

along Monument Creek from any future development.

Only one federally listed species, the threatened Preble's meadow jumping mouse, occurs onsite and has the potential to be adversely affected by the project. To mitigate impacts that may result from incidental take, the HCP provides mitigation for the residential site by protection of the Monument Creek corridor onsite and its associated riparian areas from all future development through the enhancement of 0.5 acre through native grass planting, shrub planting, weed control, preservation in a native and unmowed condition, and the placement of the proposed building site closer to the road and farther away from mouse habitat. Measures will be taken during construction to minimize impact to the habitat including limited site access and the placement of spoils piles only at the front end of the lot, away from the creek. All of the proposed mitigation area is within the boundaries of the Dahle property, all of which is included in the drainage basin of Monument Creek.

This notice is provided pursuant to section 10(c) of the Act. We will evaluate the permit application, the Plan, and comments submitted therein to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, a permit will be issued for the incidental take of the Preble's meadow jumping mouse in conjunction with the construction and occupation of a single-family residential lot on the Dahle Property. The final permit decision will be made no sooner than 30 days from the date of this notice.

Dated: May 8, 2002.

**David E. Heffernan,**

*Acting Regional Director, Region 6.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Notice of Availability, Assessment Plan for Natural Resources Injured by Releases of Hazardous Substances From the Leviathan Mine

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Indian Affairs, on behalf of the Washoe Tribe of Nevada and California, the U.S. Fish and Wildlife Service, the U.S. Forest

Service, the California Department of Fish and Game, and the Nevada Division of Environmental Protection, announces the release for public review of the Leviathan Mine Natural Resource Damage Assessment Plan—Public Release Draft (Assessment Plan). The Plan was developed by the Leviathan Mine Council Natural Resource Trustees, consisting of representatives of the Tribe and agencies listed above, to assess injuries to natural resources resulting from releases of hazardous substances from the Leviathan Mine in Alpine County, California. The Assessment Plan describes the proposed approach for determining and quantifying natural resource injuries and calculating damages associated with these injuries.

**DATES:** Comments on the Assessment Plan must arrive by June 24, 2002.

**ADDRESSES:** You may mail or hand deliver written comments to Mr. Wayne Nordwall, Regional Director, Bureau of Indian Affairs, Western Regional Office, P.O. Box 10, Phoenix, AZ 85001; or 400 N. Fifth Street, Phoenix, AZ 85004; or by facsimile (602) 379-4413.

The Assessment Plan is available for review, by appointment and during normal business hours, at the office locations of the following officials: (1) Curtis Milsap, Bureau of Indian Affairs, Western Nevada Agency, 1677 Hot Springs Road, Carson City, Nevada 89706, telephone (775) 887-3570; (2) John Krause, Bureau of Indian Affairs, Western Regional Office, 400 N. Fifth Street, Phoenix, Arizona 85004, telephone (602) 379-3723; (3) Robert Greenbaum, Washoe Tribe of Nevada and California, 919 U.S. Hwy. 395 South, Gardnerville, Nevada 89410, telephone (775) 265-4191 ext. 155; (4) Stan Wiemeyer, U.S. Fish & Wildlife Service, Nevada Fish & Wildlife Office, 1340 Financial Blvd., Suite 234, Reno, Nevada 89502, telephone (775) 861-6300; and (5) Melanie Markin, U.S. Fish & Wildlife Service, 2800 Cottage Way, W-2605, Sacramento, California 95825, telephone (916) 414-6638. In addition, the Assessment Plan is available for review at the Alpine County Library, 270 Laramie Street, Markleeville, California 96120, telephone (530) 694-2120; and on the Nevada Division of Environmental Protection Web site at <http://ndep.state.nv.us/admin/leviathan.htm>.

**FOR FURTHER INFORMATION CONTACT:**

Robert Greenbaum, (775) 265-4191 ext. 155.

**SUPPLEMENTARY INFORMATION:** In 1951, the Anaconda Copper Mining Company purchased the Leviathan Mine property, the former site of small copper sulfate

and sulfur underground mining operations, in Alpine County, California. Anaconda developed the former underground mine into an open pit sulfur mine and operated the Mine through 1962. Anaconda sold the Mine in early 1963, but no further mining operations took place thereafter.

Releases of hazardous substances from the Mine began in the 1950s and continue today. Infiltration of precipitation into and through the adits (tunnels from the former underground mine), open pit, and overburden piles, along with direct contact of mine wastes with surface waters, has created acid mine drainage (AMD), which has been released, and continues to be released into the environment. AMD, which contains arsenic, copper, sulfuric acid, and other hazardous substances, has continued to be released into groundwater and into the surface waters and sediments in Aspen and Leviathan Creeks, and from there into Bryant Creek and the East Fork Carson River. Bryant Creek begins in California and crosses into Nevada, passing through several Indian Trust Allotments. Bryant Creek then flows into the East Fork Carson River. Releases of AMD from the Mine have resulted in fish kills in Leviathan and Bryant Creeks and the East Fork Carson River.

