

**DECISION RECORD**  
**Environmental Assessment**  
**DOI-BLM-ID-B010-2013-0021-EA**  
**Sharm Nelson Mining Plan of Operations**

**Proposed Action:**

Mr. Nelson's Mining Plan of Operations (MPO) proposes gold placer mining approximately 0.75 miles north of Pioneerville, Idaho and adjacent to the Grimes Creek Road on his To Close and To Close 2 mining claims (40 acres) on BLM surface/BLM sub-surface land. Mining operations will occur from April to mid-November each year, as weather permits. Operating hours will be daylight hours, and could occur on any day in the week, Monday through Sunday. The proposed operation will use up to two dual axle dump trucks, a wash plant with a 30-yard-per-hour-capacity trommel, up to two backhoe loaders and/or loader, a bull dozer if needed, up to a 500-series track hoe, and a water hose of up to three-inch capacity to draw water from nearby Grimes Creek. The operations will take place on Mr. Nelson's two mining claims: To Close and To Close #2.

Mr. Nelson proposes digging trenches up to approximately 40-foot wide (E-W) by up to 150-foot long (N-S) from approximately one to 15-foot depths beginning on the flat and proceeding up slope to the east. Overburden will be placed to the east side of trenching (upslope) to allow for a simple push back into the trenches for reclamation and re-contouring. Material removed from trenches will be processed through the wash plant. Over-sized material will be used to fill in trenches. Fines and water from the wash plant will be directed into a settling pond and the water will either be re-circulated or allowed to percolate into the ground and ultimately be returned to Grimes Creek. The settling pond will occasionally be excavated, and fines and other washed material will also be used to fill in excavated trenches.

Mr. Nelson will be required to obtain a temporary water right permit from the Idaho Department of Water Resources annually for the water that he pumps from Grimes Creek and submit a copy of the permit to the BLM annually.

Site reclamation, including filling in of trenches and contouring, will be done in intervals throughout the year. No more than two trenches will be open at one time. Re-seeding and planting with BLM-approved seed and plant mixes will occur each fall in areas that have been in-filled and re-contoured.

Mining operations may require removal of some trees; however, Mr. Nelson will be required to first notify the Authorized Officer before removing any trees with a 12-inch or greater diameter at breast height so they can be surveyed for nesting birds such as northern goshawks, flammulated owl, and white-headed woodpecker.

No chemicals, including mercury or cyanide, will be used in processing to recover minerals.

Mr. Nelson may have a power pole installed on his To Close claim to provide a direct power source to his wash plant, rather than using a gas-powered generator as he has done while conducting operations on his Mining Notice. The line will be extended from an existing power pole and line adjacent to the claim on the east side of Grimes Creek Road. Although Mr. Nelson has not decided if he will have the power pole and line installed because of the costs he will incur, it is our intention to analyze the installation as a part of his proposed MPO.

Mr. Nelson also proposes to continue to maintain a 12-foot by 14-foot shepherd's tent and a self-contained cargo trailer for shelter and as a temporary mine office for storage of tools and supplies. His occupation of the site during mining operations will prevent vandalism or theft of his equipment. The tent and trailer will be removed at the end of each mining season (April through mid-November, depending on weather, yearly). Mr. Nelson will provide approved sanitary facilities at his camp site, and maintain a clean and orderly camp.

**Authorities:**

The 1872 Mining Law [30 United States Code (U.S.C.) 22 *et seq.*] states that a person has a statutory right consistent with other laws and Departmental regulations to go upon the open (unappropriated and unreserved) public land for the purpose of mineral prospecting, exploration, development, and extraction. The Federal Land Policy and Management Act (FLPMA) of 1976 (Public Law 94-579) require that the Secretary of the Interior regulate mining operation to prevent undue or unnecessary degradation of the public lands.

**Compliance and Monitoring:**

As part of this decision, and in conformance with 43 CFR 3809.600 and BLM Handbook H-3809-1, Surface Management Handbook, (9.1.2) Inspection site visits for MPOs will be conducted, at a minimum, twice annually by BLM minerals staff.

**Terms / Conditions / Stipulations:**

As part of this decision, the following stipulations will be adhered to by the claimant/operator:

**Standard Stipulations**

1. All plans of operations will be conducted in accordance with 43 CFR Subpart 3809 - Surface Management and 43 CFR Subpart 3715 - Use and Occupancy under the Mining Laws.
2. When American antiquities or other objects of historic or scientific interest including, but not limited to; historic or prehistoric ruins, vertebrate fossils or artifacts are discovered in the performance of this contract, the items(s) or condition(s) will be left intact and immediately brought to the attention of the district manager or his authorized representative.
3. The claimant/operator will immediately notify the BLM's Authorized Officer of any human remains unearthed during mining operations (25 USC 3002 Section 3 (d) '*inadvertent discovery of Native American remains and objects*').

