

## **Decision Record**

### **Determination of NEPA Adequacy (DNA)**

**DOI-BLM-NV-W030-2013-0009 –DNA**

### **Hycroft Mine South Heap Leach Project**

I have reviewed this Documentation of Land Use Plan Conformance and Determination of NEPA Adequacy (DNA) and have determined that the proposed action is in conformance with the approved land use plan (Sonoma-Gerlach Management Framework Plan, approved July 9, 1982).

Hycroft Resources & Development (HRDI) is requesting reconfiguration of the South Heap Leach Facility (SHLF), an increase to the total number of haul roads, construction of a new truck wash facility, installation of new office facilities, an increase in the cyanide solution pumping rate to the Brimstone Heap Leach pad (BHL), the North Heap Leach pad (NHL), and the South Heap Leach pad (SHL).

On the basis of the information contained in the DNA, it is my determination that implementation of the proposed action will not have environmental impacts beyond those already addressed in the Hycroft Mine Expansion EIS [DOI-BLM-NV-W030-2011-0001-EIS] and associated Record of Decision (ROD) dated August 14, 2012.

Mitigation measures identified in the 2012 ROD associated with the EIS listed above are consistent with and would apply to any approval of this action. In addition, mitigation measures have been developed in the DNA and identified below. Any authorization of the proposed action is subject to implementation of these mitigation measures.

#### **Wildlife Stipulation:**

During burrowing owl nesting season (March 1st - August 31st), a burrowing owl inventory survey following the Winnemucca BLM's survey protocol shall be conducted prior to surface disturbance in the areas identified as potential burrowing owl habitat within the Project Area. If active burrows are located, the BLM biologist must be notified and appropriate protection measures, including avoidance and restriction of activities will be established.

The Migratory Bird Treaty Act prohibits the destruction of nests (nests with eggs or young) of migratory birds. In order to avoid potential impacts to breeding migratory birds, a nest survey shall be conducted by a qualified biologist within potential breeding habitat prior to any surface disturbance proposed during the avian breeding season (March 1st through August 31st). If nests are located, or if other evidence of nesting (i.e., mated pairs, territorial defense, carrying nest material, transporting food) is observed, a protective buffer area (the size depending on the habitat requirements of the species) shall be delineated and the buffer area avoided to prevent destruction or disturbance to nests until they are no longer active. The site characteristics used to

determine the size of the buffer are: a) topographic screening; b) distance from disturbance to nest; c) the size and quality of foraging habitat surrounding the nest; d) sensitivity of the species to nest disturbances; and e) the protection status of the species. Surveys must be conducted no more than 10 days and no less than 3 days prior to initiation of disturbance. Surveys must follow established BLM standards and protocols, and should be approved by the BLM biologist prior to being implemented. If active nests are located, the BLM biologist must be notified immediately and appropriate protection measures which may include avoidance or restriction of activities will be established.

Land clearing and surface disturbance shall be timed to prevent destruction of active bird nests or young of birds during the avian breeding season and in accordance with the Winnemucca District policies to comply with the Migratory Bird Treaty Act of 1918 (MBTA). If surface disturbing activities were unavoidable during the breeding season, HRDI would have a qualified biologist survey areas proposed for disturbance for the presence of active nests immediately prior to the disturbance.

#### **Special Status Species (Plants) Stipulation:**

In order to avoid potential impacts to Sand Cholla, a survey shall be conducted by a qualified botanist prior to any surface disturbance for the reconfiguration of the South Heap Leach Facility (SHLF). Surveys must be conducted no more than 10 days and no less than 3 days prior to initiation of disturbance. Surveys must follow established BLM standards and protocols, and should be approved by the BLM biologist prior to being implemented. If Sand Cholla are located, the Sand Cholla will be transplanted and stored within a plant nursery until it can be transplanted into the ground within the existing PoO boundary or within the Well Field area, to be analyzed in the Rail Spur EA. The BLM biologist must be notified if Sand Cholla are located and are transplanted.

#### **Cultural Resource Stipulation:**

Prior to the initiation of any ground-disturbing activities associated with the construction of the South Heap Leach, archaeological excavations at Sites CrNV-22-4102, 22-3872, 02-9768, and 22-4670 must be completed according to the stipulations of the Treatment Plan for the Hycroft Expansion Project. A letter report describing the completion of work must be submitted to the BLM. BLM must concur with the letter report and make a decision to issue a Notice to Proceed. This decision must be conveyed to Nevada SHPO according to the Memorandum of Agreement signed for the Expansion Project. SHPO must be given the opportunity to object for the prescribed time period before the Notice to Proceed is issued. The MOA for the project was amended to include Site CrNV-02- 9768. The site was subject to Phase I testing as described in the Treatment Plan and no Phase II excavation was determined to be necessary. After completion of the archaeological fieldwork, post-field analysis and report preparation of the excavation results will be undertaken and artifacts will be curated in an approved facility. A bond is in place to ensure that this work is completed.

Also, in accordance with the Treatment Plan for the project, if any previously unidentified significant cultural resources are found during construction in the South Heap Leach

area, they will be investigated, evaluated, and mitigated in accordance with the Treatment Plan. Periodic monitoring during construction will be conducted with professional archaeologists in the company of project inspectors. Safety procedures during this monitoring will be strictly adhered to.

Authorized Official: \_\_\_\_\_\S\ Gerald Dixon\_\_\_\_\_  
Gerald Dixon, Field Manager, Black Rock Field Office

Date: \_\_\_\_\_7/15/13\_\_\_\_\_

### **AUTHORITY**

1. Surface Management (43 CFR 3809)
2. Mining Law of 1872 (30 U.S.C. §§ 22-42) as amended
3. Federal Land Policy and Management Act of 1976 (43 U.S.C. §§ 1701) as amended
4. Surface Resources Act of 1955 (30 U.S.C. §)

### **APPEAL PROVISIONS**

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to Gerald Dixon, Field Manager, Black Rock Field Office, Winnemucca District, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Attached Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825-1890.

Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, 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.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).