

# U.S. Department of the Interior Bureau of Land Management

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Environmental Impact Statement  
BLM/NV/EL/ES/13-6+1793

DATE: December 2013

## PAN MINE PROJECT

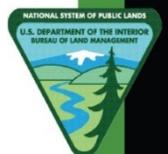
### RECORD OF DECISION, PLAN OF OPERATIONS APPROVAL, AND APPROVAL OF ISSUANCE OF RIGHT-OF-WAY GRANT

File Number: NVN-090444  
File Number: NVN-091899



Cooperating Agencies:  
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## **BUREAU OF LAND MANAGEMENT MISSION STATEMENT**

It is the mission of the Bureau of Land Management to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations.

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## SUMMARY

In October of 2011, Midway Gold U.S., Inc. (Midway) submitted a Plan of Operations (Plan) (NVN-090444) for the Pan Mine Project (Project) to the Bureau of Land Management (BLM), Egan Field Office of the Ely District, in compliance with 43 Code of Federal Regulations (CFR) § 3809 and § 3715. On October 11, 2012, Mt. Wheeler Power submitted a Plan of Development (POD) for a right-of-way (ROW) (NVN-091899) for a 69-kilovolt transmission line from El Dorado Junction, east along Highway 50, and then south along the project access road to the Project. Revised Plans of Operations were submitted to the BLM in February 2012, May 2012, January 2013, April 2013, November 2013, and December 2013.

The project will be located in the Pancake Mountain Range, in White Pine County, Nevada, approximately 50 miles west of Ely and 22 miles southeast of Eureka. The proposed project is an open-pit gold mine with two larger pits and three satellite pits, as well as crushing facilities and stockpiles; two waste rock disposal areas; a heap leach pad and associated conveyors; processing facilities and ponds; water supply wells; haul roads and access roads; ancillary facilities; and a 69 kV transmission line. Construction and operation of the mine will result in approximately 3,301 acres of disturbance that includes the previously authorized exploration disturbance of 100 acres. Upon completion of mining, the operation will be reclaimed.

The Project's mining activities on public lands and/or federal mineral estate are subject to review and approval by the BLM pursuant to the Federal Land Policy and Management Act of 1976 (FMPMA), as amended, and the BLM's Surface Management regulations (43 CFR Subpart 3809). The BLM's review and approval of a mine Plan under the Surface Management regulations constitutes a federal action that is subject to the National Environmental Policy Act of 1969 (NEPA). The BLM determined that the Project constitutes a major federal action and determined that an environmental impact statement (EIS) was required to fulfill the NEPA requirements.

On April 16, 2012, a Notice of Intent to prepare an EIS was published in the Federal Register (Volume 77, No. 73, Monday, April 16, 2012, Page 22609). Three public scoping meetings were held May 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> in 2012, in Ely, Eureka, and Reno, Nevada respectively. The scoping period ended on May 16, 2012. A total of 32 letters, emails, and faxes were received in response to the request for public comments regarding the project and all were considered in preparation of the Draft EIS.

On March 22, 2013 a Notice of Availability was published in the Federal Register (Volume 78, No. 56, Friday, March 22, 2013, Page 17713) releasing the Draft EIS to the public for a 45-day comment period. Two public comment meetings were held in 2013 on April 9<sup>th</sup> and 10<sup>th</sup> in Ely and Eureka, Nevada, respectively. A total of 299 agencies, businesses, organizations, and interested parties provided comments on the Draft EIS via mail and email. All comments received during the public comment period were considered in preparing the Final EIS. Each comment, as well as a corresponding response, is provided in Chapter 7 and Appendix 7A of the Final EIS.

The Environmental Protection Agency (EPA) published a Notice of Availability for the Final EIS in the Federal Register (Volume 78, No. 224 / Wednesday, November 20, 2013, Page 69665) on November 20, 2013 releasing the Final EIS for public review. The BLM published a Notice of Availability in the Federal Register (Volume 78, No. 226 / Friday, November 22, 2013, Page 70067) on November 22, 2013 with additional information on the Final EIS. The EPA then published an Amended Notice in the Federal Register (Volume 78, No. 230 / Friday, November 29, 2013, Page 71607) on November 29, 2013 extending the review period deadline to December 19, 2013. The Final EIS is available on the BLM Ely District website at: [http://www.blm.gov/nv/st/en/fo/ely\\_field\\_office.html](http://www.blm.gov/nv/st/en/fo/ely_field_office.html)

The BLM's selection of a Preferred Alternative was based on the BLM's NEPA analysis of the Project, including comments received throughout the NEPA process. The decision of the Egan Field Office Field Manager, BLM Ely District, is to select a combination of the Southwest Power Line Alternative and the Waste Rock Disposal Site Design Alternative along with the applicant committed environmental protection measures included in the Plan and the mitigation measures specified in Sections 4.2 through 4.18 of the Final EIS, as the BLM's Preferred Alternative. The Preferred Alternative is the alternative that best fulfills the agency's statutory mission and responsibilities, considering economic, environmental, technical, and other factors. The BLM has determined that implementation of this decision with the identified monitoring and mitigation measures will not cause unnecessary or undue degradation of the public lands.

