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Gold in Arizona Desert? Don't Ask State Officials

Judge bans mining agency's
views on one firm's claims.

BY CYNTHIA SCANLON
SPECIAL TO THE NATIONAL LAW JOURNAL

IS THERE gold in the Arizona desert?

One Canadian mining company says there is and has raised \$12 million from investors on the proposition, with plans to raise another \$30 million on the Toronto stock exchange to buy and mine more desert land.

At the request of skeptical Toronto exchange officials, Arizona mining authorities performed some tests on the company's desert property, found no gold and said so publicly.

But the mining company—International Precious Metals Corp., of Toronto—hired one of Phoenix's most prominent firms, Lewis & Roca, to come down on the Arizona Department of Mines and Minerals. And Oct. 15, an Arizona state court judge muzzled the state mining officials.

Specifically, Maricopa County Superior Court Judge Donald Daughton granted International Precious Metals a permanent gag order against the state mining department, forbidding it to discuss the value or investment potential of IPM's mining ventures.

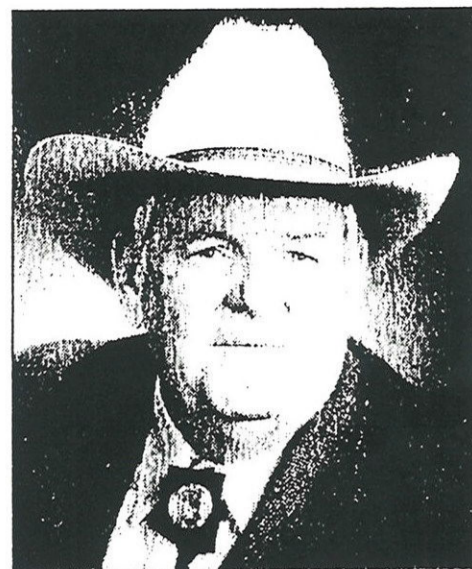
That order silenced the most vocal critics of IPM's claims: Mason Coggin, director of the Arizona Department of Mines and Minerals, and state mining engineer Nyal Niemuth. Before Mr. Coggin was told to keep mum about IPM, he put his warning about IPM's claims in Internet chat rooms, under his online name, "desertfox."

Silenced About One Company

The judge did not clip the mining department's wings altogether. In fact, it is only IPM's claims that the state officials can no longer discuss, although there was no explanation as to why that company should be treated differently.

Judge Daughton rejected IPM's argument that the purpose of the state mining agency was promotional rather than evaluative and that the agency had no right to disseminate its evaluations.

As the state officials pointed out in their briefs, "Over the course of its 60-year history, the Department has interpreted its statutory duties to include providing opinions concerning the value of and the likelihood of success of specific mining operations."



Mason Coggin: State mining director put criticisms of IBM gold claims on the 'Net.'

State officials, pleased with the narrow scope of the decision, have no plans to appeal. IPM, meanwhile, does not seem likely to pursue its claim that the mining officials' statements damaged the company's reputation and its stock price to the tune of \$25 million. "They have not instituted an action in court" with that attorney, said Joseph Mikitish, assistant attorney general for Arizona. But "they say they retain the right." to do that.

The land, which IPM is now free to sell without the interference of Arizona state mining officials, is 10,000 acres of desert, known as Black Rock, located 90 miles west of Phoenix.

IPM hired engineering firm Behre Dolbear to take 78 samples from the Black Rock area to be analyzed. Those samples, the company claimed, prove there is "sufficient gold" to warrant soliciting investor money for further exploration.

The Arizona Department of Mines and Minerals took five samples from the same area and said that none confirmed the presence of precious metals.

But IPM argued that the state's samples were drawn from 2 feet of soil, while IPM's samples were taken from 50 feet under the soil.

Lewis & Roca's Bruce Samuels said, "Our client has acknowledged, under the traditional fire-assay method, that no mineralization will be found. But," he added, "there's a new method which may make mineral development on that property viable and economically adequate for profit." □

N.Y. Times, Prosecutor Settle

Agreement that ended libel suit in Philly is confidential.

BY JOSEPH SLOBODZIAN
SPECIAL TO THE NATIONAL LAW JOURNAL

PHILADELPHIA—One of this city's most celebrated prosecutors has settled her libel suit against The New York Times, the newspaper confirmed Oct. 28.

The settlement between Barbara L. Christie, now chief counsel for the Pennsylvania State Police, and the Times came as both sides were preparing for trial, set to begin Nov. 17.

Neither Ms. Christie nor her attorney, Geoffrey R. Johnson, of Philadelphia's Sprague & Sprague, could be reached for comment. Times spokeswoman Heidi Pokorny confirmed the settlement, declining to reveal its terms, but saying that the Times has "never settled a libel case for money."

U.S. District Judge Eduardo C. Robreno, of the Eastern District of Pennsylvania, marked the suit settled Oct. 28.

Ms. Christie, a 23-year veteran of the

Philadelphia district attorney's office, prosecuted the city's most high-profile murder cases in the 1980s and early 1990s, when she headed its Homicide Unit. Ms. Christie had moved on, first to head the DA's Special Investigations Unit, and then to the Charging Unit, when the Times' Sunday Magazine ran a story July 16, 1995 by Tina Rosenberg, titled "The Deadliest D.A." The article profiled Philadelphia's Lynne Abraham and her office's death-penalty record. One paragraph mentioned Ms. Christie's work as homicide chief.

In court documents, Ms. Christie said Ms. Rosenberg had never contacted her for comment. Ms. Christie also linked the article to her failure to be hired by the U.S. attorney's office in New Jersey.

The Times' pre-trial memorandum said the article was fair commentary, protected by fair-reporting privileges and published without malice or knowledge of any information being false. □