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Timelines-- Past & Present

Recent And Past History of the Red Lady Saga

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On April 2, 2004, the Bureau of Land Management (BLM) sold 155 acres of public land, including the Red Lady Bowl, to multinational mining giant Phelps Dodge for just FIVE dollars per acre! The following lays out both the recent timeline, and the historic one from 1977, just to bring everyone up to speed!

- An obscure provision of the antiquated 1872 Mining Law known as "patenting" allows mining companies to purchase land for such a low price.
- In 1993, High Country Citizens' Alliance, the Town of Crested Butte, and Gunnison County all filed formal protests to the Red Lady patent application.
- Without any notice that our protests had been denied the BLM sold our public land, despite Secretary of Interior Gale Norton's recent statements that the BLM should seek more local community involvement in its decision-making.

High Country Citizens' Alliance, the Town of Crested Butte, and Gunnison County have responded with a federal lawsuit claiming that the BLM had no authority to sell the top of Red Lady to the mining company.

- The 1872 Mining Law dictates that there are several things that mining companies have to prove before the BLM can sell any land for five dollars per acre.
- First and foremost, Phelps Dodge has to prove that a profitable mine would be possible on Red Lady. Beneath the mountaintop lies a deposit of molybdenum ore, a mineral used in manufacturing high strength and high temperature alloys. Phelps Dodge applied for the Red Lady patents in 1992, and should have been required to prove that the 1992 market price for molybdenum was high enough to justify all of the costs of a mining operation. We are arguing that Phelps Dodge simply cannot show that a Red Lady mine would be profitable, because molybdenum prices crashed in the early Eighties. Because a profitable mine was not possible on Red Lady at the time of the patent application, the BLM had no authority to sell the land.
- A federal lawsuit can take years to resolve. In the meantime, we have asked the judge to take immediate action and return Red Lady to the public while the suit progresses.
- The federal judge heard arguments from both sides regarding the Government's and Phelps Dodge's attempt to dismiss the case altogether. Phelps Dodge and the BLM asserted that only another mining company, with overlapping mining claims can challenge a mining patent in federal court. While this assertion might have been true in 1872, subsequent 20th Century law and Supreme Court decisions overwhelmingly support our right to bring this action to court, however, the court dismissed our case holding that that private citizens' groups and local governments do not have the right to challenge land transfers to mining companies, such as in the Red Lady case, even if those transfers are made illegally.
- Accordingly the Town, County, and HCCA appealed the case to the Tenth Circuit Court of Appeals. Only if we prevail at the appellate level will the court ever even look at the merits of our case—did the government have the authority to sell Red Lady for just five dollars per acre? We are hopeful that a victory at the Tenth Circuit will give us our day in court.

A Brief History of the Red Lady Mining Struggle . . .

1977 – High Country Citizens' Alliance is founded to protect Red Lady and the Gunnison Valley from a large-scale

mining operation.

May 1979 – AMAX Inc. applies to the Forest Service for a permit to mine. The application was withdrawn in the early 1980s following a worldwide crash in molybdenum market prices.

December 1992 – AMAX Inc. applies for patents for 10 mining claims covering the Red Lady.

June 1993 – High Country Citizens' Alliance, the Town of Crested Butte, and Gunnison County file formal protests to the patent applications.

December 1993 – AMAX Inc. merges with Cyprus Minerals Company to form the Cyprus AMAX Minerals Corporation.

1998 – HCCA, the Town of Crested Butte, Gunnison County and others won our trial against Cyprus-Amox' application for addition water rights. Amox argued that these were needed for the proposed mine. We won the case on the narrow finding by the court that Cyprus-Amox had failed to obtain a contract for their water by the time they applied for their water right.

December 1999 – Phelps Dodge buys Cyprus AMAX.

August 2001 – HCCA files/submits a Freedom of Information Act (FOIA) request for all of the documents relating to the patent application, including a Mineral Report prepared for the Forest Service. The Bureau of Land Management relied on the Mineral Report in its eventual decision to approve the patent application, however, HCCA had been denied the critical pages.

September 2001 – Defended our 1998 Water Court victory in front of the Colorado Supreme Court.

January 2002 – The Colorado Supreme Court ruled that Phelps Dodge did not need such a contract for their water by the time they applied for their water right.

April 2002 – HCCA files an administrative appeal of the FOIA denial. The Department of Interior has not made a decision yet on the appeal.

April 2004 – Patent protests filed by HCCA, the Town of Crested Butte and Gunnison County are denied. 155 acres of once public land are sold to the mining company for just \$5 an acre.

April 2004 – HCCA, the Town, and County file suit in the United States District Court for the District of Colorado, claiming the BLM had no authority to sell Red Lady, and asking for her return to public ownership.

September 2004 – The federal judge heard arguments from both sides regarding the Government's and Phelps Dodge's attempt to dismiss the case altogether. Our opponents claim that the 1872 Mining Law does not give us the right to challenge mining patents in federal court. We argued that contemporary law and Supreme Court doctrine support our right to sue.

January 2005 - The court dismissed our case on procedural grounds, holding that private citizens' groups and local governments do not have the right to challenge land transfers to mining companies, such as in the Red Lady case, even if those transfers are made illegally.

February 2005 – HCCA, the Town, and the County appealed the case to the Tenth Circuit Court of Appeals. We are hopeful that a victory at the Tenth Circuit will give us our day in court.

February 2005 – Federal district court judge rules that Phelps Dodge may return property on Red Lady back to previous owner US Energy.

February 2006 – Phelps Dodge conveys title to mining properties on Mt. Emmons, including the Red Lady mining claims and the closed Keystone Mine site, to U.S. Energy in accordance with the court order issued on year earlier. In addition to taking possession of these mining properties, U.S. Energy also assumed responsibility for the Keystone water treatment plant, with an estimated operating cost of one million dollars per year. The treatment plant removes toxic effluent from Keystone Mine runoff before the water is discharged into Coal Creek.

June 2006 – Federal District Court Judge Marcia S. Krieger rules in favor of High Country Citizens' Alliance, Town of Crested Butte and Gunnison County ordering BLM to release critical documentation on financial aspects of the Red Lady Patents.

July 2006 – Tenth Circuit Court of Appeals denies Town, County and HCCA appeal.

August 2006 – Town, County, and HCCA request an “En Banc” review of the appeal before the entire Tenth Circuit Court.

October 2006 – U.S. Energy announces their intent to define a molybdenum mining project on Mt. Emmons and hire Clyde Gillespie as Project Manager.

November 2006 – Request for “En Banc” review is denied by the 10th Circuit Court of Appeals.

November 2006 – U.S. Energy holds an open house in Gunnison to present a brief history of the company’s financial situation, mineral holdings, and plans for the future. Public questions and comments were not taken, leaving the community to doubt U.S. Energy’s genuineness, especially after the company’s stated goal of providing “transparency and openness, fostering good communication and lasting relationships.”

December 2006 – Kobex Resources Ltd., headquartered in Vancouver, B.C., partners with U.S. Energy with the goal of co-developing a molybdenum mine on Mt. Emmons. Under the terms of this agreement, Kobex assumes the operational costs of the water treatment plant. U.S. Energy, however, will continue to retain overall responsibility for the plant and mine property.

January 2007 - The Town, County, and HCCA are considering an appeal to the US Supreme Court. The Supreme Court receives thousands of appeals a year, but only reviews approximately 100; the rest are rejected. Only if we prevail at the appellate level will the court ever even look at the merits of our case—did the government have the authority to sell Red Lady for just five dollars per acre?



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