

**DECISION RECORD**  
**Environmental Assessment**  
**DOI-BLM-ID-B010-2008-0009-EA**  
**Scharff 43 CFR 3809 Plan of Operations**

**Proposed Action:**

The proposed action (Alternative B) is to review Mr. Scharff's Plan of Operations and develop standard operating procedures (SOPs) that will prevent undue or unnecessary degradation to public land.

**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-3600-1, Mineral Materials Disposal Handbook, Chapter VII (D), Inspection and Enforcement/Product Verification (I&E/PV) site visits will be conducted, at a minimum, annually by BLM minerals staff.

**Terms / Conditions / Stipulations:**

As part of this decision, the following Stipulations and Standard Operating Procedures will be adhered to by the contract holder:

Stipulations

1. All plans of operations would be conducted in accordance with 43 CFR Subpart 3809 - Surface Management and 43 CFR Subpart 3715 - Use and Occupancy under the Mining Laws.
2. The claimant/operator would ensure that vehicles and equipment used in his operation are free of vegetative material and mud/soil before entering the project area to mitigate the spread of noxious weeds.
3. Claimant/operator would 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 would maintain the area free of trash and refuse during operations and termination of the contract.

5. Claimant/operator would be responsible for suppression costs of any fires resulting from actions under this permit or contract.
6. The approved mining and reclamation plan and environmental assessment would be part of this plan of operations as special conditions governing all operations under the plan of operations.
7. Any deviations from the approved plan of operations, reclamation plan, and these stipulations would be subject to approval by the BLM authorized officer prior to such actions.
8. If claimant/operator stops conducting operations 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 reclaim the area according to the approved reclamation plan.
9. The claimant/operator would not mine in the area covered by this plan of operations without a financial guarantee (43 CFR §3809.582) that has been approved by BLM's Authorized Officer.
10. Claimant/operator would notify the BLM's Authorized Officer before any standing ponderosa pine trees greater than 12" diameter breast height (dbh) are removed by mining operations.
11. Storage of recreational equipment (i.e., boats, mobile homes, camping trailers, etc.) would not be authorized under this plan of operations except for use as shelter only during periods of active mining.
12. Storage of construction equipment (i.e., crushers, dump trucks, graders, dozers, etc.) other than the equipment mentioned in the plan of operation would not be authorized under this plan of operations.
13. No construction waste material, other materials or debris may be hauled onto the site, stockpiled or used as fill material.
14. The BLM Authorized Officer may cancel the plan of operations 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).
15. Claimant/operator would 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 plan of operations.
16. The subject site and haul roads would 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 would 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 would maintain and have on the site adequate fire prevention and extinguishing equipment.
18. Claimant/operator would 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 would proceed concurrently with excavation.
20. For interim and final reclamation, the claimant/operator would slope excavation walls to a minimum of 3:1 ratio; overburden would be replaced, and all disturbed areas would be seeded with a BLM approved seed mix.
21. This plan of operations does not grant the claimant/operator exclusive use of the public lands identified herein.

#### Standard Operating Procedures

- Mr. Scharff would monitor disturbed and reclaimed areas and notify the BLM's Authorized Officer of the presence of any noxious weeds.
- A 50-foot buffer of undisturbed ground would be maintained between surface disturbing activities and the Town Creek and Slaughter House Gulch intermittent drainages.
- Diesel pumps, used at the processing facility, would be moved to lined depressions capable of containing four times the capacity of the fuel tanks on the pumps. The liner would be at least 20 millimeters thick.
- If mined areas are to remain open for longer than one mining season, the open areas would be bermed or signs placed to indicate their presence.
- Boise County would be notified prior to any relocation of any portion of the County road leading to Placerville. The County would be responsible for submitting a Right-of-Way amendment to BLM and get its approval before any portion of the Placerville Road would be relocated. The BLM would require the appropriate clearances before the relocation. Signs would be posted during construction to warn the traveling public and OHV users of equipment use near the road.
- Mr. Scharff would be required to provide the BLM with an updated map of his facilities' locations on the mining claims and incidental to his operations.

#### 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 RM further recommended that nine sites, including Centerville, be nominated to the National Register of Historic Places (NRHP). As of this date, Centerville has not been nominated because past disturbances have compromised the archeological significance of the site.

Furthermore, archeological excavations designed to mitigate the effects from mining activity were completed in 1993 and failed to find significant archeological deposits (USDI 2001); therefore, NRHP listing is not warranted.

### **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 Ted Scharff’s continued placer mining operations as described in Alternative B (Proposed Action) of the Environmental Assessment #DOI-BLM-ID-B010-2008-0009. 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 January 23, 2012)

My decision to authorize the proposed action (Alternative B) will require that Mr. Scharff comply with not only the Standard Stipulations but also the Standard Operating Procedures 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 2008 when the BLM listed the project on the Idaho NEPA webpage (<http://www.id.blm.gov/planning/nepa/databases/index.php>), and in 2009 on the ePlanning NEPA Register webpage ([https://www.blm.gov/epl-font-office/eplanning/nepa/nepa\\_register.do](https://www.blm.gov/epl-font-office/eplanning/nepa/nepa_register.do)). No comments were received from either posting.

The proposed project was presented to the Shoshone-Paiute Tribes at a September 28, 2011, Boise District Wings and Roots Native American Campfire consultation. Subsequent updates for the project were brought up at the October 9 and December 6, 2011 and the January 19, 2012 Boise District Wings and Roots Native American Campfire consultation.

**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 at [vlenshartzen@blm.gov](mailto:vlenshartzen@blm.gov).

/s/ Terry A. Humphrey  
Terry A. Humphrey  
Four Rivers Field Manager

01/23/2012  
Date