

## Meeting #7

September 12, 2013 Meeting

### MEETING SUMMARY

#### Meeting Attendees

*Community Working Group members present:*

Mark Siegwarth – Boyce Thompson Arboretum

George Martin – JF Ranch

Lynn Martin – JF Ranch

Nancy Vogler – LOST Trail & Superior Copper Alliance

Bill Vogler – LOST Trail & Superior Copper Alliance

Roy Chavez – Concerned Citizens and Retired Miners Association

Pam Rabago – Superior Chamber of Commerce

Cecil Fendley – Queen Valley Water Board

Pam Bennett – Queen Valley HOA

Lynn Heglie – Superior business

*Community Working Group members not present:*

Frank Stapleton – Cobre Valley Regional Medical Center

Leslie Bryant – Queen Valley business

*Resolution Copper:*

Vicky Peacey - senior manager of approvals, communities & environment

Bruce Richardson - manager of community & external relations

Melissa Rabago - community outreach coordinator

Casey McKeon Ph.D – environmental manager

*Guests:*

Bruce Wittig, Queen Valley Water Board

Stephen Estatico, Superior Town Council

Jack Gorham, long-time Superior resident and former elected official

Chris Hoyza, Bureau of Land Management – guest speaker

*Facilitators - Godec, Randall & Associates (GRA):*

John Godec

Debra Duerr

### **Housekeeping – Public Attendance & Clarification of Roles - Ongoing New Member Status**

John Godec presented a set of updated the Ground Rules and a Welcome letter for visitors, since we expect that we may have more visitors as time goes on. If anyone has comments on these, please let the facilitator know. He said we will also be adding more time to each agenda for public discussion and comment.

Godec asked the group members to introduce themselves again for the benefit of new members.

He updated members on the search for school representatives. A member suggested that we promote group membership as a learning opportunity that will also help the community. John emphasized that he told the Superintendent, who expressed some concerns, that the group is neutral in that there is no political agenda or intention to validate Resolution's position. One of the group's members who is a former school superintendent noted that this is probably not seen as something very exciting by young people, and there are a lot of other things for them to do.

Godec said that he had lunch last week with Councilman Mike Alonzo of Superior, who is very interested in exploring ways that the town can coordinate with this group. Recognizing that we are not inviting elected officials to be members, the Councilman offered to try to find someone appropriate who can represent the Town. Superior Councilman Estatico, who is here tonight, noted that it's important for the Council to know things this group might discuss that might affect the Town.

### **Update on Issues Raised at Past Public Meetings**

Godec mentioned that there was discussion at two previous Resolution Community Forums about health complaints and a health study that was going on in Superior, and he did some research into what it was about. He gave some history about this study, saying that a complaint letter was written by a Superior resident in 2011 to the Agency for Toxic Substances and Disease Registry (ATSDR), based in Atlanta, Georgia, a federal public health agency of the U.S. Department of Health and Human Services. ATSDR has a delegation agreement with the Arizona Department of Health Services (ADHS) and asked the State agency to look into the situation. ADHS has just recently begun a 'public health consultation', and met with the author of the letter, several residents in Superior, and some local companies including Resolution. ADHS expects that a report of findings will be prepared in six to twelve months, and submitted to ATSDR. Dr. McKeon summarized some of the health concerns mentioned in the letter, and said she has met with the study coordinator from ADHS.

A group member said that she was bothered by the comments at the public meetings because people were blaming Resolution for problems that might have been caused by

previous companies. Godec noted that this is not uncommon in perceived situations of environmental contamination, because people tend to be frightened by the unknown.

### **Frequently Asked Questions**

Vicky Peacey said that Resolution has prepared a Frequently Asked Questions/ Question & Answer paper in response to the most common questions that people tend to ask. She distributed copies to group members.

### **Briefing on Elements of Mine Plan of Operation & Relationship to Public Lands and the National Environmental Policy Act (NEPA)**

Presenter: Vicky Peacey

Peacey showed a map that includes the locations of the mine, mill and mining processing facilities, and ancillary facilities including pipelines and power lines. She noted which of these are located on public land and private land. If the tailings site suggested at the last working group meeting is used, it would be entirely located on Tonto National Forest.

