







Janet Grove, from left, Lynn Mason, Grant Loomis, Kathy Nelson and Rich Martin stop near Pinto Creek on March 20. The retired Forest Service employees say mining operations have depleted the creek.

PINTO **Retired Forest Service employees** say agency failed depleted creek

OUTLOOK 2022 Former inmates could help fill jobs

EMPLOYMENT

Many have routinely struggled to get hired

Russ Wiles Arizona Republic USA TODAY NETWORK

Samantha Garcia Pennell has held a job for nearly two years, the longest stable employment period of her life. But it wasn't easy getting there.

Unlike many people these days who can get hired on the spot by merely showing up to a job interview, Garcia had a notable stigma on her resume. The 49-year-old Phoenix woman spent nearly 30 years in prison, mostly on drug-related charges.

"I've been to prison four times, and each time I got out I struggled with the repercussions," she said. "Once you

Caitlin McGlade Arizona Republic | USA TODAY NETWORK

TONTO NATIONAL FOREST - The Pinto Valley Mine had been there for years, but the first time Tim Flood drove past it, the creek was there, too.

In the 1990s, he and a group of biologists were deep in the desert forest east of Phoenix, tracking rare species. He remembers stepping into an oasis.

The hard desert earth gave way to a sudden splash of soft green and cooler temperatures. Delighted by flowing water where he least expected it, Flood was mesmerized by the lush vegetation, the birds, the fish.

The shallow creek cut a wide footprint as it quietly trickled over smooth rocks of varying shades of pink and red.

"My reaction was, 'Wow, this is a very special



Sunlight illuminates the Capstone tailings pond facility #3 near Miami on March 20. PHOTOS BY MICHAEL CHOW/THE REPUBLIC

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"The Forest Service is just sort of like: 'We'll hold hands with the mine.

We're convinced they're good guys."

Richard Martin Retired Forest Service employee

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Antoinette Cauley poses April 1 next to one of her pieces in the Blackbird Fly 2022 gallery at GateWay Community College. ALEX GOULD/THE REPUBLIC

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spring drills on Saturday. 1C



have a felony on your record, you come out with so much shame and employers don't look at you as a priority.'

But this time might be different, with so many businesses struggling to find workers in an extremely tight labor market. The U.S. unemployment rate has dropped to 3.6%, and the rate is even lower in metro Phoenix, at 3.1%. Nationally, more than 11 million iobs are open.

Nonprofit groups that help felons and former inmates, plus some employers and even former prisoners, say it's time to get the message out - that people with criminal backgrounds can be productive, honest and reliable workers.

"These are some of the most talented, committed people I've ever met," said Alison Rapping, CEO of Arouet, a Phoenix nonprofit that helps many former female inmates find - and keep — jobs.

It's not an easy task. People with criminal backgrounds often find many hurdles placed in their path.

"Coming out of the criminal-justice

See PRISONERS, Page 4A

More inside

Find additional stories about the changing working environment and hiring dynamics in the U.S. 29-30A

USA TODAY

More Moscow meddling?

Intelligence officials have voiced the possibility of Russian President Vladimir Putin meddling in another U.S. election in response to the United States' support for Ukraine. 24A

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From left are Janet Grove, Grant Loomis, Lynn Mason, Rich Martin and Kathy Nelson hiking along Pinto Creek near Miami on March 20. MICHAEL CHOW/THE REPUBLIC

Creek

Continued from Page 1A

place," he said. "It was such a lovely place.

"That's not the case anymore."

Turn onto Pinto Valley Mine Road from U.S. 60 and you'll find the mine. The road passes a dark pool of sulfuric acid and dissolved metal and winds by bare slopes.

Some gleam iridescent green under sunlight. Others resemble kitty litter.

But if you keep following the road past the mining activity and plunge into the wilderness, you won't find what Flood described.

When The Republic visited in December, much of the streambed was a strip of damp sand, streaked with algae and pocked with puddles.

Surrounding where the creek once flowed every day was a graveyard of trees. The roots of those still standing desperately grasped at the eroded earth along dry trenches.

By March, more water trickled down a few narrow channels, but a retired Forest Service employee seeing the creek for the first time in 10 years said she And the expansion could further reduce flows by about 90% over the next two decades compared with the norm in 2012 – draining more than 5 miles of otherwise year-round flow.

Across nearly 24 square miles, groundwater levels would plummet at least 5 feet by the time the mine closes.

The report said groundwater levels will remain depleted even 100 years from now.

