

**January 22, 2020
MEETING SUMMARY**

Meeting Attendees

Community Working Group members present:

Pam Bennett – Queen Valley Community Liaison
Todd Pryor – Town of Superior
Jim Schenck – Rebuild Superior and Legends of Superior Trail
Bruce Wittig – Queen Valley Fire Department
Lynne Nemeth – Boyce Thompson Arboretum
Mila Besich – Town of Superior
Rick Cartier – Superior Chamber of Commerce
Hank Gutierrez - Superior Copper Alliance
JoAnn Besich – Superior Optimist Club
Fred Gaudet – Arizona Trail Association
Jeff Bunklemann – Central Arizona College
Ricardo Provencio – United Superiorites
Tweedy Armitage – Superior Historical Society
Anthony Huerta – Town of Superior
Arlynn Godinez – Superior Unified School District Board / Maricopa County

Community Working Group members not present:

Karen Kitchayan Jones – San Carlos Apache Tribe
Tino Flores – Copper Corridor Economic Development Coalition
Anna Flores – Town of Kearny
Sylvia Kerlock – Town of Winkelman
Richard Matthews – Queen Valley Water Board
Cecil Fendley – Queen Valley Water Board
Tiffany Rowell – Superior community
Gloria Ruiz – Town of Winkelman
Roy Chavez – Retired Miners and Concerned Citizens
Lynn Martin – JF, JI Ranch
George Martin – JF, JI Ranch
Silvia Werre – Top of the World
Cathy Melvin – Gila County
Fernando Shipley – Cobre Valley Regional Medical Center Board
Pamela Rabago – Superior Chamber of Commerce

Resolution Copper Company:

Hesston Klenk

Facilitators – Godec, Randall & Associates (GRA):

John Godec, Debra Duerr

Speakers:

Roger Ferland, Esq. – Quarles & Brady, retired

Public Guests:

Superior AmeriCorps Volunteers

Introductions & Housekeeping

John Godec welcomed the group, and asked members to introduce themselves for the benefit of guests. Guests include the AmeriCorps group from National Civilian Community Corps. This is a partnership among Town of Superior, Legends of Superior Trail (LOST), and Rebuild Superior. They are helping to build the new section of the LOST that connects with the town, and are hoping to finish within six weeks. On Monday, they even repainted a house for a local veteran. The 11 volunteers introduced themselves, noting that they come from all across the country. Roger Ferland, the CWG's guest speaker, mentioned that he believes that every American should have a requirement for two years of public service, and applauded the AmeriCorps group for their work and their service.

Godec showed the CWG the informational brochure that the RUG produced. He offered copies to anyone who would like to distribute them. About 200 copies have been left for the Chamber of Commerce to use.

He pointed out the water quality report for the third quarter of 2019 from Matrix New World. A summary of this is included in the CWG packets.

In local news, upcoming events include the home show is taking place this weekend. Rick Cartier asked for volunteers if anyone is interested in helping. There will be a Queen Creek hike on both Saturday and Sunday as well as a pancake breakfast. The Hiking and Hash Browns hike to Pinal City is taking place on February 14. The Copper Corridor Run will be held on February 29, with various lengths of courses. Aravaipa Running is organizing it. The Motor Madness on Main Street will be held on April 18 in honor of Mike McKee. The Highway 60 park is completed and is getting a lot of visitation. Resolution signed a land access agreement and more climbing organizations have joined; a CWG mentioned that he had met climbers from San Francisco. Godec asked if the CWG wants to have a booth at the Mining Festival this year and requested that members think about whether and when they would like to volunteer to attend.

3rd Quarter 2019 Monitoring Report & Update on Community Monitoring for 2020

Resolution is still evaluating where monitoring well sites should be established. The Matrix New World contract has not been modified to include these yet, but their contract has been renewed.

Mining Law of 1872

Roger Ferland, Esq.

Godec introduced this topic saying that the CWG has had questions and comments about the Mining Law at many meetings over the years, and the topic has always been of interest to the group. He noted that many people who have expertise in this are working attorneys who work for the mining industry or the federal government, and so may have perceived conflicts of interest. Roger Ferland, who will be speaking with the group tonight, is a retired environmental

attorney with a national reputation and significant experience around the mining industry in Arizona. Ferland told the group that he will try to summarize what he's learned from practicing environmental law for 40 years.

Ferland observed that he was "in on the ground floor of environmental law in Arizona", so had the opportunity to participate in writing regulations and policies for several environmental issues involving power plants, smelters, and other air pollution sources. He's also had a broad spectrum of clients and has been both a prosecutor and defender of Magma Copper Company, for example. Working with the Gila River Indian Community he helped develop the first Clean Air Act program for tribes.