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Attachment: Form 1842-1: Information on Taking Appeals to the Interior Board of Land Appeals

## Record of Decision

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# **RECORD OF DECISION, PLAN OF OPERATIONS APPROVAL, AND APPROVAL OF ISSUANCE OF RIGHT-OF-WAY GRANT**

**Pan Mine Project  
Final Environmental Impact Statement**

**Plan of Operations Number: NVN-090444  
Right-of-Way Number: NVN-091899  
Environmental Impact Statement: BLM/NV/EL/ES13-6+1793**

**Prepared By:  
Bureau of Land Management  
Egan Field Office  
Ely District  
Ely, Nevada**

**Cooperating Agencies:  
Eureka County  
Nevada Department of Wildlife  
White Pine County**

## **INTRODUCTION**

In October of 2011, Midway Gold U.S., Inc. (Midway) submitted a Plan of Operations (Plan) (NVN-090444) for the Pan Mine Project (Project) to the Bureau of Land Management (BLM), Egan Field Office of the Ely District, in compliance with 43 Code of Federal Regulations (CFR) § 3809 and § 3715. On October 11, 2012, Mt. Wheeler Power submitted a Plan of Development (POD) for a right-of-way (ROW) (NVN-091899) for a 69-kilovolt transmission line from El Dorado Junction, east along Highway 50, and then south along the project access road to the Project. Revised Plans of Operations were submitted to the BLM in February 2012, May 2012, January 2013, April 2013, November 2013, and December 2013.

The project will be located in the Pancake Mountain Range, in White Pine County, Nevada, approximately 50 miles west of Ely and 22 miles southeast of Eureka. The proposed project is an open-pit gold mine with two larger pits and three satellite pits, as well as crushing facilities and stockpiles; two waste rock disposal areas; a heap leach pad and associated conveyors; processing facilities and ponds; water supply wells; haul roads and access roads; ancillary facilities; and a 69 kV transmission line. Construction and operation of the mine will result in approximately 3,233 acres of disturbance that includes the previously authorized exploration disturbance of 100 acres. Upon completion of mining, the operation will be reclaimed. The projected mining period is 13 years, with associated construction, closure, reclamation and post-closure monitoring periods extending the project life to approximately 48 years.

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The Project is located in all or parts of Mount Diablo Meridian (MDM), Township 18 North, Range 55 East, Section 34, (T18N, R55E, Section 34); T17N, R54E, Sections 1, 2, 3, 4, 5, 8, 17, 19, 20, 30, and 31; T17N, R55E, Sections 3, 6, 10, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36; T16N, R53E, Sections 1, 12, and 13; T16N, R54E, Sections 6, 18, 19, 20, 28, 29, 33, and 34; T16N, R55E, Sections 1, 2, 3, 11, 12, 13, 14, 23, 24, 26, 27, 28, 29, 31, and 32; T15N, R54E, Sections 1, 2, and 3; T15N, R55E, Section 6 (Project Area). The Project Area, which covers approximately 13,650 acres, includes the mine production facilities, exploration facilities, and the access road within the Mine Plan Boundary and the 60-foot ROW for the power line.

Mining activities located on public lands are subject to review and approval by the BLM pursuant to the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, and the BLM's Surface Management regulations (43 CFR Subpart 3809). The BLM's review and approval of a mine plan of operations under the Surface Management regulations constitute a federal action that is subject to the National Environmental Policy Act of 1969 (NEPA). The BLM determined that the Project constitutes a major federal action and determined that an environmental impact statement (EIS) was required to fulfill the NEPA requirements. The BLM served as the lead agency for preparing the EIS; Eureka County, the Nevada Department of Wildlife (NDOW), and White Pine County served as cooperating agencies for preparation and review of the EIS. The EIS considered the quality of the natural environment based on the physical impacts to the public and private lands that may result from implementation of the Project.

The Proposed Action, the Southwest Power Line Alternative, the Waste Rock Disposal Site Design Alternative and the No Action Alternative were analyzed in the Final EIS. In addition, twelve alternatives were considered but eliminated from detailed analysis. The action alternatives were considered relative to their means of addressing the identified purpose and need, their technological and economic feasibility, as well as their potential to address environmental issues and reduce potential impacts. The No Action Alternative considered the continuation of Midway's currently authorized exploration activities, without the development of the Pan Mine Project.

### **DECISION**

The decision of the Egan Field Office Field Manager, BLM Ely District, is to select the Southwest Power Line Alternative and the Waste Rock Disposal Site Design Alternative along with the applicant committed environmental protection measures included in the Plan and the mitigation measures specified in Sections 4.2 through 4.18 of the Final EIS and included in this Record of Decision (ROD) and Plan of Operations Approval authorizes the Pan Mine Plan of Operations dated December 2013. The issuance of the Southwest Power Line Alternative ROW grant is also authorized by this Record of Decision. The BLM decision is based on the final Plan (NVN-090444), submitted to the BLM on December 18, 2013 pursuant to 43 CFR § 3809 and 3715, and the analysis in the Final EIS. The BLM decision is also based on the final Plan of Development (POD) (NVN-091899) pursuant to 43 CFR § 2800 and the analysis in the Final EIS. In making this decision, the BLM is relying on the Final EIS and the data and analyses prepared in connection with that document. The BLM has determined that implementation of this decision with the identified applicant committed environmental protection

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measures, as stated in the Plan and restated in Section 2.3.14 of the Final EIS, along with the monitoring and mitigation measures included in Sections 4.2 through 4.18 of the Final EIS will not cause unnecessary or undue degradation of the public lands and is consistent with other applicable legal requirements.

All mitigation measures that have been developed and adopted are consistent with regulations and policies in order to reduce environmental impacts resulting from the selection of the BLM's Preferred Alternative. The applicant committed environmental protection measures, which were developed to avoid or minimize environmental impacts resulting from the selection of the BLM's Preferred Alternative, have been adopted. All mitigation within the BLM's authority will be implemented and enforced. All mitigation was designed to be effective and is listed below.

### **Mitigation Measures**

Methods to minimize environmental effects from the BLM's Preferred Alternative have been identified in the Final EIS and made part of this ROD. A full discussion of these measures can be found in Chapter 4 of the Final EIS. Minor modifications were made to some of the mitigation measures following publication of the Final EIS and they are shown in underlined text below. No material changes to the effectiveness of the mitigation or analysis of the impacts to associated resources will result from the modified text. Midway will implement and adhere to all mitigation measures within the BLM's authority as identified below.

