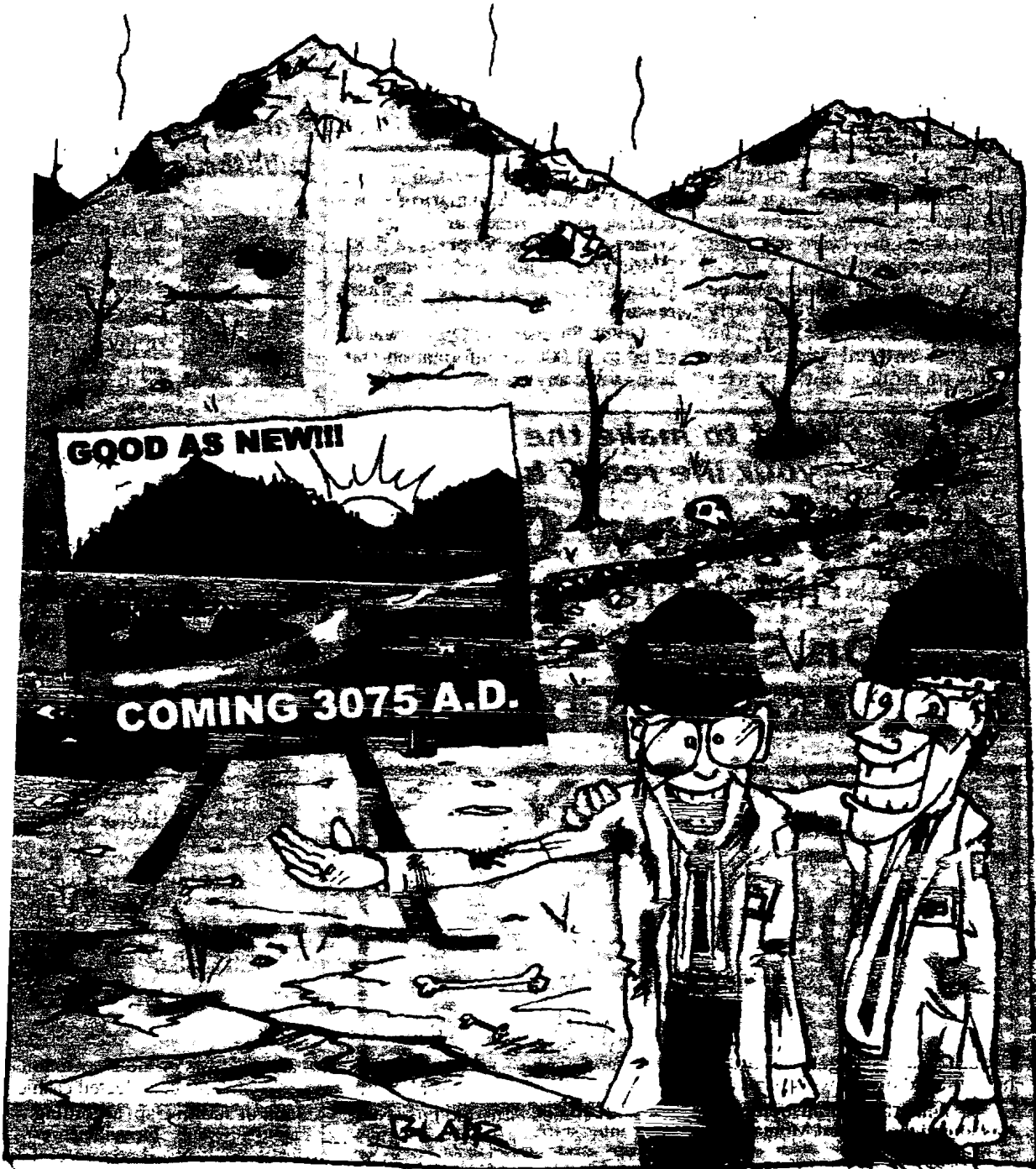


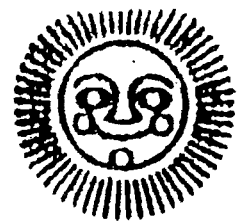
# DEQ issues an update on the of the Kendall Mine situa

Date: May 9, 2002 Exhibit 9



" Well, the bad news is, there is significantly more damage to the site than previously thought ...  
... BUT, the good news is, with a little time and Mother Nature's TLC, we'll never know."

