

State, tribes required to work with federal agencies in Tar Creek area restoration efforts

By Randy Petersen
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As tribal and state officials gear up to look at possible legal action to force parties responsible for lead and other contamination in the Tar Creek Superfund site to pay for restoration efforts, they are also asking questions about the role of the federal government.

According to Oklahoma Assistant Attorney General Kelly Burch, the federal government — represented by the Department of the Interior and its agency, the Bureau of Indian Affairs — is expected to be represented on both sides of the table in potential negotiations or court action.

The Department of the Interior assisted mining companies in gaining rights to use Native American land during the Tri-State area's mining boom. As a result, the DOI is listed as a potential "principal responsible party" that could be targeted to pay for damages.

Federal guidelines also state that the federal government, through the DOI and its agencies, should be part of an effort to restore any environmental damages, as well as an effort to seek payment for damages.

Burch said the situation is similar to having attorneys from the same firm representing both sides in a civil suit.

Still, she said the situation is not unique.

"This isn't the only place it exists," she said. "They (DOI representatives) told me that it existed before and that's why it's not a problem."

The tribes still have questions, said Earl Hatley, who is working with local tribes as part of the National Energy-Environment Law and Policy Institute of the University of Tulsa College of Law.

"It makes it strange," he said, noting federal representatives have attended meetings held by trustees in a possible Natural Resources Damage Assessment. All representatives attending those meetings have signed a confidentiality agreement limiting what they can discuss outside the group.

Hatley said trustees in the potential litigation process are watching to see how the federal agencies respond to questions and how they treat information shared in the meetings.

"It's all something the trustees have to consider," he said.

Department of the Interior and Bureau of Indian Affairs officials in federal and regional offices did not respond to News-Record inquiries about how the potential conflict would be handled.

Burch said the key question is whether the same people will represent the federal agency on both sides of the issue.

"You don't have people defending and prosecuting themselves," she said.