### **VEGETATION, INCLUDING NOXIOUS AND NON-NATIVE, INVASIVE WEEDS AND SPECIAL STATUS PLANTS**

Mitigation Measure Veg-1: To mitigate for the potential loss of individual sand cholla plants and its habitat as a result of disturbance from the Proposed Action, Midway will provide monitoring during construction, maintenance, and reclamation activities to minimize impacts to plants and their habitat. Previously identified individual plants and populations will be flagged and avoided, if possible, while constructing access roads and installing power poles. If it is determined that individual plants are unavoidable, the locations of these plants will be reported. In coordination with the BLM, Midway will develop a plan to salvage and transplant these plants and comply with state regulations.

Mitigation Measure Veg-2: Midway will implement an employee-training program to educate employees and contractors of the importance of not disturbing flagged areas. This training will be conducted when the employee or contractor is initially hired and as part of periodic site safety training. Training will also be conducted prior to starting construction activities on the main access road and power line areas where sand cholla plants have been identified. The employee training program will educate workers on the locations of the sand cholla populations within the project area and on how to avoid impacts to those species.

Mitigation Measure Veg-3: During reclamation, a BLM approved native seed mix will be used within sand cholla habitat. A reference area will be established within sand cholla habitat and used as the target for reclamation. The frequency, density, and ground cover of the native vegetation will be documented for sand cholla habitat.

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### **WILDLIFE RESOURCES, INCLUDING SPECIAL STATUS WILDLIFE, AND MIGRATORY BIRDS**

#### **Sage Grouse**

Mitigation Measure W-1: Modified transmission line structures, including line strike diverters and perch deterrents will be used for proposed transmission lines constructed within 3.2 miles of greater sage-grouse leks of unknown and active status and within PPH and PGH designated habitats. All modifications to the transmission lines, including line strike diverters, and perch deterrents will be approved by BLM, NDOW, and/or the USFWS prior to installation.

Mitigation Measure W-2: No construction or new ground disturbance will occur during the period from March 1 through May 15 from one hour before sunrise until three hours after sunrise within two miles of active greater sage-grouse leks.

During spring of 2013, ambient noise levels were measured at the lek sites. The modeled results exceed the impact threshold of 10 dB(A) at the Southwest Pancake lek from construction activities, and at the East Blackpoint lek from mining activities. Midway will limit noise at leks to less than 10 decibels above ambient from March 1 through May 15 from one hour before sunrise until three hours after sunrise. Midway will submit a plan subject to BLM approval that specifies the steps Midway will take to ensure that noise levels will remain below 10 decibels greater than ambient. Midway will conduct noise monitoring between March 1 and May 15 of each year near sage-grouse leks at a BLM approved location to ensure that noise levels are achieved. If monitoring shows that noise thresholds are exceeded, Midway will employ mitigation measures as outlined in the BLM-approved plan. Suggested mitigation measures include:

- Restrict activities from March 1 through May 15 from one hour before sunrise until three hours after;
- Reduce vehicle speed limits on the access road during the period from March 1 through May 15;
- Restrict the use of engine brakes; and
- Other appropriate mitigation measures that reduce noise levels at leks.

#### **Off-Site Mitigation**

An off-site mitigation plan will be developed and approved by the BLM, of which the key components will include:

- Complete off-site mitigation of impacted PPH on a three to one basis, meaning that for every one acre that is impacted by the project within PPH, Midway will restore or enhance three acres of habitat either adjacent to the project, within the Population Management Unit, or within adjacent PPH habitats.
- Complete off-site mitigation of impacted PGH on a two to one basis.

#### **Pygmy Rabbits**

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Mitigation Measure W-8: Pre-construction clearance surveys for pygmy rabbits will occur prior to any surface disturbance. Pygmy rabbits are known to be active above ground throughout the year, so these surveys will be required regardless of the season. If occupied pygmy rabbit habitat is identified during pre-construction clearance surveys and natal burrows are found, new disturbance would not occur within 200 feet of those areas. If disturbance of these areas is determined to be unavoidable, consultation with the appropriate BLM and NDOW wildlife biologists would occur to develop mitigation techniques.

### **Raptors**

Mitigation Measure W-9: Midway will fully implement and adhere to the construction techniques, design standards, and avian mortality reporting set forth in the Pan Bird and Bat Conservation Strategy (BBCS) for the Proposed Action for raptors, western burrowing owls, migratory birds, and bats and the Eagle Conservation Plan for golden and bald eagles.

### **Western Burrowing Owl**

Mitigation Measure W-10: Pre-construction clearance surveys for western burrowing owl will occur prior to any surface disturbance occurring from March 15 through August 31. If occupied western burrowing owl nesting territories are encountered, Midway will avoid the area within 0.25 miles of the active territory until a qualified biologist has determined the young have fledged and the nesting territory has been abandoned for the season. If disturbance of these areas is determined to be unavoidable, consultation with the appropriate BLM and NDOW wildlife biologists would occur to develop mitigation techniques.

### **Migratory Birds**

Mitigation Measure W-11: Midway will fully implement and adhere to the construction techniques, design standards, and avian mortality reporting set forth in the BBCS for the Proposed Action.

Mitigation Measure W-12: Midway will conduct nesting surveys for migratory birds if disturbance needs to occur between April 1 and July 31 within seven days of disturbance. In coordination with the BLM, an avoidance buffer would be determined and the nest would be avoided to prevent destruction or disturbance of nests until the birds are no longer present.

