

## DECISION RECORD

### Florida Canyon Mining, Inc. South Expansion Project Environmental Assessment DOI-BLM-NV-W010-2013-0061-EA

#### Introduction

The Bureau of Land Management (BLM) has completed the Florida Canyon Mining, Inc. South Expansion Project Environmental Assessment (EA), DOI-BLM-NV-W010-2013-0061-EA. The EA analyzes the impacts associated with Florida Canyon Mining, Inc. (FCMI) proposal to expand its mining-related facilities 45 miles southwest of Winnemucca and 35 miles northeast of Lovelock in Pershing County, Nevada. The Project is comprised of revising the existing plan of operations boundary, expanding the existing Phase 4 Main and Jasperoid Hill Pits (Phase 7 Pit), modifying and expanding the existing South Waste Rock Storage Facility, installing a new heap leach pad, installing a crusher and associated yard, and installing other ancillary features including four stormwater diversion channels and a dispersion ditch, two cover borrow pits, haul and access roads, growth media and riprap stockpiles, and a sediment pond. FCMI's existing plan of operations boundary is approximately 5,522 acres in size. The total surface disturbance for this expansion would be approximately 1,288 acres of combined public and private lands.

#### DECISION

Based on the EA and the attached Finding of No Significant Impact (FONSI), it is my decision to select the Proposed Action Alternative, subject to implementation of all mitigation recommended in the EA for the proposed action (attached as the *Florida Canyon Mine South Expansion Stipulations*) and with the understanding that any authorization of this action will include these Stipulations. This decision is made with the understanding that all applicant-committed environmental protection measures will be implemented as well.

#### Rationale

Selection of the Proposed Action is based on factors including, but not limited to:

- Authority for this decision as it relates to the BLM-managed public lands is contained in the Mining Law of May 10, 1872, as amended (17 Stat. 91), the Surface Resources Act of 1955 (30 United States Code (U.S.C.) 611-614), the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 et seq.), and the Code of Federal Regulations (CFR) at 43 CFR 3809 and 43 CFR 3715.
- The Proposed Action is in conformance with the approved Sonoma-Gerlach Management Framework Plan (1982).
- The Memorandum of Agreement, implementing the treatment plan, is signed by BLM, Nevada State Historic Preservation Office (SHPO), and FCMI. The treatment plan addresses the potentially adverse effects involving one National Register eligible site.
- Based on the consultation, coordination, and public involvement that has occurred, it is determined that this is a well informed decision (refer to sections below).

- Based on the EA, and subject to implementation of all mitigation recommended in the EA, it is determined that this decision will not result in any unnecessary or undue environmental degradation of public lands, and the Decision is consistent with Federal law, Federal Land Policy Management Act provisions and other Federal agency, state, and local plans to the maximum extent.
- The selected alternative and application of recommended mitigation will not adversely impact any threatened or endangered species, or significant scientific, cultural, or historical resources.
- The EA and FONSI support this decision.
- Based on the President's National Energy Policy and Executive Order 13212, the proposed action will not generate any adverse energy impacts or limit energy production and distribution. Therefore, no "Statement of Adverse Energy Impact" is required per WO IM No 2002-053 and NV IM 2002-049.

### **Land Use Plan Conformance**

The Proposed Action is in conformance with the approved Sonoma-Gerlach Management Framework Plans (1982) and is consistent with other Federal agency, state, and local plans to the maximum extent consistent with Federal law and Federal Land Policy Management Act provisions.

### **Native American Consultation**

Native American consultation for this project involved sending letters and subsequently, the preliminary EA, to the Battle Mountain Band, Fallon Paiute and Shoshone Tribe, Lovelock Paiute Tribe, and the Pyramid Lake Paiute Tribe. All these tribes were sent the draft Treatment Plan for review on August 21, 2014. No comments or requests for consultation have been received as of October 13, 2014. In Addition, the final EA, DR and FONSI are being sent to the tribes.

### **Cooperating Agencies**

The BLM requested formalized cooperating agency relationships with two governmental parties: The Nevada Department of Wildlife and Pershing County. Neither party decided to participate as a formal cooperating agency.

### **Intergovernmental Partners**

Under the Federal Land Policy and Management Act of 1976, the BLM's coordination responsibilities include maximizing consistencies with the plans and policies of other government entities.

### Federal Government Agencies

United States Fish and Wildlife Service

### State Government Agencies

Nevada Division of Environmental Protection, Bureau of Mining Regulation and Reclamation  
Nevada Department of Wildlife  
Nevada Natural Heritage Program

## **Public Involvement**

### *Scoping*

The BLM initiated public scoping on July 23, 2013, with the release of a Dear Interested Party letter for the Plan Amendment. The BLM requested comments be submitted within 30 days of the letter notification. The reader should refer to Section 1.4 in the EA regarding internal and external scoping.