"That's unheard of," said Richard Martin, a retired Forest Service employee. "We as land managers owe it to the public at large to keep these areas. Don't we care about what future generations are going to have on our public lands?

"We just keep saying: 'Oh, there goes another five miles, so what."

Capstone told The Republic in an email that the Pinto Valley Mine has always prioritized water conservation, "not only because it's a limited natural resource but because it makes business sense."

The company said that it strives to use less water and to recycle as much as possible. It also said that it is working closely with the Forest Service to research other sources of water and other ways to conserve.

Capstone said it is conducting "ex-

environmental and regulatory requirements. ... We can approve the proposed mining plan," Sampson said. "We can't just say 'no' to all mining because it's on the forest. We're not allowed to do that."

'This wasn't from drought'

Miners have unearthed metals from the land just east of the Superstition Mountains for more than a century.

The Carlota Mine, owned by a company headquartered in Poland – KGHM – operates near the Pinto Valley Mine. Flood said environmental groups including the Arizona Riparian Council objected to that mine's plans more than a decade ago, predicting the mine would dry up the creek in Haunted Canyon, a tributary to Pinto Creek.

The Forest Service required KGHM to install devices that feed water back into the creek. Though they haven't worked as well as planned: They've maintained year-round flow for segments of the target area, said Grant Loomis, retired Forest Service hydrologist.

Pinto Creek itself has weathered a variety of mine-related challenges over the years, including a tailings pond spill that clogged the stream with sludge for nearly a mile in 1997, Loomis said. across forest land.

The mine didn't need a permit for all its wells, because those were drilled on parcels of mine property within the national forest boundaries, but Forest Service policy indicates that it would have needed a permit for the pipeline that moves water from the wells across forest land before starting work in 2013.

Generally speaking, anyone diverting or transporting water on forest land has to get what's called a "special use permit."

According to the manual that governs Arizona's forests, forest managers should analyze the impacts of wells or pipelines before approving a permit.

Perhaps most relevant to Pinto Creek, the manual specifically says they may deny permits if the well or pipeline will impair forest resources or neighboring water supplies.

Furthermore, federal policy states that water users must obtain new permits if ownership of the structure changed.

BHP had one of these permits to pipe water across Tonto forest land, but it expired in 2007 – long before the Capstone sale.

Expiration dates are important because they provide opportunities for forest managers to assess whether changing conditions necessitate cutbacks or mitigation measures that weren't proscribed when the permit was first issued.

couldn't recognize the place.

The retiree, Kathy Nelson, had worked in this creek during its vibrant years.

"Sad, sad, sad," she said.

The Forest Service was supposed to protect Pinto Creek. But over the past decade it has shirked its responsibility.

Employees feared back in the 1980s that mine-related groundwater pumping would eventually drain Pinto Creek so they sought a water right that would allow them to protect year-round flows to ensure a flourishing ecosystem.

Water, unlike land, is open to being claimed by those who use it. The agency obtained a ruling in 1999 granting it what is known as an "instream flow right."

For the next 15 years, the stretch that Flood recalls so fondly flowed every single day –even during 2002, the driest year of the century up to that point in the area.

The Forest Service had a right to make sure that continued, but the agency simply gave it away.

The stream began to dry up just two months after Capstone Mining Corp., a Canadian outfit, purchased the mine in 2013.

Its wells started pumping up to 4,000 gallons per minute – the equivalent of 60 bathtubs filled to the brim – to largely process ore and control dust.

The pipeline from those wells had been issued to the previous owner and had long since expired. The Forest Service let the pumping happen anyway.

In the year following the sale, Capstone officials presented the Forest Service a draft plan explaining its operations. But the Forest Service didn't begin analyzing what the new ownership could mean for the environment until years later.

By then the damage to the creek was well underway.

While the mining company unearthed 277 million pounds of copper over the next two years, the creek flowed only 70 days in 2014 and a mere five in 2015.

In 2016, Capstone asked the Forest Service for permission to mine an additional 229 forest land acres and to extend the mine's life for 19 years.

The Forest Service then launched an environmental study, which was presented in 2019.

That report said Pinto Creek's baseflow declined by 82% from 2013 to 2018. Baseflow is water from the ground that feeds a stream. tensive mapping and monitoring of wells, seeps and springs" and paying for stream gauge monitoring.

"We plan to be here for a long time, and we care about generations in the future," the company said in a statement. "If we do not manage this critical resource our entire community suffers. We are all in this together."