### **Dark Kangaroo Mouse**

Mitigation Measure W-13: During pre-construction trapping for dark kangaroo mice in potentially suitable habitat within the project area, occupied dark kangaroo mouse habitat was identified; however, this habitat is outside of the disturbance area. If disturbance of this area is proposed in the future, consultation with the appropriate BLM and NDOW wildlife biologists would occur to develop avoidance strategies and mitigation techniques.

### **WILD HORSES**

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In order to minimize the potential of wild horses accidentally entering the fenced portion of the project area and not being able to be released easily, the following mitigation measure will be employed.

Mitigation Measure H-1: Gates will be installed along the fence line at every corner. If the fence stretches longer than one mile, a gate will be placed at one-mile increments. Gates will also be placed on either side of cattle guards.

### **CULTURAL RESOURCES**

A mitigation plan for the 1913 to 1922 alternative route of the Lincoln Highway segment has been completed, in coordination with the Eastern Nevada Chapter of the Lincoln Highway Association (Midway, 2012). The road segment will be re-routed along an existing two-track.

Mitigation Measure C-1: Mitigation for the 1913 to 1922 alternative route of the Lincoln Highway and the proposed re-route includes video documentation of its existing condition and route. The purpose of videotaping the 1913 to 1922 alternative route of the Lincoln Highway is to document its characteristics and condition prior to disturbance as a form of data recovery. Lincoln Highway reroute signs directing the public will be placed at the intersection of U.S. Highway 50 and the old Pan Project access road and at the intersection of U.S. Highway 50 and the reroute. Also, an informational kiosk will be installed at the intersection of the Lincoln Highway reroute and the 1913 to 1922 alternative route. The informational kiosk will provide the public with history about the highway and its realignments.

The proposed reroute will utilize an existing two-track road that will interconnect with Highway 50 on the north. This two-track will require minor work to make it passable; two eroded sections of the road will be repaired by smoothing its approach and departure angles slightly to allow a vehicle to safely cross the section. When conducting this repair there are three options: a.) do no earthwork and simply drive the route on an all-terrain vehicle (ATV) to accentuate the route and smooth the two or three ditch crossings; b.) place galvanized, corrugated metal culverts in the either two or three ditch crossings, as necessary, and then cover the culverts with imported material; c.) place smooth steel pipes as culverts in the same manner as the corrugated culverts with the idea that the steel culverts will rust and present a more nostalgic presence as it was indicative of the era of the Lincoln Highway.

If either of the culvert options is chosen, there will be no need for incising the culvert in the erosion channel or disturbing any native ground around the area. The culverts will be covered with imported material to avoid disturbance, providing simple burial and cover of any existing resources. If the option for simply driving the route on an ATV to accentuate the route and smooth the crossings is chosen, the road may need to have the repair repeated periodically to maintain the travel way. Although any of these options will work, for safety, historical accuracy and reduced maintenance, the steel culvert option is preferable.

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Mitigation Measure C-2: Adverse impacts to National Register of Historic Places (NRHP)-eligible cultural resources will be mitigated as directed by the Programmatic Agreement.

### LAND USE AND ACCESS

Mitigation Measure L-1: In order to minimize unnecessary traffic on the access road, the mine access road will be signed to inform the public that it is a dead end road and for mine access only.

### VISUAL RESOURCES

Mitigation Measure V-1: The exterior surfaces of any ancillary facilities visible from any project Key Observation Point (KOP) or Highway 50 will be painted with non-reflective *shale green* if located in pinyon-juniper vegetation or *shadow gray* if located in shrublands or other open areas. Other non-reflective colors of paint, as determined by the BLM, may be used in place of *shale green* or *shadow gray*.

## MANAGEMENT CONSIDERATIONS

The rationale for the above decision is supported by the Surface Management regulations (43 CFR § 3809 *et seq.*), Rights-of-Way regulations (43 CFR § 2800 *et seq.*), FLPMA, and the Mining Law of 1872, as amended. The Project has been analyzed under the Council on Environmental Quality implementing regulations for NEPA (40 CFR § 1500 *et seq.*) and none of the alternatives that were analyzed in detail were found to result in unnecessary or undue degradation of public lands. Selection of the BLM's Preferred Alternative will allow Midway to undertake a legitimate use of the public lands in an environmentally sound manner without causing unnecessary or undue degradation to the public lands.

The BLM's selection of the Preferred Alternative was primarily based on the avoidance and minimization of impacts to greater sage-grouse, while still allowing recovery of the identified mineral resource within the Project area. Permitting the Southwest Power Line Alternative and the Waste Rock Disposal Site Design Alternative will allow Midway to employ approximately 150 permanent work force employees for the 13-year production life of the mine. In addition, up to 160 workers will be hired for a period of approximately 12 months during construction of the mine.

Under the No Action Alternative, the gold resources would not be developed. Also, no additional permanent jobs would be made available to Nevada and local economies. Selection of this alternative would not comply with 43 CFR § 3809.411(d).

The BLM, Eureka County, NDOW, White Pine County, and Midway have collaborated to develop measures designed to reduce environmental impacts that may result from the Project. Applicant committed environmental protection measures contained in the Plan and the mitigation measures outlined below will reduce adverse environmental impacts identified in the Final EIS. Monitoring requirements of the Plan and the Final EIS will assist Midway, the BLM, and others in identifying, mitigating, or avoiding unforeseen environmental impacts that may occur.

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The BLM in coordination with the Nevada Division of Environmental Protection (NDEP) has determined that a reclamation bond adequate to cover surface reclamation of the Project facilities is required.