01-19-2002



## Gazette opinion

# We all pay for messy practices of mining

**M**INING CAN be a messy business.

Overtured earth is piled sky-high while noisy trucks and loaders shoulder the burden of hauling precious minerals or fuel to rail cars or processing mills. Diesel fumes fill the air as huge trenches and pits are dug. In some cases, water is mixed with cyanide so that gold can be leached from the ore.

The workers who make their living extracting coal, precious minerals or metals will tell you it can be hard, sometimes dangerous, work. They would be the first to admit that pulling minerals out of a mountain is not a tidy undertaking.

It's messy.

But mining can turn from messy to ugly in a hurry.

Montana has been victim to the rape-and-run mentality before. The dredge piles can still be seen along creek beds stripped bare in the late 1800s near Virginia City. And hard feelings still remain for many folks who saw what greed did to the natural and social landscapes when the copper barons left Butte to die. Boom-and-bust industries provide only temporary jobs and leave a damaged landscape in their wakes.

It also turns ugly when an owner abandons its responsibility.

CR Kendall, a subsidiary of Canyon Resources of Golden, Colo., abandoned its responsibility to clean up its gold mine near Lewistown five years ago.

The mine's owners posted a \$19 million bond in 1989 for future reclamation of the project. The company has completed about two-thirds of the work. The state now says the final cleanup costs will total \$14 million. Cleaning up the leach pad and contaminated water at the site is important, as it will ensure that aquifers in the cattle-rich region are not irreparably damaged.

On Monday, the state demanded that the insurance company holding the bond turn it over so some of the costs can be paid.

On Tuesday, the Canyon Resources president said his company wouldn't pay up, at least not any time soon.

"We certainly will not agree to their request," company president Richard DeVoto said. He said the company can perform the reclamation for close to \$2 million, not \$14 million, as the state estimates.

If that's the case, why hasn't the work been done by now?

Meanwhile, expect things to get uglier still to Montana taxpayers, who will now shoulder the cost of this cleanup.

"Canyon Resources has been dragging its heels on this reclamation for a long time, and the downstream landowners have been paying the price both in water quality and water quantity," said Bonnie Gestring of the Montana Environmental Information Center.

Needless to say, this won't be resolved before Christmas. It is a Racicot environmental legacy that Gov.-elect Judy Martz now carries with her into her term.

We encourage Martz to do what is necessary to ensure that Canyon Resources pays its fair share of the cleanup cost. We also encourage the new administration to develop a system in which decisions allowing bonds of this nature are based upon sound science and economics that cover all the bases.

Responsible business leaders will do what's right to do business in Montana. For example, some Colstrip projects were an eyesore while coal was being mined, but reclamation performed later helped bring a near-natural state to the landscape.

Other companies, like Canyon, apparently want to shirk their responsibilities. That's why performance bonds and reclamation bonds exist.

When things go from messy to ugly next time, we must be ready.

Environmental Quality Council  
State Capitol, Room 171  
P.O. Box 201704  
Helena, Montana 59620-1704

Dear Environmental Quality Council Members;

Thank you, for this opportunity to testify on behalf of issues associated with the operation of the CR Kendall cyanide heap leach gold mine. Our family, our business and our neighbors have been gravely affected by this mining operation. We can't begin to express the frustration we have experienced over the last 14 years as we have struggled to protect our ranching operation from the impacts of mining. Our frustration stems primarily from two things – inadequate laws and inadequate enforcement.

We are not proponents of unnecessary regulation, but 14 years of first hand experience with the current regulatory environment has convinced us that changes need to be made. We sincerely ask that the EQC recommend legislative actions.