'Caring for the land and serving the people'

While Tonto National Forest officials were letting Capstone drain the area, the Forest Service's regional office published a report expressing its duty to protect places like Pinto Creek.

The creek is part of what's called a riparian area: the sweet spot where land meets a river or a stream.

These areas make not only charming places to sling a hammock and read a book, they support some of the most diverse ecosystems. In Arizona and New Mexico, up to 80% of all animals depend on them at some point in their lives.

They're also rare gems around here. Only about 2% of all national forest land in the Southwest is riparian.

More than half of the threatened and endangered species, or those being considered for these designations, either depend on these areas or benefit from them greatly in the Forest Service's Southwest Region, according to the 2019 report.

"In no other ecosystem can we as an agency have a greater impact "caring for the land and serving people," the Forest Service report said.

Growing demands and limited water supplies have created "an urgency to protect these sparse resources," the report said.

The authors furnished a long list of threats they must protect those resources from.

Groundwater pumping and mining were among them.

But while the Forest Service is charged with protecting and improving watersheds, it also must permit activities that might work against that mission. The Mining and Minerals Policy Act of 1970 requires the agency to "foster and encourage" mining, according to a Forest Service document on mining.

During a public meeting in 2017 about plans for the Pinto Valley Mine, Forest Service geologist Judd Sampson said the agency had limited options.

"We can require changes to their proposed action to be in compliance with The company that operated the mine at the time, Australia-based BHP, thoroughly cleaned it up, Loomis said.

BHP acquired the mine in the mid-1990s, stopped mining in 1998 and then briefly resumed in 2007. The company stopped again in 2009 because of low copper prices.

In late 2012, BHP restarted but sold the mine to Capstone for \$650 million within a year.

The United States Geological Survey only has streamflow data on the gauge below the mine property dating back to 1994, so it is difficult to compare water levels throughout much of the mine's life.

But the gauge has recorded flow almost every single day until Capstone took over. The creek only stopped for 15 days in 1996 and 43 days in 1997.

The Forest Service secured its instream flow right in 1999 and the creek continued to flow every day until 2013.

A representative from BHP did not answer questions about the company's water use practices, but Loomis recalls that the company left several wells offline so it likely used less water than Capstone does today.

He also noted that BHP was mining higher quality ore, so extracting copper from it may have been less water intensive.

After Capstone took over, Loomis immediately noticed a drop in water in the creek. When he approached officials about the dwindling flows, he said company officials blamed the drought.

Loomis wasn't sold. He recalls the day he noticed just how bad things were getting, roughly seven years ago when he set out to inspect the stream gauge.

As he padded along the soft sand of the stream bed, he expected to find shade from the cottonwoods, sycamore and willow trees where the creek began to seep up from the earth.

But the trees were dying.

So he ran an analysis comparing Pinto Creek with nearby Cherry Creek. The two tended to behave similarly: historical data show when Cherry Creek was thriving, so was Pinto Creek and vice versa.

Loomis found their likeness stopped abruptly at a key point: shortly after Capstone bought the mine.

"It was pretty clear to me this wasn't from drought," Loomis said.

Loomis explained that the Tonto National Forest supervisor could have limited the amount of water the mine pumped because it piped that water Nearly three years after Capstone took over the mine, Tonto National Forest accepted an application for a pipeline permit, according to federal data.

But the agency never issued it.

Mark McEntarffer, realty specialist for Tonto National Forest, said the agency stopped reissuing the permit "due to the Mine Plan of Operations project" and that the statuses of the Capstone permit applications shouldn't have been released because it's not public record.

A recent USA Today Network investigation found that about 13 percent of currently authorized permits on forest land expired at least three years ago.

Andy Stahl, who represents agency employees through his group Forest Service Employees for Environmental Ethics, said forest managers may choose not to use limited resources, money and staff to process an old permit.

"The district ranger can say, 'I have a lot better things to do," he told The Republic during a 2021 interview.

Loomis said mining officials and some Forest Service staff wanted to do away with the mine's special use permits and get all mine activities and structures approved through one, big plan of operations that was going to take years to finish.

In 2021, that plan was approved – after about eight years of unfettered groundwater pumping.

Tonto National Forest officials did not answer when asked if it was common practice to allow businesses to transport water without first getting a proper permit.

They said that Capstone was fine to pipe water under the old permit because it continued to pay land use fees that BHP used to pay.

They also said that the agency followed all laws, regulations and policies that govern its management.