From the early 1980s, when the State of California acquired ownership of the Mine, through the late 1990s, the Lahontan Regional Water Quality Control Board (LRWQCB) constructed and operated the Leviathan Mine Pollution Abatement Project. However, this project did not eliminate the releases of hazardous substances, and it redirected several sources of AMD to new discharge points. Despite additional efforts by the LRWQCB, the U.S. Environmental Protection Agency (EPA), and the Atlantic Richfield Company (ARC), the successor in interest to its wholly owned subsidiary, Anaconda, to reduce the release of hazardous substances from the Mine, releases of AMD continued to have deleterious effects on natural resources at the Mine and downstream.

In May 2000, EPA added the Leviathan Mine Superfund Site to the National Priorities List [65 FR 30482]. Also in 2000, EPA issued separate orders to the LRWQCB and ARC pursuant to section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA) [42 U.S.C. 9606(a)] to engage in hazardous waste removal actions. EPA's order to ARC also requires ARC to develop long-term response plans, including a

### Remedial Investigation/ Feasibility Study.

Pursuant to section 107(f) of CERCLA [42 U.S.C. 9607(f)], the Leviathan Mine Council Natural Resource Trustees (Trustees) are representatives of federal, state, and tribal government entities with trust authority over natural resources potentially injured by releases of hazardous substances from the Leviathan Mine. While EPA's focus is protecting human health and the environment, the Trustees have the authority to seek compensation from potentially responsible parties (PRPs) for past, present, and future injuries to trust natural resources caused by releases from the Mine. Such resources include, but are not limited to, groundwater, surface water, sediment, fish (including Lahontan Cutthroat Trout) and other aquatic biota, floodplain soils, riparian vegetation, and wildlife in and around the Leviathan Creek and Bryant Creek drainages, and a portion of the East Fork Carson River drainage. The assessment area includes the area surrounding and downstream from the Leviathan Mine in Alpine County, California; the Toiyabe National Forest; Indian Trust Allotments; Douglas County, Nevada; and the Washoe Indian Community of Dresslerville.

The Assessment Plan developed by the Trustees is intended to assess injuries to natural resources resulting from releases of hazardous substances from the Leviathan Mine. The Assessment Plan describes the proposed approach for determining and quantifying natural resource injuries and calculating damages associated with these injuries. By developing an Assessment Plan, the Trustees can ensure that the natural resource damage assessment will be completed at a reasonable cost. The Trustees also intend for the Assessment Plan to communicate proposed assessment methods to PRPs and to the public in an effective manner so that they can productively participate in the assessment process. The ultimate goal of the assessment is to seek damages from PRPs for the purpose of developing projects which will restore, rehabilitate, replace, or acquire the equivalent of the injured natural resources and the services they previously provided [43 CFR 11.81(a)(1)]. The Trustees may amend the Assessment Plan, but any significant amendments will be made available for public review [43 CFR 11.32(e)].

### Public Comment Availability

Comments, including names and home addresses of respondents, will be

available for public review at the mailing addresses shown in the **ADDRESSES** section, during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish us to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: May 14, 2002.

**Neal A. McCaleb,**

*Assistant Secretary—Indian Affairs.*

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## DEPARTMENT OF THE INTERIOR

### National Park Service

#### **Notice of Intent to Repatriate Cultural Items in the Possession of the Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA.**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is hereby given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA, that meet the definition of "sacred objects" under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

Between 1915 and 1929, these cultural items were recovered from several locations at Pecos Pueblo, NM, during excavations conducted by the Phillips Academy under the direction of Alfred Vincent Kidder. The 63 objects are 16 pipes, fragments of 3 ceramic vessels, 4 effigies, 25 whole and

fragmented shell beads, 1 shell pendant, 8 bird bone flutes, 3 fragments of quartz, 2 fragments of mica, and 1 fragment of turquoise.

Based on the ceramic types recovered from this site, Pecos Pueblo was occupied between A.D. 1300 and 1700. Historic records document occupation at the site until 1838 when the last inhabitants left the pueblo and went to the Pueblo of Jemez. In 1936, an Act of Congress recognized the Pueblo of Jemez as a "consolidation" and "merger" of the Pueblo of Pecos and the Pueblo of Jemez; this act further recognizes that all property, rights, titles, interests, and claims of both pueblos were consolidated under the Pueblo of Jemez.

In consultation with members of the Eagle Watcher's Society, as well as other traditional religious leaders of the Pueblo of Jemez, it has been determined by officials of the Robert S. Peabody Museum of Archaeology that these objects are integral to present-day religious practice at the Pueblo.

Based on the above-mentioned information, officials of the Robert S. Peabody Museum of Archaeology have determined that, pursuant to 43 CFR 10.2 (d)(3), these cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Robert S. Peabody Museum of Archaeology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these sacred objects and the Pueblo of Jemez, New Mexico.

This notice has been sent to officials of the Pueblo of Jemez, New Mexico. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these sacred objects should contact Malinda Blustain, Interim Director, Robert S. Peabody Museum, Phillips Academy, Andover, MA, telephone (978) 749-4496 before June 24, 2002. Repatriation of these sacred objects to the Pueblo of Jemez, New Mexico, may begin after that date if no additional claimants come forward.

Dated: April 16, 2002.

**Robert Stearns,**

*Manager, National NAGPRA Program.*

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