She said that Resolution is currently preparing the Mine Plan of Operations, which they plan to submit to the Forest Service by the end of the year. A member asked if they will be able to get a copy of the plan, and Peacey said she will make it available to the group when it's complete.

Submission of the plan will trigger the Forest Service initiation of environmental studies. They have indicated that they will probably take about nine months to review the plan for completeness. Changes may be requested during this period. When they are satisfied, they will provide public notice of the NEPA process and hold public scoping meetings. After this, data will be collected and alternatives will be developed and assessed. A Draft Environmental Impact Statement, that may take several years to complete, will be issued for public review.

### **Discussion and Q&A About NEPA – Ask an Independent Expert**

Presenter: Chris Horyza, Arizona Bureau of Land Management

Godec introduced Chris Horyza, who has spent many years as a planner and NEPA specialist with the BLM. He has managed several of the largest, most controversial projects in the state in his 35 years at BLM. The facilitators invited him to talk to the group as an independent NEPA expert.

Horyza said that one of the key aspects of determining when a federal environmental study is required is the concept of 'connected actions'. In reviewing applications for projects that have multiple locations including public land, federal agencies need to determine if the project facilities and actions are connected; if the project could not be

built without any of these facilities, they are connected, and therefore need to be included in the environmental analysis.

Horyza noted that a lot of people get involved in the NEPA process to influence decisions. But there are also other factors that influence decisions, often politics. If decisions are not good or are controversial, then legal challenges may occur, which also represents another opportunity for public input.

Questions and comments from group members included the following:

- Have you read the legislation that deals with the land exchange?
  - No
  
- Does the NEPA process apply to public lands once they've been conveyed to the private sector?
  - Yes, because of the connected action provision.
  
- Why doesn't NEPA apply to the land exchange?
  - Congress can authorize a land exchange without environmental review. Most often, however, land exchanges are completed as administrative actions with NEPA review.
  
- So it will be a political process that dictates whether NEPA applies to the land exchange?
  - Yes, but the mine itself will still be subject to NEPA, regardless of the public or private status of the land.
  
- People can't understand why NEPA wasn't required before the land exchange, and this has been a controversial issue in the community for several years.
  
- Can the company get by without doing environmental review?
  - This would be highly unlikely, because federal lands will still be affected by elements of the project.
  
- The U.S. loses the land when it's exchanged, right?
  - Yes – the surface rights would be transferred. Whoever owns the mineral estate can exercise them regardless of who owns the surface land under the Mining Act of 1872.
  
- Have there been projects that have been denied because of the NEPA process?
  - We have seen projects that were denied before they got to the NEPA stage. NEPA is a decision support process and a disclosure process that

## Community Working Group

---

makes sure project effects are thoroughly analyzed. If so, and if mitigation is sufficient, projects can be approved. The process is designed to inform decision makers, not to make decisions.

- A member noted that a vote on the land exchange legislation is scheduled to occur next week.
- A member observed that the recent article in the Arizona Star was biased and inaccurate in some ways. (A link to the online version of this article was provided to the group by Matt Nelson.)
- What is the impact of doing the Environmental Impact Statement, since it seems as if projects are rarely denied in the end?
  - That's mainly true, in that NEPA rarely results in projects being stopped altogether. But the process, starting with scoping, is designed to define the issues that need to be addressed and to evaluate and disclose impacts. The Forest Service is probably not going to write the EIS but will hire a 'third-party' consultant to do these studies, under the direction of the Forest Service but paid by Resolution. The purpose and need for the project must be defined, and this helps to identify reasonable alternatives. This process can take a very long time. One advantage of a group like this is that you can keep informed about what's going on and continue to have input.
- Who is the decision maker?
  - In this case, it will be the Forest Service.
- Does mitigation only apply to federal land?
  - No, it can apply to the whole project. And the public can suggest mitigation as well, which the decision maker needs to consider.
- Can the company fail to follow the law and still have the project approved?
  - No, the Forest Service needs to make sure that all relevant laws are followed and can impose restrictions and mitigation to ensure that happens.
- Can Resolution say they can't afford or don't want to do something the Forest Service wants them to?
  - Requirements need to be reasonable, and the federal agency tries to negotiate this, but they can't actually force proponents to do things. They could, however, deny the project if reasonable conditions are not met.
- How is the public notified during the public comment period?