But when The Republic asked how that approach was justified when it conflicts with Forest Service policy, stating: "when private improvements change ownership, it is Forest Service policy to issue a new special use authorization," officials did not reply.

Continued on next page

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'It will last through our lifetimes, our children's lifetimes'

The Forest Service finished its environmental impact study in late 2019, and critics scrambled to review the findings.

Flood, who penned a letter on behalf of the Arizona Riparian Council, pointed out that the Forest Service dropped the 1,042-page report two weeks before Christmas in 2019 and announced it would take feedback through Jan. 27.

Flood decried how difficult it was to digest a "3-inch"-thick report in six weeks – particularly over the holidays.

He added that the agency offered no public meetings in the Phoenix area.

Nevertheless, roughly 100 people attended meetings in the towns of Miami and Superior and 300 comment submissions flowed in, according to the Forest Service.

"I have plowed through many pages of the assessment," Flood wrote in his letter that just made the deadline. "I am dismayed."

"It seems," he said, "That current United States Forest Service staff lack a longer-term perspective to realize just how special Pinto Creek is."

He wrote that the agency should defend its instream flow right.

That right gave the Forest Service the ability to preserve enough water to maintain vegetation from April to October and sustain fish year-round, according to agency documents.

The Pinto Valley Mine had been idled at the time the state granted the right, but Forest Service staff assumed mining would eventually resume and pump out more water than the little stream could handle, said Nelson, the retired Tonto National Forest who was saddened by the creek's current state during a March visit.

The retired natural resource specialist said she helped obtain more than 20 instream water rights in three different Arizona forests.

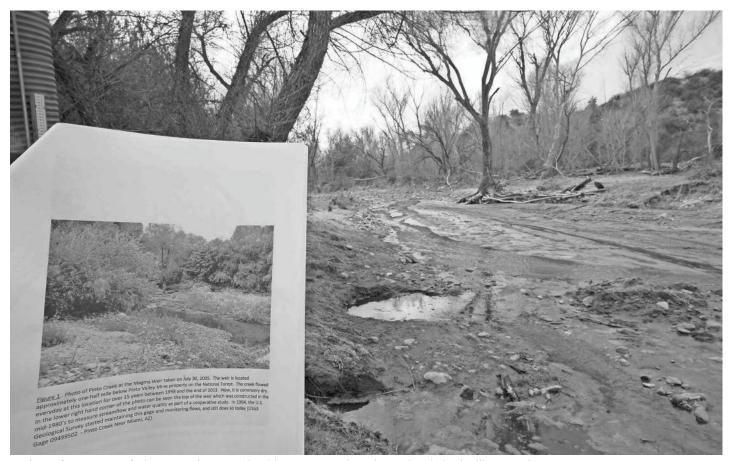
Nelson described Pinto Creek as "magical" back then.

"Hearing the wind in the trees, seeing the beautiful green leaves of the trees, and hearing the water flow: it was such a joy to be there. Seeing the little critters running around," she said. "It felt like life."

The Forest Service's 2019 report mentioned that Arizona Game and Fish Department staff, alarmed by a mile and a half of dead trees they noticed in 2017, requested an investigation into whether the mine's wells infringed on the instream flow right.

A scientific study suggested it had, finding that flows stopped meeting expectations when "high rates of pumping" began in 2013, according to the report.

Forest Supervisor Neil Bosworth made an attempt to do something about



A photo from 2005 of Pinto Creek near Miami is contrasted against what it looks like March 20. MICHAEL CHOW/THE REPUBLIC

options are.

"The best way to quickly attribute baseflow declines to a well is to conduct a pump test on the well and monitor how the stream reacts," the agency said in its email. "During this time period, and continuing to today, all wells operated by the mining company are on their private property, which the Forest Service cannot regulate."

Nelson said the hard work to protect the stream now just feels like a waste of time and taxpayer dollars.

It took years of research to get that instream flow right approved, she said.

"We did everything we could to go through the steps required to make sure that stream was going to be protected," Nelson said. "We had everything in place for that to happen. And then to have leadership just come in and say, 'Oh well, just kind of push it all aside.' It was just heartbreaking."

The ramifications will last a long time.

Even if the mine were to quit tomorrow, groundwater levels will be depleted for at least 100 years – across nearly 36 square miles, according to the Forest Service's report.

"I don't think the public or even the Forest Service quite understands the implications of this," Flood wrote in his 2020 letter. "I am calling your attention to what it means: it will last through our lifetimes, our children's lifetimes, for many, many generations."