### **Land Use Plan Conformance**

The BLM has the responsibility and authority to manage the surface and subsurface resources on public lands located within the jurisdiction of the Egan Field Office and has designated lands within the project area as open for mineral exploration and development. The objectives for Geology and Mineral Extraction in the ROD and the Ely District Approved Resource Management Plan (RMP) are to provide for the responsible development of mineral resources to meet local, regional, and national needs, while providing for the protection of other resources and uses.

The management decisions applicable to these objectives are as follows:

- **Locatable minerals.** “Open to locatable - Allow locatable mineral development on approximately 9.9 million acres of federal mineral estate, subject to the prevention of unnecessary or undue degradation of public lands.”

The Preferred Alternative is in conformance with the Ely District RMP and its ROD.

## **SUMMARY OF THE PROPOSED ACTION AND OTHER ALTERNATIVES**

### **Proposed Action**

The project is a gold mine and includes a power line, access road, and associated mine-processing facilities. Specifically, proposed project components would include:

- Two main open pits: North Pan Pit and South Pan Pit;
- Four satellite pits: Black Stallion, North Syncline, Syncline, and South Syncline Pits;
- Crushing facilities and associated stockpiles;
- Two waste rock disposal areas (WRDAs);
- Heap leach pad, conveyors, processing facilities, and ponds;
- Water supply wells and delivery/storage system;
- Haul and secondary roads;
- Additional exploration within the Plan; and
- Ancillary facilities including: power supply; stormwater controls; reagent, fuel, and explosives storage; buildings including administration, laboratory, security, warehouse, core shed, and parking; potable water supply and septic systems; maintenance shop; ready line; light vehicle wash; communications facilities; helicopter pad; plant growth medium and woody debris stockpiles; Class III-waivered landfill; area for petroleum contaminated soils; monitoring wells; borrow areas; fencing; and yards.

The proposed action 69 kilovolt (kV) transmission line would be constructed from El Dorado junction at Strawberry Road and U.S. Highway 50, then east along U.S. Highway 50 (south of

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the Highway 50 ROW fence) to the mine access road, and south into the project area along the side of the mine access road.

The proposed action project boundary is composed of approximately 13,454 acres, of which all are public lands administered by the BLM Egan Field Office.

Construction and operation of the Project would be initiated in early 2014, following Midway's receipt of all required permits and approvals. The life of the mine would include approximately 15 years of active mining and ore processing. Reclamation and monitoring would continue for an additional 30 years following completion of operations.

### **No Action Alternative**

The Pan Mine Project EIS analyzed three alternatives in addition to the Proposed Action: the No Action Alternative, the Southwest Power Line Alternative, and the Waste Rock Disposal Site Design Alternative.

Under the No Action Alternative, Midway would not be authorized to develop the Project or mine the gold ore body as currently defined under the Proposed Action. However, Midway would be able to continue exploration activities as outlined in previously authorized exploration Plan of Operations. Refer to Section 2.2 of the Final EIS for a discussion of the existing exploration level activities. The area would remain available for future mineral development or for other purposes as approved by the BLM.

### **BLM's Preferred Alternative**

The BLM's Preferred Alternative is a combination of the Southwest Power Line Alternative and the Waste Rock Disposal Site Design Alternative along with the applicant committed environmental protection measures included in the Plan and the mitigation measures specified in Sections 4.2 through 4.18 of the Final EIS.

The BLM's Preferred Alternative would allow the construction and operation of the proposed gold mine, creating a total of 3,301 acres of disturbance, all of which is public land managed by the BLM.

The BLM's Preferred Alternative is also the Environmentally Preferred Alternative. To address concerns of potential impacts to greater sage-grouse from the Proposed Action power line, the Southwest Power Line Alternative was considered that would route the power line from the junction of Strawberry Road and U.S. Highway 50 heading west approximately five miles and then parallel to State Route (SR) 379 south and southeast approximately 12 miles. At this point, the power line would head east away from SR 379 through Newark Valley and then north for approximately 15 miles terminating on the west side of the mine site. From the point where the power line heads east away from SR 379, a power line maintenance road would also be constructed. This power line would be of the same 69 kV, mono-pole design as the Proposed Action power line. Construction of this power line would disturb approximately 68 additional acres. The total length of this alternative is approximately 32 miles.

The Southwest Power Line Alternative would avoid the East Blackpoint lek by approximately 3.3 miles and Southwest Pancake Summit lek by approximately 4.29 miles. The Southwest

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Power Line Alternative is an avoidance alternative that impacts 54 percent less Preliminary Priority Habitat (PPH), follows existing linear features within PPH, and would not pass between the East Blackpoint and Southwest Pancake Summit leks. The impacted habitat for greater sage-grouse from the Proposed Action includes the fenced area within the project area, the access road, as well as those areas within 600 meters of the proposed transmission line. The Southwest Power Line Alternative impacts 1,441 fewer acres of PPH than the Proposed Action but it would impact 782 more acres of PGH to the south of the project area.

The waste rock disposal site designs for both North Pan and South Pan pits were developed by Midway during the initial phases of the design process. The Waste Rock Disposal Site Design Alternative would be constructed with conventional techniques and would therefore not be geomorphic. Several advantages, both environmental and economic, may be realized by adopting conventional waste rock disposal designs. The WRDA sites constructed with conventional techniques incorporate a smaller footprint than the geomorphic designs included in the Proposed Action design. The disturbed area for the alternative design WRDAs would be approximately 97, 102, and 202 acres, respectively, for the North West, North East, and South Pit WRDAs. This would result in a decrease of 79 acres of disturbance compared to the Proposed Action. In particular, the alternative North West and North East WRDAs are different than the Proposed Action North Pan WRDA. The North East site would move much of the waste rock further away from greater sage-grouse PPH and disturb less greater sage-grouse Preliminary General Habitat (PGH). This alternative would also reduce the height of the North West WRDA, which would reduce the visual impacts from U.S. Highway 50 as compared to the Proposed Action design for the North Pan WRDA. With this alternative, standard waste rock placement designs would result in a significant reduction in the cost of construction and reclamation.