He stated his overriding opinion that the system fails in solving environmental problems when these are characterized as 'moral' issues. People tend to want issues to be black and white, "forces of light and forces of darkness", which they are not. This approach limits the basis on which we can compromise and resolve the issues to get a win/win situation; compromise is the key. It's impossible to move moral issues to resolution; therefore, we need to treat each issue based on facts.

He provided an overview of the history and status of the Mining Law of 1872. The 1872 mining law governs the transfer of rights from the federal government to private individuals. There have been moves to change this for 70 years, but hard rock mining companies are very resistive to change. He noted that just because the law is old doesn't mean it's bad. The law emerged from the California gold rush, when most minerals were located on federal lands. Because governments did not have regulations or management in place, the miners developed their own rules. The law does not envision much federal oversight of mining operations. It allows U.S. citizens to look for minerals (self-initiation) without any work from federal agencies.

Patents result in transfer of public land into private ownership, which most often then require payment of state taxes and local property taxes. Few actual patents are issued, since people can do the same things without having the obligations of patents. They can hold leases, for example, for many years without doing anything to develop them. In 1992 Congress replaced the requirement for 'annual work' to be conducted on mining claims with a \$100 annual holding fee. Under the law, owners of mineral rights do not pay royalties or fees for the resources they take.

Three main issues are at the center of debate about the mining law:

- Claims that the private sector has far too much discretion over public lands and that government should have more control
- Advocates for reform contend that current mining laws and federal and state laws do not provide adequate environmental protection.
- How much should mining interests have to pay for the resource? It's argued that the federal government is losing billions of dollars that are transferred to private interests.

Policy issues inherent here are private versus government control of public lands, and what means should be used to control this use of public land. These could include prohibiting surface

access and imposing other regulations that make it harder to develop mineral resources. Also, federal and state mining laws are not uniformly applied or interpreted, causing many questions and much litigation.

Ferland observed that most land has no value for mining; even in Nevada only 1% of land has ever/will ever be mined. However, environmental impacts of mining can extend far beyond the location being mined, e.g. rivers, streams, air. There are areas withdrawn from mining, such as national parks and wildlife refuges. Mined land reclamation is now required by Forest Service and Bureau of Land Management, and most states have reclamation laws. States typically regulate hard rock mining more than the federal government does.

The process for obtaining a mineral lease or patent included several steps:

- Stake a claim with the federal government, file it with the county and pay established fees
- Obtain sample drilling
- Perform a feasibility study
- Present evidence of commercial viability of the proposed mine/mineral resource, typically before a judge, to claim surface rights (discovery)
 - Existing claims can be nullified if discovery does not prove the resource, as in the recent Rosemont Mine case.
 - Government can buy out a claim rather than contesting it, which is expensive.
 - Sometimes claims (or leases) are improperly used for non-mining purposes, like housing or marijuana cultivation.

In addressing how mining revenue is created to the federal government, Ferland said that production royalties are charged in energy-related resources like oil, gas, and coal based on gross profit (for example, 12.5%). Royalties are not charged on hard rock minerals. Hesston Klenk pointed out that oil and gas are ready to market when they come out of the ground, whereas hard rock minerals require high processing costs. He suggested that net royalties could be imposed based on final value/profits.

In summary, Ferland suggested that the costs of mining are not going away. The Mining Law of 1872 is, at least, one measure in place to regulate the industry. Clearly, this law needs reform, but how and what is not agreed and not clear. These are practical issues that have economic consequences, and environmental protection must be assured.

CWG questions and comments included the following:

- For the Resolution Copper Project, royalties will be paid as decreed by Congress in the land exchange legislation for compensation for the withdrawal for the Oak Flat campground.
- What will happen to old highly contaminated mine sites that haven't been reclaimed?
 - Ferland thinks it's unlikely that most of these sites will ever be cleaned up because mining companies can't make enough to cover cleanup costs. For example, Asarco declared bankruptcy to avoid cleanup; they said the cleanup cost more than they could make from mining. Some sites like this were put into the federal Superfund program, but those funds aren't nearly enough to cover actual cleanup costs.

- Another example was given of small mines under 5 acres, which can operate under an Environmental Assessment and pay a \$2000 bond for cleanup. When they can't prove the resource and can't afford cleanup, they walk away with no consequences.
- The mayor pointed out that state and other government policies and taxation programs do not favor mining towns in addressing socioeconomic impacts.
- A comment was made about the concept of self-determination' using the example of the Bronco Creek Exploration undertaking near Superior. In the U.S. the company has to bear the whole cost of developing production, whereas in some other countries part of the mines are owned by the government or receive royalties, so there is taxpayer subsidy of mine development.
- Is there anything in the mining law that addresses water contamination?
 - This issue is generally addressed by other environmental regulations, but many older mines are grandfathered in.

Public Questions & Comments

There were no comments from visitors.

Next Meeting

By agreement, there will not be a CWG meeting in February. The next CWG meeting is scheduled for:

March 11, 2020
5:30 pm
Superior Chamber of Commerce