### *Preliminary Environmental Assessment*

On August 19, 2014, the Preliminary EA was posted on the Winnemucca District Office NEPA webpage for a 30-day public review. In addition, BLM sent out a letter to interested parties requesting substantive comments on the Preliminary EA be submitted within 30 days of the date of the letter. In response, BLM received three comment letters from state agencies, and members of the public.

The State of Nevada reaffirmed its' state permitting requirements with regard to drinking water and mining-related uses of water in two separate comments made through the Nevada State Clearinghouse. Also through the Nevada State Clearinghouse, the Nevada Division of State Lands stressed its desire for effective lighting plans that follow "Dark sky" lighting practices as well as the utilization of building materials, colors and site placement that are compatible with the natural environment. These environmental concerns have been addressed in the document in several locations.

A letter from the law firm of Stites and Harbeson provided comments regarding alternatives to the Proposed Action, concurrent reclamation, and concerns with a contaminated groundwater remediation project at the site, and cumulative impacts. Environmental concerns that required changes to the document, mostly for clarification, have been addressed in the document in several locations.

A letter from Broadbent Associates expressed support of the project and did not require any changes to the document.

Based on an internal review of the document, additional minor revisions were made to the document. Updates were also made to the consultation and public involvement sections of the EA.

### **Authority**

The authority for this decision is contained in the Mining Law of May 10, 1872, as amended (17 Stat. 91), the Surface Resources Act of 1955 (30 United States Code (U.S.C.) 611-614), the Federal Land Policy Management Act (FLPMA) of 1976 (43 U.S.C. 1701 et seq.), and 43 CFR 3809 and 43 CFR 3715.

### 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 James W. Schroeder, Humboldt River Field Manager, Winnemucca District Office, 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)).



James W. Schroeder  
Humboldt River Field Manager  
Winnemucca District

26 NOV. 2014

Date

Attachments:  
Florida Canyon Mine South Expansion Stipulations  
Form 1842-1

## Florida Canyon Mine South Expansion Stipulations

- **Migratory Birds, Special-Status Species, and Wildlife**

Potential impacts to the viability of the sand cholla and Lahontan beardtongue would be reduced or avoided by transplanting individuals that would be impacted to undisturbed suitable habitat adjacent to the Project Area. Also, collecting seed for propagation in a nursery and out planting to suitable habitats would reduce the risk to population viability for these species in the CESA.

FCMI would coordinate with BLM to develop seed mixes on reclaimed areas that would provide food and cover for wildlife species.

Potential measures that could be taken to avoid extirpating the Lahontan beardtongue on the proposed expansion area would be to transplant individuals that would be destroyed by the Proposed Action to adjacent undisturbed habitats. Transplanting would need to be done when the plants are dormant and would require excavation of entire root systems and associated soil for transplanting to have a reasonable likelihood of success. Collecting seed from local plants and propagating plants in the nursery for out-planting to suitable undisturbed adjacent sites would also reduce the risk of extirpating the local population. Similar measures could be taken to reduce the risk of extirpation for the population of sand cholla in the Project Area. Removing seeds of Palmer penstemon from the reclamation seed mix also would reduce the risk of Palmer penstemon hybridizing with Lahontan beardtongue.

- **Cultural Resources**

As outlined in Chapter 4.2, unavoidable adverse effects to CrNV-22-3345 (buried by displaced earth) due to South Waste Rock Storage Facility (SWRSF) expansion would be mitigated through the development of an appropriate Historic Properties Treatment Plan which would be implemented through a Memorandum of Agreement between the BLM and the Nevada State Historic Preservation Office (SHPO). Similarly, if other National Register Historic Places (NRHP)-eligible sites or contributing elements are discovered within the Project Area during construction or other activities associated with the Proposed Action they would be mitigated through data recovery or avoidance measures approved by BLM in consultation with the SHPO.

Per USC 470h-2(b), the BLM is required to develop a data recovery plan for NRHP-eligible properties that are adversely impacted by the proposed action. The Historic Properties Treatment Plan for this proposed action has been approved by the SHPO.

Adverse effects to CrNV-22-3345 would be mitigated by archaeological data recovery following a Historic Properties Treatment Plan developed by the BLM. This plan also would address NRHP-eligible site CrNV-02-11711 immediately adjacent to the southern portion of the proposed SWRSF diversion channel. The plan calls for avoidance by utilizing a 50-meter (ca. 162-foot) buffer zone and an archaeological monitoring program.

The Plan would be implemented through a Memorandum of Agreement between the BLM and SHPO. Similarly, if other NRHP-eligible sites or contributing elements are discovered within the Project Area during construction or other activities associated with the Proposed Action they would be mitigated through data recovery or avoidance measures approved by BLM in consultation with the SHPO. Additional NEPA analysis would be required if additional treatments are necessary.

Sites remaining unevaluated for listing on the NRHP—CrNV-02-3342, -22-6319 and -02-11945—are located south of the proposed SWRSF expansion area and diversion channel and