The Waste Rock Disposal Site Design Alternative disturbs 119 fewer acres of PGH. Even though the fenced area impacting PGH during operations would be increased by 29 acres, the additional 119 acres of undisturbed PGH within the fenced boundary would remain naturally vegetated through the life of the project and would consequently not require reclamation.

To reduce cumulative impacts from reasonably foreseeable future actions, the 32-mile power line for the Southwest Power Line Alternative could be shared by the proposed Gold Rock Project power line and the proposed American Vanadium Gibellini Mine power line. The Gold Rock Project power line could connect to the farthest southeast section of the Southwest Power Line Alternative and the Gibellini power line would share the portion of the Southwest Power Line Alternative that runs from Strawberry Road to Fish Creek.

The BLM, working in concert with Midway in developing the Southwest Power Line Alternative, the Waste Rock Disposal Site Design Alternative, the applicant committed environmental protection measures of the Plan, and the mitigation measures identified below, has ensured that all practicable means to avoid, minimize, and offset environmental harm were adopted for the Pan Mine Project as required by the Council on Environmental Quality.

### **Alternatives Considered But Eliminated From Detailed Analysis**

Twelve alternatives were identified and proposed by the BLM, NDOW, and Midway but were eliminated from further analysis. These included alternatives such as relocating mining and

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leaching facilities, underground mining, full backfill of open pits during reclamation, partial backfill of open pits, concurrent backfilling of open pits, in-pit crushing and conveyor transport, leach pad site selection, and several power line and road alternatives. These twelve alternatives were considered relative to their means of addressing the identified purpose and need for the project; their technological and economic feasibility; as well as their potential to address environmental issues and reduce potential impacts. Each of these twelve potential alternatives was ultimately rejected and not further analyzed in the EIS for the following reasons:

1. Locating Mining and Leaching Facilities Elsewhere - Relocating the mining and leaching facilities would be technically infeasible and would not meet the stated Purpose and Need.
2. Underground Mining - Mining the low-grade, near surface ore bodies with underground mining techniques would not be technically or economically feasible.
3. Complete Backfilling of all Open Pits during Reclamation - Double handling of waste rock by completely backfilling the North Pan and South Pan pits during reclamation would render the overall project economically infeasible. The area disturbed related to temporary WRDAs would be roughly equivalent to the Proposed Action. This alternative would be technically and economically infeasible.
4. Concurrent Backfilling of Open Pits - Concurrent backfilling consists of opening the first portion of a pit and disposing that waste rock in an external WRDA. Thereafter, all waste rock produced in that pit would be placed as backfill in the mined out portion of the same pit. Ore bodies of the North Pan and South Pan pits occur on the sides and floors of the pits in such a manner that active mining is necessary throughout most of the pit areas throughout their mine lives. This alternative would be technically and economically infeasible.
5. Partial Backfilling of the Open Pits - This alternative would be technically and economically infeasible.
6. In-Pit Crushing and Conveyor Transport - If Potentially Acid Generating (PAG) waste rock material were to be identified during mining, it would need to be selectively placed in the waste rock disposal facilities. Since the in-pit crusher and conveying system could not provide the required selectivity and mobility for PAG material, it was concluded that several haul trucks would be needed, thus dictating the need for wider external haul roads and a truck maintenance facility. Any economic benefit that might be obtained by the use of in-pit crushing and conveying was lost by the need to add a separate crusher/conveyor system for PAG waste rock, by adding several trucks and by the higher electric power requirement. This alternative would be economically infeasible.
7. Leach Pad Site Selection - Multiple sites for the heap leach pad were analyzed and considered by Midway early in the design process. Selecting more than one heap leach pad site would increase the disturbance area and render the project economically infeasible. Sites east of Pancake Ridge were found to be technically and economically infeasible as well.
8. Northeast Access Roads - To address potential impacts to greater sage-grouse leks, three northeast access road alignment options were considered. A greater sage-grouse lek is located north of the project area within very close proximity to Options 1 and 2 and within approximately one-mile of Option 3, ruling out these access road alternative options as not environmentally reasonable.

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9. Northeast Power Line and Associated Maintenance Road - To address concerns of potential impacts to greater sage-grouse a Northeast Power Line and Associated Maintenance Road alternative was considered. The Northeast Power Line alternative crosses through steep and rugged terrain limiting the development of the power line and the associated road. A road would be required due to Mt. Wheeler Power's lack of helicopter use for power line construction and maintenance. This alternative would be technically feasible however the cost of construction, management, and maintenance of the power line would be economically infeasible. Construction of the road would also involve environmental impacts due to the increased disturbance required for a major road building effort. This alternative would not be environmentally reasonable and would be economically infeasible.
10. Southwest Access Road Along the Power Line ROW - The environmental effects due to traffic (potential accidents, air emissions, fuel consumption, collisions with wildlife, and potential for accidental spills) would be greater for this alternative compared to the Proposed Action access road. The length of this alternative as well as the terrain, which results in lower speeds, would increase employee travel to the mine site by an estimated one hour each way via commuting from Ely and an estimated 30 minutes each way via commuting from Eureka. Adding a potential two hours to an employee's work day poses potential safety issues contributing to increased worker fatigue. This alternative would be technically feasible but would be clearly environmentally inferior to the Proposed Action access road for the above-described reasons.
11. Burial of Proposed Action Power Line - Because of the high risk of maintenance problems due to accidental grounding in lightning storms, Mt. Wheeler Power has indicated they would not be willing to bury just parts of a transmission line. This alternative would be technically feasible, however, burying of the power line, construction, management, and maintenance of the power line would be economically infeasible and would not be environmentally reasonable.
12. Burial of Diagonal Alignment Power Line - According to Mt. Wheeler Power this alternative would be approximately 30 times more costly to build than the Proposed Action transmission line. This alternative would be technically feasible; however, burying of the power line, construction, management, and maintenance of the power line would be economically infeasible and would not be environmentally reasonable.