4. Claimant/operator will maintain the area free of trash and refuse during operations and reclamation.
5. Claimant/operator will be responsible for suppression costs of any fires resulting from actions under this MPO.
6. The approved mining and reclamation plan and environmental assessment will be part of this MPO as special conditions governing all operations under the MPO.
7. Any deviations from the approved MPO, reclamation plan, and these stipulations will be subject to approval by the BLM authorized officer prior to such actions.
8. If claimant/operator stops conducting operations, other than seasonally as dictated by weather, then subchapter 3809.424 of 43 CFR must be followed. Requirements may include the removal of all equipment, personal property, and other improvements from the area and reclamation of the area according to the approved reclamation plan.
9. The claimant/operator will not mine in the area covered by this MPO without a financial guarantee (43 CFR §3809.582) that has been approved by BLM's Authorized Officer.
10. Claimant/operator will indemnify and save harmless the United States of America against any liability for damages to life, person, or property arising from the use of the lands under this MPO.
11. Claimant/operator will notify the BLM's Authorized Officer before any standing trees greater than 12" diameter breast height (dbh) are removed by mining operations. Fallen trees >12" dbh will be retained on site for reclamation purposes.
12. Storage of recreational equipment (i.e., boats, mobile homes, camping trailers, etc.) will not be authorized under this MPO except for use as shelter and to house mining supplies/equipment only during periods of active mining.
13. Storage of construction equipment (i.e., crushers, dump trucks, graders, dozers, etc.) other than the equipment mentioned in the plan of operation will not be authorized under this MPO.
14. No construction waste material, other materials or debris may be hauled onto the site, stockpiled or used as fill material.
15. The BLM Authorized Officer may cancel the MPO if the claimant/operator fails to observe its terms and conditions (to include these stipulations), or if the plan of operation has been issued erroneously (43 CFR §3809.602).
16. The subject site and haul roads will be sprayed as necessary with water or other suitable material to hold down the dust created by these activities.

17. Proper mufflers and spark arresters will be maintained on equipment used in this project to reduce noise level and to limit the potential for fires. In addition, the claimant/operator and any contractors or subcontractors will maintain and have on the site adequate fire prevention and extinguishing equipment. The claimant/applicant must report any on-site fires to the BLM Authorized Officer as soon as practicable.
18. Claimant/operator will remove only as much overburden and vegetation as is needed for each operation so as to keep visual, wildlife, and land stability impacts to a minimum.
19. Whenever possible, reclamation will proceed concurrently with excavation.
20. For interim and final reclamation, the claimant/operator will slope excavation walls to a minimum of 3:1 ratio; overburden will be replaced, and all disturbed areas will be seeded with a BLM approved seed mix.
21. This MPO does not grant the claimant/operator exclusive use of the public lands identified herein.
22. All claimant/operators are required to provide employee training sufficient to meet the requirements of Title 30, CFR, Part 46 and 62, regarding operator safety training and noise exposure standards. Claimant/operators are also responsible for insuring that any sub-contractors have met all of the above requirements. Additional information may be obtained from the internet at [www.msha.gov/](http://www.msha.gov/).
23. Noxious weed control will be the responsibility of the claimant/operator. Best management practices will be followed. These include, but are not limited to:
  - a. Ensure vehicles and equipment are free of soil and plant material before entering site.
  - b. Monitoring of disturbed areas for noxious weeds for 3 years after work completion.
  - c. Prompt treatment action after identification of noxious weed infestation, including proper application of BLM approved herbicides, or physical removal and disposal.
  - d. At the completion of mining operations or during interim reclamation, replanting with a BLM approved seed mix to help prevent noxious weed infestation.
  - e. Monitoring the site after interim or final reclamation to ensure that a desirable plant population has been established.

### **Special Stipulations**

1. Mr. Nelson will monitor disturbed and reclaimed areas and notify the BLM's Authorized Officer of the presence of any noxious weeds.
2. Mr. Nelson will be required annually to apply for a temporary water right from the Idaho Department of Water Resources and annually provide a copy of the granting document to the BLM.
3. An impermeable, geotextile-lined berm, capable of containing four times the pump fuel tank capacity will be placed around and under pumps used in processing to prevent

accidental fuel or oil spills from polluting ground or surface waters. The liner will be at least 20 millimeters thick. Spill kits and contingency plans will be required for any hazardous materials used on site.

4. If mined areas are to remain open for longer than one mining season, the open areas will be bermed or signs placed to indicate their presence.
5. Mr. Nelson will be required to provide the BLM with an updated map of his occupancy and processing facility locations on the mining claims if they change from the locations identified in this MPO.
6. Mr. Nelson will be required to ensure that suction hose used to draw water out of Grimes Creek is equipped with a screen to pre-filter the water, and prevent entrainment of fry and juvenile redband trout.
7. Mr. Nelson will be required to ensure that his pvc claim corner markers are securely capped to prevent the entrapment and endangerment of birds and other small wildlife species in the area.
8. Prior to installation of a new power pole, BLM will be notified and coordination between the power company will take place to ensure protection to migratory birds and safe-guard habitat from wildfire risk.
9. Hazardous waste will be disposed of off-site at an approved facility.