1. Legislation to appropriate funds for reclamation of the Kendall mine as required by law.

State law requires that mines be reclaimed within two years of mine closure. Although the Kendall mine ceased operations in 1996, it remains unreclaimed. As a result, leach pads and waste rock piles continue to contaminate stream drainages that emanate from the mine at levels exceeding state water quality standards. Our ranch and other downstream neighbors continue to be impacted by water quality and quantity problems. These impacts will continue until comprehensive reclamation is conducted, and a water treatment system is put in place.

In the six years since the mine closed, DEQ has been unsuccessful at compelling reclamation of the mine in accordance with state law. The agency has also been unsuccessful at increasing the reclamation bond to cover reclamation costs.

As a result, the bond is roughly \$12 million short of estimated reclamation costs and long term water treatment. Due to DEQ's inability to enforce state law and the company's unwillingness to comply with state law, the state is now liable for reclamation costs, and downstream landowners continue to bear the brunt of water quality and quantity impacts. Our family has operated this ranch successfully since the 1940's. Our business has been put at risk for a mine that operated for 5 years. This must be rectified.

2. Legislation to amend state law to require mining companies to obtain water rights prior to intercepting water for mining activities, including the interception of water to address water contamination as a result of mining activities.

In 1996, Canyon Resources installed a pumpback system to intercept water contaminated by the mine and route it back onto the mine site. There, the water was removed through

evaporation; discharge into a pit, or through land application. Our family and our neighbors filed water rights complaints against the company with the Department of Natural Resources and Conservation (DNRC). DNRC ruled that Canyon Resources was not required to obtain a water right because the company was not putting that water to a beneficial use. DNRC never ruled on whether or not the company was wasting water, which is against state law.

We were stunned by this ruling. This ridiculous interpretation of state law renders our water rights meaningless. Mining activities caused the contamination of those state waters. The company must be responsible for addressing that contamination without adversely impacting downstream water rights.

State law must be amended to require mining companies to proceed through the water rights process prior to intercepting water for mining activities, water "treatment", or water management.

3. Development of an oversight position within the State Government, but independent of the Department of Environmental Quality, which would provide assistance to citizens impacted by Department decisions.

We have been consistently frustrated by the DEQ's inability to enforce state law. Canyon Resources contaminated stream drainages downstream of the mine for four years. DEQ did not take action against the company until a state environmental group filed a citizen's complaint on our behalf. Even then, it took the agency so long to take enforcement action that the company was never penalized for almost two full years of water quality violations because the statute of limitations had expired. The enforcement action that was filed in 1998 for the remaining two years of water quality violations remains unpaid today, four years later. And, the mine continues to pollute. DEQ issued interim standards which were to be met by August of 2001. The mines discharges have been at times in excess of those standards and did not reach water quality standards. Yet, no penalty or punishment has been brought against the company even though this issue has been raised to DEQ personnel. The only people being punished are those whose property is being fouled by these toxic discharges. Reclamation bonding has also been an issue. Since the mine was permitted in 1989, we've consistently asked DEQ to increase the reclamation bond. We were consistently ignored. Even after water quality problems developed in 1994 indicating that water treatment would increase reclamation costs, the agency took no action. State law requires the bond to be reviewed every 5 years. It wasn't until 1998 that DEQ issued its first bond increase to the company. The increased bond was never collected. DEQ issued two additional bond increase notices in 1999. They were never collected. The State issued another bond increase in Aug. 2000. It was never collected. To date, no additional funds have been collected by the department.

Unfortunately, the agency hasn't had to live with its decisions. We Have. We're the ones that have to deal with the impacts to our water supplies every single day. Every time we meet with the agencies, we are told that action will be taken. Nothing Happens.

That is why we are advocating for an oversight position, similar to the EPA ombudsmen position, that citizen's can turn to when the agencies aren't enforcing the law.

Thank you, for your time and attention to these matters. We reiterate that we are not against mining in general. However, mining must be regulated in a fashion which protects neighboring businesses, property, and lifestyles.

Sincerely;

Stephanie and Alan Shammel  
23 Salt Creek Road  
Hilger, Montana 59451

406-538-8686