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OFFICE OF THE COUNTY MANAGER

September 18, 2020

Robert Eben
Superintendent
Bureau of Indian Affairs
Western Nevada Agency
311 E. Washington Street
Carson City, NV 89701

Dear Mr. Eben,

On behalf of Douglas County and the Board of County Commissioners, I am writing you to provide public comment on the draft Environmental Assessment (EA) on the “proposed” Painted Rock Mine located on Trust Land east of the Johnson Lane neighborhood.

Douglas County takes exception to the lack of communication from the BIA. As the county in which this project is located, we are deeply disappointed the BIA did not feel the need to consult with the county or the public. Douglas County is required to provide public notice when considering projects. We would expect the BIA to provide similar notice to the public, as is clearly contemplated by the National Environmental Protection Act (NEPA).

A review of page 25 of the Environmental Assessment (EA) shows several public agencies consulted: The Washoe Tribe, the Nevada Department of Wildlife, the U.S. Fish & Wildlife Service, the Nevada Natural Heritage Program, the BIA, the USDA Natural Resource Conservation Service, and the Western Regional Climate Center. Douglas County is conspicuously absent from this list.

On July 15, the Council of Environmental Quality (CEQ) announced it’s final rule for the most sweeping changes to the NEPA regulations since their adoption over 40 years ago. One of the key objectives of the new regulations is to “expand public involvement and improve coordination with States, Tribes, and Localities.” (emphasis added). The intent is to involve the public early in the process. For this project, the BIA followed neither the letter nor the spirit of these new regulations.

The County learned about this project not from the BIA, but from the project operator, Knox Excavating when the owner brought a hard copy of the draft EA to our offices for public display in July. This violates provisions of the new NEPA regulations to promote the use of modern technology for information sharing and public outreach.

Mailing Address: P.O. Box 218, Minden, NV 89423

One is left with the impression the BIA did not intend to sincerely seek any public input at all. It was not until after Douglas County began asking questions that the BIA put the draft EA for this project on it's website for public review in late August.

Most concerning of all, this project has gone forward in advance of public input on the draft EA and proper federal permitting. Local residents, county employees, and Commissioners have photos of the advanced state of development of the Painted Rock Mine from as early as July. With the knowledge of your office, dozens of acres were disturbed and turned into processed aggregate by early August, before the public had any opportunity to comment. It seems clear the BIA has already decided to approve this project in advance of the public process.

Aside from a failed process, the County has several concerns regarding this project and it's impact on the local environment, county infrastructure, and our residents. Douglas County has entered into a voluntary agreement with Knox Excavating in an effort to mitigate some of these impacts. While this is helpful, we ask the BIA to consider imposing conditions on the permit for this project consistent with some of the terms in that agreement.

Noise from the project and dust from the trucks using Sunrise Pass Road and Johnson Lane are a significant concern. The permittee should be required to construct earthen berms or other noise control measures at the mine site and to conduct dust control measures on the BLM road leading from the mine to Johnson Lane.

Truck traffic from this project is a significant concern for our residents. The permit should be conditioned to prohibit use of Sunrise Pass Road to Freemont Street and East Valley Road, except in an emergency. These roads and not built for trucks.

While Johnson Lane is constructed for truck traffic, the increase in trucks and associated noise and road wear east of our industrial park will have a negative impact on the county. As an alternative, the BIA should require construction of a new road to the east of the mine site to divert traffic either north or south to U.S. 50 or U.S. 395 and away from existing residential neighborhoods.

Flooding is a significant concern for our community. The EA does not adequately address potential flooding issues that may be caused by this project. The project areas includes both the Williams Canyon Subwatershed and Saratoga Hot Springs Subwatershed. The EA dismisses flooding concerns by stating the project site is located in a high elevation bowl.

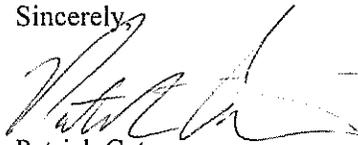
This area has a long and active history of flooding. Our Storm Water Program has conducted studies of at least one of these drainages and is currently working with BLM to permit retention basins to protect our community. The level of review required by BLM is significantly more than the brief references in this draft EA. More study is necessary to understand how this project will impact storm water and the safety of our communities.

The EA for this project does not adequately address impacts to the Bi-State distinct population segment of the Greater Sage Grouse. The report from the Nevada Department of Wildlife acknowledges the presence of Sage Grouse habitat within a significant portion of the 4-mile buffer for this project. Many studies, including authoritative studies by the USGS, demonstrate the high sensitivity of Sage Grouse to disturbances from commercial operations such as mines and energy development, requiring large buffers to remain viable.

In 2010, the U.S. Fish and Wildlife Service determined that the listing of the Bi-State population as threatened or endangered was warranted under the Endangered Species Act. The Bi-State population has so far remained off the list through the concerted actions of the U.S. Fish and Wildlife Service and other departments of Interior, the wildlife agencies of Nevada and California, and cooperating private landowners. Thus, a more thorough review of potential impacts on the population for this project is needed. The draft EA inadequately addresses this issue.

Douglas County is hopeful that the BIA will learn from this process and adhere in good faith to the new NEPA regulations, and work early and transparently with Douglas County and the public. We appreciate and the unique mission the BIA has to manage Trust lands. The county is willing to work cooperatively, be a good neighbor, and act in good faith. We expect the same from the federal agencies managing lands within Douglas County.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick Cates', written over a horizontal line.

Patrick Cates
County Manager

Cc: Douglas County Board of Commissioners