Approval**

The Forest Service has recently approved a Record of Decision (ROD) for Phase 1 on the Rock Creek Mine. Phase 1 is an exploratory adit to gather hydrologic and geologic data. Typically mine approvals would be for all phases at the same time, but in the Oct. 31st Forest Service response to recent EIS objections, they have withheld approval on Phase 2 with the following reasoning. “The inherent level of uncertainty of the analysis based on the current availability of information” and “While models and estimates of groundwater conditions can be based on the best available information, actual knowledge of underground conditions may not be fully known or knowable, until underground operations are underway, and additional data can be collected”.

It appears that the Forest Service has realized their potential legal jeopardy based on the objections to the Environmental Impact Statement (EIS) and the recent court ruling on Monanore mine (See Montanore below). Although Hecla has their foot in the door, all aspects of full mine development are yet to be decided. The Forest Service has resisted applying new standards, and technology above and below ground and is locked into the first EIS from twenty years ago. CRG and environmental groups have had an impact and have stood fast for 40 years, the longest approval process in US history. We will continue the fight.

### **Noxon – Rock Creek Water Permit**

Hecla has prematurely applied for a water right permit for underground water that would flow into the proposed mine cavity. One of the qualifying criteria is a clear, practical use of the water. Phase 1 which has been approved does not need a permit because it will not use but only divert water. Without approval of phase 2 which will need water for processing Hecla cannot prove clear usage. Hecla appears to have prematurely applied to see the resistance it will face in phase 2. Objections have been filed by Rock Creek Alliance and the Forest Service, and the hearing is pending.

## Bad Actors Law

Montana Metal Mine Reclamation Act (MMRA) law states that companies and their top executives must clean up their old mines before receiving a permit for a new one. They are required to reimburse Montana for any cleanup costs and ensure that the work is done before opening a new mine in the state.

Phillips Baker was a top executive for the bankrupt Pegasus Gold mine. The federal and state agencies have already spent \$74 million on the Zortman-Landusky mine alone, and Montanans are on the hook for an additional 2 to 3 million yearly for water treatment indefinitely. Baker is now the top CEO for Hecla Mining and has not been held accountable by Montana Department of Environmental Quality. (MDEQ) The Montana mining laws are weak, but MDEQ once again will not enforce the ones we have.

A coalition of environmental groups through the law firm Earth Justice has asked MDEQ to suspend Hecla's Rock Creek and Montanore permits within 60 days. This is the first time the bad-actor provision has been used since it was approved in 2001.

## Libby – Montanore

Save our Cabinets, Earthworks and Clark Fork Coalition have won a court decision by Judge Malloy in US District Court. This decision voids the Record of Decision (ROD) from the Forest Service and the biological opinion from the Fish and Game. This means Hecla has to start over on a number of issues.

The judgment lists noncompliance of the Clean Water Act for water degradation, dewatering and sediment discharge along with other issues. Within the wilderness, the projected base flow reductions are East Fork of Rock Creek 59-100%, East Fork of Rock Creek up to 97% and Libby Creek 11-14% with lesser reductions outside the wilderness. The Rock Creek proposal could be facing the same roadblocks.

## Libby – WR Grace Zonolite Asbestos Mine

3.2 million cubic yards of asbestos-contaminated tailings are impounded behind a failing dam in the middle of Rainey Creek. The surrounding trees and soil are imbedded with asbestos which would become a massive plume if a forest fire swept the area. The eventual dam failure will line the banks of Rainey creek and the Kootenai River with asbestos. The EPA and the Forest Service are studying the problem and

expect to release a solution in a couple of years. CRG has proposed in a letter to put the tailings back in the mine. The fire hazard appears to not have a realistic solution, but a special firefighter response team is kept in the area during fire season.

### Troy – No Discharge Permit

In 2005 Genesis applied for a Tailings discharge permit from Montana Department of Environmental Quality (MDEQ) for the Troy mine and never completed the process. This is a violation of the Clean Water Act, and MDEQ has failed to hold them accountable even as the final reclamation is in progress. Hundreds of gallons of toxin-laden water are flowing from the base of the tailings area into Lake Creek. MDEQ has designated Lake Creek as “impaired” based on their sampling between 2005 and 2011. Montana Environmental Information Center (MEIC) of Helena has filed a notice of intent to sue against Hecla for pollution at the Troy mine.

Montana Metals Reclamation Act (MMRA) states that mining companies out of compliance with the Clean Air and Water Act cannot apply for new permits, but they continue to do so while MDEQ turns a blind eye. CRG has formally asked MDEQ to stop any permitting on Hecla’s Montana mines until a Troy discharge permit is

approved. It is ironic that the state regulatory agency directed to protect the environment is its biggest foe.