'A total abdication of Forest Service stewardship responsibilities'

Pinto Creek flows into Roosevelt Lake, where Salt River Project stores water for customers in the Phoenix area.

Grant Smedley, water rights and contracts director, wrote that the Forest Service didn't consider appropriate options to prevent negative impacts to water rights held by SRP, numerous cities and others downstream from the mine's wells.

He said water rights dating back to 1869 depend on a "normal flow" of the Salt and Verde rivers and their tributaries. The mine's pumping could not only degrade the environment, but result in less water for people – impacting millions of water users in the Salt River Valley, he wrote.

"These issues extend well beyond the Pinto Creek area," Smedley wrote.

Asking the mine to monitor conditions and hold meetings every year does not address all the water lost from their pumping, he said.

"No specific on-the ground activities have been identified to mitigate reduction in water levels," he wrote, later adding, "The Salt River watershed is critical to sustainable growth and economic development in Arizona."

The Republic reached out to SRP to find out whether the utility is pursuing further action but a representative declined to comment. She did, however, say that SRP and the mine are "engaged in continuing productive discussions to address these water supply concerns."

Martin describes the Tonto National Forest's reaction to the objections as a "big, wide yawn."

In their early-August responses, Forest Service officials rejected the notion that they'd leave the responsibility to protect the stream and groundwater up to the mine, saying that their role is to ensure that "mining activities minimize adverse environmental impacts." needs to pipe water and wire electricity over forest land. The company has no other delivery methods as back up.

This would be the "environmentally preferred" choice that "best protects, preserves and enhances historic, cultural and natural resources," according to the report.

Segments of the creek that no longer flow year-round because of the mine pumped so much water from 2013 to 2018 would continue to struggle for another three years after closure.

Federal law required Bosworth to consider that alternative.

He also explored letting the mine continue as it has been, but only for another seven years. That deal would forbid further expansion onto forest lands.

Letting the mine expand would affect a slightly larger stream area, but the effects would last longer.

Regardless of any choice, groundwater levels will continue to be affected for more than 100 years.

Bosworth wrote in his decision explanation that the Forest Service manual calls on the agency to help maintain a healthy minerals industry. Furthermore, he said, he considered the economy.

The mine employs 690 people, whose employment would be extended by another 19 years under the expansion plan. Granting the mining company's wishes would generate \$66.3 million in labor income, contribute about \$326.4 million "in industry activity across the region" and bring in about \$14.8 million in state and local tax revenue, Bosworth said.

He said he carefully considered the

that. A half-hearted attempt.

Bosworth wrote to the Arizona Department of Water Resources in May 2020, explaining that a stretch of Pinto Creek that once supported a "vibrant riparian area" declined "drastically" after the mine resumed work in 2013 – with median flow decreasing by 75% to 100% depending on the month.

"The decline in flow between 2013 and 2019 is in stark contrast to the period from 1996 to 2012 when a measurable amount of water flowed ... year-round," according to the documents attached to Bosworth's letter.

His letter said drought certainly had something to do with the creek's decline, but that it couldn't be the primary driver. If it were, Pinto Creek and the nearby Cherry Creek flows would have been declining at the same rate – and they weren't, according the document.

The letter also mentioned the dying vegetation.

Bosworth asked the Arizona Department of Water Resources to intervene with a "determination of appropriability."

According to the department, that's a way of asking state water staff to enforce Pinto Creek's instream flow right against the mine. But ADWR doesn't have the authority to do that.

The Forest Service would have to go to court or the sheriff, according to ADWR.

Carol Ward, ADWR's deputy assistant director,told Bosworth the department couldn't grant his request but offered to provide documents to help him resolve the problem.

She later wrote in a letter to the Sierra Club that the department stood "willing and able to assist in providing any factual material available" if the Forest Service was to seek relief.

Bosworth never followed up.

The Arizona Republic requested that the Forest Service share any documented evidence that its staff attempted to enforce its instream flow right after Ward's letter.

Employees searched "every place where a reasonably knowledgeable professional" could find such records, according to the agency's response letter.

They found none.

The Forest Service told The Republic in an email it had "considerable data and information on Pinto Creek and the surrounding area" and that it is evaluating whether the mine is affecting any of its water rights and what its legal Last April, the Forest Service released a draft decision on the mine's 2016 expansion request. The draft outlined what the mine should do about the dying creek.

The plan largely put the onus for protecting the creek on the company itself.

