

April 20, 2007

PAGE ONE

## Friars Who Owned Polluted Mine Get All Sorts of Help

They Risked Costly Fines Over Arizona Toxic Waste; Prayer and a Good Lawyer

By JOHN J. FIALKA  
April 20, 2007; Page A1

GILA COUNTY, Ariz. -- When Brother Tom Nichols, treasurer of the Franciscan Friars of California Inc., first hiked to the deserted Gibson Mine here in 2003, he was shocked by what he saw: junked cars, rusting barrels, piles of mine debris and old tunnels oozing a bright turquoise, copper-containing acid into nearby streams.

The friars had inherited partial ownership of the mine in 1970 from a donor who said it had great "potential for the future." Over the years, operators had leased the land, 70 miles east of Phoenix, and then abandoned it. The friars, who got a small income from the operations, had rarely thought about the mine, but now the state was threatening to sue them over the mess.



**Tom Nichols**

Brother Nichols returned to Oakland, Calif., where the order is based, and showed his superiors pictures of a turquoise stream containing sulfuric acid that could dissolve barbed wire. Copper levels exceeded toxic limits by 2,500 times. "This is not your typical alpine lake," the 55-year-old former electrician told them.

The friars, who take a vow of poverty and spend much of their time helping the poor, had little money, but praying was an option. "We turned this whole issue over to a higher power," explains Father Melvin Jurisich, the provincial minister of the Franciscans, "It was our deep conviction that if we did the right thing, we would be helped."

More than 100,000 abandoned mines scar the West and pollute 40% of its streams, according to the U.S. Environmental Protection Agency. The mines, which once produced gold, silver, copper and other valuable minerals, are called "hardrock" to distinguish them from coal mines. They're also known as orphans because their owners often declare bankruptcy or disappear once they're finished excavating.

"It's done all the time," Mike Ford, the Franciscans' lawyer, told Brother Nichols. The owners, the lawyer said, don't want to bear the cost, or the risk that they'll do the cleanup wrong and be hit

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with big government penalties.

Abandonment, Brother Nichols knew, was not a route that the Franciscans could take. They were followers of St. Francis of Assisi, the 13th century Italian who said that man has a profound "kinship" with the land and must protect it and its creatures. The order would have to find a way to clean up the mine, but it wasn't clear how. Low copper prices made it impossible to sell the mine. Six other part-owners were theoretically liable, but most were living in nursing homes and had little money.



The Franciscans use most of their money to help the poor in San Francisco. "We've operated in the red ever since I've been here," explains Brother Nichols, who joined the order in 1984. "We always rely on people making donations to us to help us survive."

Mr. Ford, a 39-year-old partner in Phoenix at the Bryan Cave law firm, began representing the friars in 2002, donating his time to the cause. Mr. Ford, who is Catholic, urged the Franciscans to take full responsibility, to get maximum leeway in negotiations with the half dozen government agencies monitoring the effort. And he persuaded the other owners to hand over their stakes in exchange for being relieved of liability.

He also asked other clients of his firm to help. As a result, crews from Metal Management Inc., a Chicago recycler, spent a week at the mine, removing junk free of charge. "This was a community effort for the Franciscan fathers," says Kenneth P. Mueller, president of the company's Arizona branch.

Meanwhile, Arizona began thinking twice about suing the friars. "Who in the world wants to go out after a bunch of Franciscan friars?" says Steve Owens, director of Arizona's Department of Environmental Quality. Instead, the state awarded them more than \$700,000 in grants to clean up area streams.

As a condition of the grants, the Franciscans were required to explain the cleanup project at a community meeting in nearby Miami, Ariz. While Brother Nichols wore jeans and hiking boots at the mine, he put on the order's familiar plain brown robe and leather sandals for the meeting. Jeb L. Dalmolin, general manager of a family-owned excavation company, says that his father attended the meeting and was reminded of the history of the Franciscans, who established a chain of 18th century missions in California that helped settle the West.

Mr. Dalmolin, at his father's urging, later agreed to move 5,200 truck loads of the mine material at a 35% discount. The company's profit margin was "slim to none," he says. "But when my dad's impressed, I'm naturally happy."

The cheapest place to haul the stuff was to BHP Billiton, the huge Australian-British mining company, which owns a mine site close to the Gibson. BHP at first refused to take the waste. After copper prices began to rise, the company opened its gates. Tracey T. Whitehead, a spokesperson, said it was part of BHP's "community relations and environmental plan."

Last year, Carlota Copper Co. donated \$350,000 for the disposal of the mine's most toxic debris. That happened after Carlota was bought by Quadra Mining Ltd., a Vancouver-based mining company.

Edward Kirwan, a Quadra vice president, said he hoped the donation would encourage the state to allow it to expand nearby mining operations. But, he adds, the company would have "put up some portion" of the grant in any case. "You figure if you want to make it with the Big Guy," he says, "you better get in good" with Brother Nichols.

Some Arizonans weren't so well disposed to the friar. Tom Hale, a neighboring rancher, was so furious that debris leached copper into streams whenever it rained that he refused to let the friars cross his property to get to the site. He didn't budge until threatened with a lawsuit. "These guys may go away some day and you're left with colored water and property that has no value," he says.



**Mike Ford**

Today, an estimated \$2.2 million cleanup of the mine is almost complete. Mr. Owens, the head of Arizona's environmental agency, calls it a "win-win" situation for the state and the environment. Pejman Eshraghi, who managed the cleanup for Brown & Caldwell, an environmental engineering firm that also worked for the Franciscans at discounted rates, says it was more than that. "Bringing all these things together was nothing short of a miracle -- I don't care what faith you practice."

The Franciscans say they plan to turn the mine site into a real-estate development to recoup the \$940,000 of their own money that they spent on the cleanup. Much of that money was generated by the sale of donated desert land that once appeared worthless but gained value during last year's frenzied housing boom around Phoenix. Walking through the newly uncluttered mine site, Brother Nichols says he can sense that St. Francis would be pleased. "The earth is appreciating being unburdened," he says.

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