### Troy – Soil Amendment

The final Troy reclamation of the tailings area requires 18 inches of topsoil to be planted in grass and trees. Hecla has been approved for a soil amendment to only put on the average of 8 inches. The original EIS identified 766,000 cubic meters of topsoil to cover the area which would have replicated the original conditions. Hecla claims only 336,000 cubic meters are available, but much of the stockpiled soil was used for unpermitted toe ponds at the foot of the dam. The amendment allows for minimum soil depth and with the permeability of the underlying material there is cause for concern.

It took CRG 11 years and the threat of a lawsuit against DEQ to get the Revised Troy Mine Reclamation Plan instituted and a Reclamation Bond to ensure that it was adequately funded.

CRG has formally requested from DEQ the plan for followup, accountability and cited specifications to be met.



## **PROPOSED ROCK CREEK MINE UPDATE**

*By: Cesar Hernandez*

What do the Bhopal, Deep Water Horizon, 3 Mile Island, TVA Kingston Coal Flyash and MT Polley mine disasters and possibly the Proposed Rock Creek Mine tailings impoundment have in common: faulty engineering? While the four previous events are past and more recent history, the latter is one that is preventable. But you wouldn't know that from the Oct. 31, 2017, USFS decision to grant a provisional permit to HECLA mining to proceed with the first phase of its mining proposal in the Cabinet Mountains Wilderness, nor the press release that occurred three days later.

On Oct. 11, 2017, CRG board members Jim Nash (Pres.) and Cesar Hernandez met with Region One Deputy Regional Forester David Schmidt in Missoula to try and resolve differences in a pre-decisional appeal of the Rock Creek Mine SFEIS and Record of Decision. To give the DRF his due, he did listen; how well he listened is a different matter, and the 23-page letter explaining his decision

omitted a significant issue, the Highway 200 Mile Marker 16 slip-slide.

This oversight might be considered small-potatoes in somebody's sense of the word, but when you are dealing with a 350 acre, 325-foot high structure containing 100,000,000 tons of material with the nominal consistency of sand, you better have your engineering right. And when this pile of waste sits above the Clark Fork River, add a railroad, add a Highway 200 slip-slide, add the known wettest spot in Montana, your decision making process on what is appropriate engineering better be double-right.

The Deputy Regional Foresters decision contains a lot of wiggle room to get it NOT RIGHT. While the DRF's letter addresses the individual issues, it totally failed to address the potential cumulative effects of all these issues working and affecting the mine proposal tailings impoundment.

Mining failures happen regularly, at MT Polley (2014) and at the TVA Kingston Coal Flyash Slurry Pond (2008) faulty engineering allowed unimaginable disasters to occur. Canadian taxpayers are on the hook for 40 million dollars of the anticipated 67 million dollar cleanup. At Kingston, the Tennessee Valley Authority has spent 1.2 billion dollars thus far putting things to right. And regional electric

bills for decades to come will probably reflect that cost.

The Montana Dept. of Transportation (MDOT) spent a million dollars at the Highway 200 Mile Marker 16 site setting right the continually sagging roadway due to excessive groundwater saturating the area.

A touted engineering feature of the Proposed Rock Creek Mine tailings impoundment is the semi-dry (Paste) deposition of tailings which is supposed to release only 600,000 gallons of water per day to groundwater instead the 3,000,000 gpd originally proposed. Tell that to a slip-slide area nearly 3/4 mile long adjacent to the Clark Fork River. Tell that to the recent three years of back to back 100-year rain on snow events the Noxon area has weathered.

Sh\_t happens! And when it does it really happens! What happened at MT Polley was due to an unidentified localized weakness in the lacustrine soils, the same type soils that underlie the proposed tailings impoundment site and other areas of the Clark Fork Valley. Imagine what might happen if (and as) we ignore the MM16 slip-slide area? What happens if the Rock Creek Mine tailings impoundment fails; and takes out a section of Highway 200, and blocks the Clark Fork River below Noxon Dam, and even a fraction of the

tailings silt up behind the Cabinet Gorge Dam, and enter Lake Pend Oreille? What dare the Dam operators supposed to do? What does the highway transportation system do?

What does the Railroad do? The cautionary tail here is that before any further permits are given to Hecla mining and the Proposed Rock Creek Mine every feature with the potential to affect this project needs to be thoroughly vetted; geology and engineering alike. Needless to say; the DFR doesn't live in Noxon, MT or have children schooling below this precipice of a mining sand castle.

## ANNUAL CRG MEETING

MARCH 31, 2018

BIGHORN LODGE

NOXON, MT



Social Hour 4-5



Dinner 5-6  
BYOB

**Presentation:** Andrew Klaus,  
Wilderness Photographer

**Silent Auction:** CRG would  
appreciate auction donations



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**[www.CabinetResourceGroup.org](http://www.CabinetResourceGroup.org)**

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**POSTAL PATRON**