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## ARIZONA WATER SETTLEMENTS ACT UPDATE: LACK OF TRANSPARENCY CONTINUES TO THREATEN INTEGRITY OF PLANNING PROCESS

by Allyson Siwik, Executive Director

At its December meeting, the New Mexico Interstate Stream Commission approved modifications to proposals to divert water from the Gila River without any public input or commission oversight. Seven of fifteen projects being evaluated under the Arizona Water Settlements Act (AWSA) were modified. Only three had received public review and comment prior to the December 2 ISC meeting. Three of the remaining projects are large-scale water diversion projects on the Gila River and were approved for modification by the ISC without any public review or comment on preliminary engineering analyses. (The seventh evaluation was not a diversion project.)

"This is nothing new for ISC staff," said Allyson Siwik, Executive Director of the Gila Conservation Coalition. "Throughout the ten-year planning process ISC staff has consistently tried to limit public participation under the Arizona Water Settlements Act."

The ISC staff also requested that commissioners grant them authority to modify 15 Arizona Water Settlements Act projects as "staff sees fit" and without review and approval by the ISC. Worried about "public perception" and that the requested authority would constitute "pre-approval of AWSA projects," commissioners denied the request as written and approved a motion to allow staff to investigate and recommend further optimization of projects "subject to review and approval by the ISC."

"We commend ISC commissioners for recognizing that ISC staff

SEE AWSA UPDATE ON P. 3

## AFTER 15 YEARS, SALLY SMITH STEPS DOWN AS GRIP'S DIRECTOR OF RESPONSIBLE MINING

by Richard Mahler, Newsletter Editor



SALLY SMITH (GRIP PHOTO)

A small stream runs beside the modest adobe house Sally Smith built some 33 years ago in the Mimbres Valley. This humble creek, on the western slope of the Black Range, was the catalyst for her two decades of public advocacy within the daunting maze of Grant County's mining industry.

"We didn't know what may have been leaking from tailings and waste piles into our watershed," says GRIP's retiring Director of Responsible Mining, whose first mine contamination work involved the defunct Royal John Mine, several miles upstream.

Seated at her dining table, the long-time area resident recalls how she and other neighbors formed an association that received grant money to assess the 26-square-mile drainage. They soon learned that lead concentrations in soil near the Royal John were the highest in New Mexico.

SEE SALLY SMITH ON P. 4

## CONSERVATION GROUPS APPEAL MARTÍNEZ ADMINISTRATION COPPER RULE

**Hearing on motion for stay delayed until  
2014 as AG refuses to represent WQCC**

by Allyson Siwik, Executive Director

In October, conservation groups appealed the New Mexico Water Quality Control Commission's (WQCC) adoption of new copper mining groundwater regulations. The Gila Resources Information Project (GRIP) and Turner Ranch Properties, L.P.—represented by New Mexico Environmental Law Center (NMELC)—and Amigos Bravos—

represented by High Desert Energy + Environment Law Partners—challenged the new rule because they allow water pollution rather than prevent it.



TYRONE MINE (GRIP PHOTO)

Citing irreparable harm if the rule is implemented while the appeal is pending, the groups also filed a motion to stay until the appeal is decided. However, the hearing on the stay was postponed given that New Mexico Attorney General Gary King refused to represent the WQCC in the forthcoming hearing, given his support for the stay.

Proposed in September 2012 by the New Mexico Environment Department and the global copper mining company, Freeport-McMoRan Copper and Gold, and adopted by the WQCC in September 2013, the rules mark the first time in 36 years that the Commission has set aside its mandate to protect the quality of the state's scarce groundwater resources.

"At the request of Freeport-McMoRan, the Commission adopted a regulation that allows extensive and permanent groundwater pollution at all copper mines," says Bruce Frederick, NMELC Staff Attorney. "We are appealing the rule because we think it's unconstitutional and diametrically opposed to the Commission's express statutory mandate, which is to prevent water pollution."

The WQCC adopted the rules in September with little deliberation. New Mexico Tech geologist Doug Bland, who cast the only dissenting vote, resigned from the WQCC and Mining Commission in October after

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