#### **Plan conformance and consistency:**

The proposed action conforms to the July 1988 Cascade Resource Management Plan (RMP) (USDI 1988). The Boise Basin is classified for intensive management of minerals. Areas of intensive management will emphasize “providing for mineral production while protecting important wildlife values, restoring water quality, and rehabilitating site productivity and stream stabilization through reclamation” (ROD, p. 20).

The Cascade RMP further recommended that nine sites, including Pioneerville, be nominated to the National Register of Historic Places (NRHP). Baseline monitoring of three of these sites, Centerville, Placerville, and Pioneerville started in 1993 (Cascade Resource Area RMP Update, July, 1994). As of this date, Pioneerville has not been nominated because past disturbances have compromised the archeological significance of the site.

#### **Alternatives Considered but Not Analyzed in Detail:**

The very nature of 43 CFR 3809 regulations limits the Plan of Operations alternatives submitted by the mining claimant. Alternatives that propose moving the claimant’s operations to another area are not reasonable, because the material to be mined and the mining claims are tied to a specific tract where the placer gold occurs. Alternative mining methods are unreasonable

because the mined material only has to be washed to recover the contained placer gold. No chemicals are used in the process.

As such, the mining regulations require that BLM review the submitted Plan of Operations to identify and mitigate impacts to insure that unnecessary or undue degradation to public lands does not occur.

### **Decision and Rationale:**

It is my decision to authorize Sharm Nelson's continued placer mining operations as described in Alternative B (Proposed Action) of the Environmental Assessment #DOI-BLM-ID-B010-2013-0021. The actions analyzed in the Environmental Assessment will not constitute a major federal action that would significantly affect the quality of the human environment; therefore, an Environmental Impact Statement was not required and a finding was made of no significant impact (FONSI – signed September 30, 2014)

My decision to authorize the proposed action (Alternative B) will require that Mr. Nelson comply with both the Standard and Special Stipulations developed as a result of this analysis, thus limiting the impacts to the human environment that may otherwise occur.

### **Public Involvement:**

The public was notified in 2013 when the BLM listed the project on the ePlanning NEPA Register webpage ([https://www.blm.gov/epl-front-office/eplanning/nepa/nepa\\_register.do](https://www.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do)). No comments were received from this posting.

On March 19, 2014 at the Boise District Office, a meeting was held with Mr. John Robison of the Idaho Conservation League (ICL). This proposal was discussed and ICL was given a brief summary of the proposed action and accompanying maps. ICL has concerns regarding access, noxious weeds, water quality protection, trench location and design, hazardous materials, fires and emergency egress, trench water, water source, living situation, excavation operations, length of operations, storm water permits, historic aspects, transportation plan and site access, cumulative impacts, reclamation, and financial assurances. Most of ICL's concerns for impacts are either mitigated or greatly reduced based on design features of the proposed action or in standard or special stipulations. ICL's specific list of concerns and BLM's response is listed in the Environmental Assessment #DOI-BLM-ID-B010-2013-0021, Appendix A.

The proposed project was presented to the Shoshone-Paiute Tribes at a March 20, 2014, Boise District Wings and Roots Native American Campfire consultation. The tribe had concerns regarding inadvertent discoveries of cultural/historical artifacts during operations. These potential impacts are addressed in Standard Stipulations 2 and 3.

**Appeal:**

Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a notice of appeal must be filed in the office of the authorized officer at the Bureau of Land Management Four Rivers Field Office, 3948 Development Avenue, Boise, Idaho, 83705. If a statement of reasons for the appeal is not included with the notice, it must be filed with the *Interior Board of Land Appeals (IBLA), Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203* within 30 days after the notice of appeal is filed with the authorized officer.

To file a petition for stay pursuant to 43 CFR part 4.21(b), it must accompany your notice of appeal and must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a notice of appeal and petition for stay must be served on each adverse party named in the decision from which the appeal is taken and on the *Office of the Solicitor, Field Solicitor – U. S. Department of the Interior, University Plaza, 960 Broadway Avenue, Suite 400, Boise, Idaho, 83706*, not later than 15 days after filing the document with the authorized officer and/or IBLA.

If you have any questions regarding this decision, or your appeal rights, please contact Valerie Lenhartzen, Boise District Geologist, at (208) 384-3395, or e-mail her at [vlenhartzen@blm.gov](mailto:vlenhartzen@blm.gov).

          /s/ *Tate Fischer*  
Tate Fischer  
Field Manager  
Four Rivers Field Office

  9/30/2014  
Date