### **PUBLIC INVOLVEMENT**

On April 16, 2012, a Notice of Intent to prepare an EIS was published in the Federal Register (Volume 77, No. 73, Monday, April 16, 2012, Page 22609). Three public scoping meetings were held May 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> in 2012, in Ely, Eureka, and Reno, Nevada respectively. The scoping period ended on May 16, 2012. A total of 32 letters, emails, and faxes were received in response to the request for public comments regarding the project and all were considered in preparation of the Draft EIS.

The majority of comments received during the scoping period concerned the impacts the project would have on wild horses, range management, the loss of wildlife habitat and impacts to the sensitive desert landscape, direct and indirect impacts to surface water, and pollution of aquifers

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as well as groundwater aquifer replenishment. Other comments concerned socioeconomic impacts both positive to the state of Nevada and negative to Eureka County. Others were concerned with air quality, sage-grouse, and visual impacts. The greatest number of public comments were from individuals outside the state of Nevada followed by Nevada's White Pine, Eureka, and Washoe counties. More information on the scoping process and specific concerns can be found in Section 1.8 and 1.9 of the Final EIS.

On March 22, 2013 a Notice of Availability was published in the Federal Register (Volume 78, No. 56, Friday, March 22, 2013, Page 17713) releasing the Draft EIS to the public for a 45-day comment period. Two public comment meetings were held in 2013 on April 9<sup>th</sup> and 10<sup>th</sup> in Ely and Eureka, Nevada, respectively. A total of 299 agencies, businesses, organizations, and interested parties provided comments on the Draft EIS via mail and email. All comments received during the public comment period were considered in preparing the Final EIS. Each comment, as well as a corresponding response, is provided in Chapter 7 and Appendix 7A of the Final EIS.

The Environmental Protection Agency (EPA) published a Notice of Availability for the Final EIS in the Federal Register (Volume 78, No. 224 / Wednesday, November 20, 2013, Page 69665) on November 20, 2013 releasing the Final EIS for public review. The BLM published a Notice of Availability in the Federal Register (Volume 78, No. 226 / Friday, November 22, 2013, Page 70067) on November 22, 2013 with additional information on the Final EIS. The EPA then published an Amended Notice in the Federal Register (Volume 78, No. 230 / Friday, November 29, 2013, Page 71607) on November 29, 2013 extending the review period deadline to December 19, 2013.

The BLM received one comment letter following the publication of the Final EIS. The comment was reviewed and considered in preparing this Record of Decision. The comment did not identify or present any significant new information that would warrant additional analysis under the NEPA. The comment can be found in the Administrative Record of the Final EIS at the BLM Egan Field Office.

### **COOPERATING AGENCY COORDINATION**

In addition to the document reviews listed above, regular coordination efforts were performed with the Cooperating Agencies throughout the project. During the EIS development process, biweekly conference calls were held between the BLM, Midway, and the Cooperating Agencies to provide status updates, discuss emergent issues, and gather feedback and information requests from the Cooperating Agencies. Additionally, individual meetings were held between the BLM and each of the Cooperating Agencies to address individual concerns raised through comments on the Draft EIS and other points in the project. Specific dates and times are documented in the Administrative Record.

### **NATIVE AMERICAN CONSULTATION AND COORDINATION**

Per EO 13175, the BLM is required to establish regular and meaningful consultation and coordination with Native American tribal governments on the development of regulatory policies

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and issuance of permits that could significantly or uniquely affect their communities. On June 7, 2012, the BLM mailed a letter to the 11 Tribal governments listed below requesting their assistance in identifying any traditional religious sites or cultural sites of importance that they believe may be impacted by the project. The Yomba Shoshone Tribe responded by deferring to the Duckwater Shoshone Tribe, since the project lies near their reservation.

- Battle Mountain Band Council;
- Confederate Tribes of the Goshute Indian Reservation;
- Duckwater Shoshone Tribe;
- Elko Band Council;
- Ely Shoshone Tribe;
- Las Vegas Paiute Tribe;
- Moapa Band of Paiutes;
- Wells Band Council;
- South Fork Band Council;
- Te-Moak Tribe of the Western Shoshone Indians of Nevada; and
- Yomba Shoshone Tribe.

On July 2, 2012, the BLM met with the Duckwater Shoshone Tribe to discuss proposed mining activities north of the Duckwater Shoshone Reservation.

While formal consultation with tribes and tribal organizations is currently ongoing and will continue until Project completion, in general, Native Americans are concerned with the potential loss or disturbance of cultural sites and the impacts to wildlife and their habitat.

### **APPEAL STATEMENT**

This Decision is subject to appeal pursuant to 43 CFR Section 3809.800. A party that is adversely affected may file such an appeal in accordance with the procedures in 43 CFR Part 4. An appeal shall be filed not later than 30 days after the date the ROD is issued.

**SURFACE MANAGEMENT REGULATIONS (43 CFR § 3809)  
PLAN OF OPERATIONS APPROVAL**

**INTRODUCTION**

Midway Gold U.S., Inc.'s (Midway) Plan of Operations (Plan) for the Pan Mine Project (Project), filed pursuant to 43 CFR § 3809, was filed with the Bureau of Land Management (BLM) in October 2011; with revisions filed in February 2012, May 2012, January 2013, April 2013, November 2013, and December 2013. The Project was assigned BLM case file number NVN-090444.