## Community Working Group

- Lots of ways are available, like news releases. Public word of mouth is the most effective for many projects. Normally there is not individual notification of all citizens; however, email notifications are also effective, using a distribution based on people who have signed up at previous public events. For this high-profile project, the media may also have a lot of coverage.
- If the tailings site is moved to the State Land parcel, would an EIS still be required?
  - We would need to ask the question about connected actions: what would happen if all facilities on public land were not built? If the project can be built without any federal involvement, then NEPA would not apply. The Forest Service decision may apply only to the portions of the project on federal land, but the environmental assessment needs to be on the entire project.
- We keep saying 'environmental' but what about social impacts?
  - NEPA requires assessment of 'impacts to the human environment', so economics, social, and quality of life effects must also be included.
- What about other laws like those that affect wildlife and cultural resources?
  - Yes, all applicable laws must be addressed and included in the analysis, and all the regulatory agencies must be consulted.
- What's the role of the U.S. Environmental Protection Agency?
  - They've delegated a lot of their authority to the states, but they usually review the analysis for water quality and can (and usually do) review it for everything.
- A note on the EIS is that public input is not required for the Final EIS, although agencies sometimes provide for it. The Forest Service could be requested to do so.
- A member requested a copy of the NEPA process slide that Peacey presented.
  - Yes, we will provide copies to group members.
- Is there any way that Resolution can get out of doing a NEPA analysis? (for example, if the land exchange is approved without a NEPA assessment, if a tailings site is selected that's not on federal land, if power lines and other facilities are re-routed to avoid federal land, etc., so that all components are on private land)

- The question is hypothetical, because this project cannot be completed without touching federal land. Buried pipelines also require federal approval, unless they only affect private mineral rights.
- Godec asked Horyza if he thinks a NEPA analysis will be required for this project?
  - Yes, he's "99.9% sure", unless Congress exempts the project from the requirements of NEPA. Also, requirements for Corps of Engineers permits would need federal review.
- Peacey noted that NEPA is not the only guarantee of environmental compliance; there are also permits and compliance monitoring, and financial assurances that Resolution needs to make.

### Public Comments

Mr. Gorham said that the meeting was enjoyable.

Councilman Estatico said that he thinks the federal government will conduct a fair process for this project because they want the environment to be safe; if things are done right, he would be satisfied.

Because Councilman Estatico mentioned that he was a teacher of government classes, Horyza suggested that bringing a government class to one of these meetings or other public event might help young people understand the democratic process better.

There was some discussion of BHP's plans for the Rio Pinto mine.

### Next Meeting Agenda

Godec said that he has heard comments in the community that this group is a "pawn" for Resolution, and asked if the group might be interested in doing a short exercise that would allow each person to indicate – anonymously -- how they feel about the project. Members said that they would be interested in doing this at a future meeting.

A member wondered if we should also invite someone from the Forest Service to talk about the process. Joel Mona from Payson Ranger District was suggested as a possible Forest Service representative, as he is involved in NEPA studies.

Potential future meeting topics include:

- Water issues, including
  - the possibility of inviting independent experts
    - Arizona Department of Water Resources deals with water quantity.

- Arizona Department of Environmental Quality deals with water quality.
  - assurances from Resolution that waterways won't be polluted
  - agreements and mitigation measures
- Cultural resources, and particularly the perspective of the Indian communities
- Discussion of what Resolution is going to do for the Town of Superior, and also for Queen Valley and other communities
- Invite a representative from State Land Department.
  - What is the potential that State Land Department would allow their land to be used for the tailings facility? Right now, they won't even consider it.
- Air quality

The group agreed to allow the facilitators to suggest ways in which the water resource issues can be addressed in future meetings.

Please submit any clarifications and additions to:  
Debra Duerr  
Godec, Randall & Associates  
602-882-8200  
[Debra@godecrandall.com](mailto:Debra@godecrandall.com)