The Forest Service recommended that the mine evaluate ways to conserve water and cited a law that says that "operators should minimize adverse environmental effects to the extent feasible."

The outline says the mine will monitor "potential changes" to groundwater and streamflow and then hold annual meetings about the data with area stakeholders.

The outline also referred readers to a "comprehensive water resources monitoring and mitigation plan," which contained a single paragraph describing what the mine might do about dwindling water supply.

The mine said it would make sure its wells run efficiently and see if it could find other water sources, though Capstone has told The Republic it has already explored all known alternative water sources.

The plan added that the mine would develop mitigation plans "as necessary and feasible" to address the loss of water in Pinto Creek.

Martin, the retired Forest Service employee, doubted in his objection letter to the April draft that Capstone would spend money to protect the environment if it's not explicitly required.

He wrote that Capstone had lost money in all but two of the previous eight years.

From 2013 to 2020, Capstone accumulated more than \$450 million in losses. But the firm had a great year in 2021, reporting more than \$250 million in profits.

"Leaving mitigation for loss of stream flow up to the discretion of the mining company is a total abdication of Forest Service stewardship responsibilities," Martin wrote.

His May 2021 letter was signed by Loomis and three other retired forest employees: Nelson, Janet Grove, and Lynn Mason.

"Never before in our collective careers have we seen a proposed project that has the potential to be so devastating to valuable National Forest Resources as this one," he wrote.

The Forest Service also had to answer to one of the state's biggest utilities. They maintained that they follow the law and made Capstone aware that it needs to be a good steward.

They pointed to an extensive amount of required water monitoring and frequently brought up that regular meeting the mine must attend.

The bottom line, according to Martin, is that the Forest Service just decided to trust the mine to resolve the problems at Pinto Creek.

Martin's goal, nor that of his former colleagues, was never to curtail mining. They just want the Forest Service to establish safeguards to protect resources for future generations, he said.

He expects the Forest Service to have a hard time forcing the mine to invest in environmental protections without clear boundaries.

If the plan established a certain water level that had to be maintained, the Forest Service could require the mine to make changes if it fell out of compliance, Martin said.

"It would be straightforward for the mine and for the Forest Service," he said. "If you really want something done, you need to put in the plan of operation before you approve it. The Forest Service is just sort of like: 'We'll hold hands with the mine. We're convinced they're good guys.""

Industry over environment

About two weeks after responding to its critics, the Forest Service delivered the final word. The Pinto Valley Mine could expand.

Grove, one of the retired Forest Service employees who signed Martin's objection letter, said she couldn't understand how the agency could simultaneously highlight riparian areas as the most important ecosystems in the forest and then let a stream dry up.

"With no water, that entire system, all the plants, all the animals, there won't be anything left," she said.

Bosworth, the forest supervisor, had analyzed with detail two other alternatives to the mine expansion.

He considered forbidding the mine from continuing to use forest land, except for work relating to closing the mine. This would effectively shutter the whole operation because the mine plan's potential environmental consequences and the degree to which the agency and the mining company could soften the blow with monitoring and mitigation tactics.

"All practicable means to avoid or reduce environmental harm have been adopted," he wrote.

But exactly what those "means" are is unclear.

Bosworth described trigger levels in his plan.

"Level 1 Triggers" appear to be defined as any decrease in surface or groundwater quantity or indeterminate trends. At that point, the mine and the Forest Service will identify more monitoring points or well instruments that may be installed.

When conditions reach "Level 2 Triggers," the mine and the Forest Service will coordinate to save Pinto Creek and the tanking groundwater levels. Actions might include water conservation or updating wells to make them more efficient.

The Forest Service suggested that the mine could also consider alternative water sources if Trigger Level 2 is hit.

Again, that's already been attempted. But Capstone said in an email that it will keep trying.

Trigger Level Two has not been defined.

Neither the Forest Service, nor Capstone, could explain the trigger levels in greater detail.

Capstone said only that "we are early in the process" of applying the Forest Service "requirements."

The Forest Service first referred the Republic to the same plan that doesn't define trigger levels, maintaining its plan "identifies monitoring triggers."

When the Republic pointed out that this did not answer the question, the agency said the plan would be updated as appropriate and that the mine would work with the forest to identify triggers.

But even if the trigger levels were clearly defined, the crisis is already here.

"I find it ironic that their own data shows the flows have already reduced, and they say: 'We're going to set triggers," Martin said. "And I'm thinking, my god, if we haven't passed any triggers already, what are we waiting for?"

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