BLM has prepared a Final Environmental Impact Statement (EIS) (BLM/NV/EL/ES/13-6+1793) that analyzed the affected environment, environmental impacts and developed mitigation measures associated with the Project. The project is located in the Pancake Mountain Range, in White Pine County, Nevada, approximately 50 miles west of Ely and 22 miles southeast of Eureka. The proposed project is an open-pit gold mine with two larger pits and three satellite pits, as well as crushing facilities and stockpiles; two waste rock disposal areas; a heap leach pad and associated conveyors; processing facilities and ponds; water supply wells; haul roads and access roads; ancillary facilities; and a 69-kilovolt transmission line. Construction and operation of the mine and associated transmission line will result in approximately 3,301 acres of disturbance on public land. Upon completion of mining, the operation will be reclaimed.

**DECISION**

It is my decision to approve the Plan of Operations (NVN-090444) including the specified applicant committed practices. The monitoring and mitigation measures specified on pages 3-7 of the Record of Decision shall become conditions of approval for this Plan. Since the Plan of Operations is phase bonded per 43 CFR 3809.553, Midway may only perform those actions that have been described in the Incremental Reclamation Cost Estimate in Appendix M2 of the Plan of Operations until the next increment has been bonded for. Midway must also comply with all other applicable federal, state, and local regulations, including obtaining all necessary permits from the Nevada Division of Environmental Protection (NDEP) and other federal, state, and local agencies, and fulfilling any other applicable FLPMA requirements before proceeding with this Project.

**RECLAMATION COST ESTIMATE – FINANCIAL GUARANTEE  
REQUIREMENTS**

Based on Midway's Incremental Reclamation Cost Estimate received on December 18, 2013, the BLM in concurrence with the NDEP, has determined that the required financial guarantee amount is hereby set at \$14,978,400 for the 1,227 acres of surface disturbance on public lands associated with the first increment of the Project (NVN-090444), as described in the Plan. The proponent must provide a financial guarantee in this amount using one or more of the acceptable financial guarantee instruments listed under 43 CFR § 3809.555.

## Plan of Operations Approval

Based on review of the reclamation cost estimate submitted by Midway for the Plan, this office has determined a financial guarantee in the amount of \$14,978,400 must be filed and accepted by the Bureau of Land Management, Nevada State Office, Branch of Minerals Adjudication, 1340 Financial Blvd., Reno, NV 89502-7147. That office will issue Midway a decision as to the acceptability of its financial guarantee. Midway must not begin surface disturbing activities under the Plan until it receives notification from the BLM State Office that the financial guarantee has been adjudicated. Failure to do so may result in enforcement action being taken against Midway.

Line items in the approved reclamation cost estimate are not to be considered as the limits of the reclamation expenditures should forfeiture of the financial guarantee be necessary. The line items listed are solely for the purpose of arriving at a total amount for the financial guarantee. This amount may be spent as the BLM deems necessary to implement the approved reclamation plan. Nor does the financial guarantee amount represent reclamation liability limits or constraints should the actual cost of reclamation exceed this amount.

### **OTHER REQUIREMENTS**

The surface occupancy proposed in association with this Project meets the conditions specified in the applicable regulations (43 CFR § 3715). BLM is in concurrence with the occupancy of the subject lands. Midway must continue to comply with sections 3715.2, 3715.2-1, and 3715.5 of the regulations. If you are adversely affected by the surface occupancy approved as part of this decision, you may appeal to the Interior Board of Land Appeals (IBLA) under 43 CFR, Part 4. As the appellant you have the burden of showing that the decision appealed from is in error. This decision will remain in effect while the IBLA reviews the case, unless a stay is granted by the IBLA. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. For further information, please see the appeal procedures listed below under 43 CFR § 2800 and 43 CFR § 3715 Appeal Statement.

Approval of the Project by BLM does not constitute a determination regarding the validity or ownership of any unpatented mining claims involved in the mining operation. Approval of the Project in no way implies the economic viability of the operation. Any modification to the Project must be coordinated with and approved by the Authorized Officer. Surface occupancy related to the Project is reasonably incidental to the mining operation.

This Decision is issued pursuant to 43 CFR § 3809.803. It is effective immediately and will remain in effect while appeals are pending before the Office of Hearings and Appeals (OHA) unless OHA grants a stay under §4.21(b) of this title. The Plan of Operations is hereby approved subject to the conditions of approval required to implement the Project in order to prevent unnecessary or undue degradation. Midway must conduct operations as described in the Plan, meet the performance standards found at 43 CFR § 3809.420 and in accordance with all mitigation measures and conditions of approval.

## Plan of Operations Approval

### **43 CFR § 3809 APPEAL STATEMENT**

#### Appeal of the Decision

If you are adversely affected by this decision, you may request that the BLM Nevada State Director review this decision. If you request a State Director Review, the request must be received in the BLM Nevada State Office at 1340 Financial Boulevard, Reno, Nevada 89520-0006, no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless a stay is granted by the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the BLM Nevada State Office to determine when the BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at HC33 Box 33500, Ely, Nevada 89301-9408, which we will forward to IBLA.

If you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.801(a)(1). Your Notice of Appeal must be filed in this office at HC33 Box 33500, Ely, Nevada 89301-9408 within 30 days from receipt of this decision. As the appellant you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1 that contains information on taking appeals to the IBLA.

This decision will remain in effect while the IBLA reviews the case, unless a stay is granted by the IBLA. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### Request for a Stay

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the IBLA and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal must show sufficient justification based on the following standards:

## Plan of Operations Approval

1. The relative harm to 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.
4. Whether the public interest favors granting the stay.