



United States Department of the Interior



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In Reply Refer To:

3809 (NV0100)

NVN-091110

NVN-067450

NVN-090800

NVN-091014

DOI-BLM-NV-B010-2013-0062-EA

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Return Receipt Requested

DECISION

Newmont Mining Corporation

Attn: P. Bryan Johnson,

Environmental Manager

1655 Mountain City Highway

Elko, Nevada 89801-2800

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Surface Management

Copper Basin Exploration Project Plan of Operations Approval

Determination of Required Financial Guarantee

Notices Vacated

INTRODUCTION

The Bureau of Land Management (BLM) has prepared an Environmental Assessment (EA), DOI-BLM-NV-B010-2013-0062-EA that analyzes the affected environment, environmental impacts, and identifies environmental protection measures associated with Newmont Mining Corporation's (Newmont) Plan of Operations (Plan) for the Copper Basin Exploration Project (Project). The final Plan was submitted in June 2013, in accordance with the BLM Surface Management Regulations 43 Code of Federal Regulations (CFR) 3809, as amended. It has been assigned BLM case file number NVN-09110. The Project Area includes approximately 3,169 acres of public land. The Project is located in all or portions of Township 32 North, Range 44 East (T32N, R44E), Section 20-22, 27-29 and 32-34; and, T31N, R44E, Section 4, MDB&M, Lander County, Nevada.

BACKGROUND

Newmont proposes to create a total of 200 acres of surface disturbance under this Plan, including previously developed Notice-level disturbance conducted under the Vail Ridge Project (NVN-90800) and Clipper Project (NVN-91014) and Plan level disturbance under Five Exploration

Areas Project (NVN-067450). The previous surface disturbance totals 17.4 acres. The Notice activity (7.9 acres) will be completely subsumed in the Plan as well as the overlap with a portion of the Five Exploration Areas Project (9.5 acres). Project related-activities associated with exploration would occur in phases. Under Phase I, approximately 81.2 acres of new surface disturbance on public lands are included in the total surface disturbance. The remaining surface disturbance (101.4 acres) would be utilized through exploration under subsequent phase over approximately ten years. These phased activities would consist of the same type of activities as in the Plan but the locations would be submitted as work plans to the BLM. All phases of exploration activities would include exploration drilling, road, drill pad and sump construction, utilization of overland travel and overland drill sites, and the maintenance of existing pre-1981 roads. The location would depend on the success of initial Phase I activities or subsequent phased activities. By using a phased approach to drilling, Newmont would assess the expansion needs of the Project based on current drill results and other pertinent data.

PUBLIC INVOLVEMENT

Native American tribal consultation invitation/initiation letters were sent in August 2012 to the following: Te-Moak Tribe of Western Shoshone, Battle Mountain Band, Duckwater Shoshone Tribe, Elko Band, South Fork Band, and Yomba Tribe. No site visits were requested by the tribes.

The EA was made available for a 30-day public comment period ending on November 16, 2013. Notifications of the availability of the EA were sent to persons and agencies on the project mailing list and the EA was posted on the Battle Mountain District website. No comments were received from the public or other Federal, state, or local agencies.

All correspondence relative to this planning process is part of the public record and available for review at the Mount Lewis Field Office.

DECISION

1. As a result of the analysis presented in the EA and making a Finding of No Significant Impact (FONSI), it is my decision to approve the Plan with the financial guarantee requirements. The BLM approval of the Plan will be subject to operating, reclamation and monitoring measures by Newmont in the Plan, the performance standards set forth in 43 CFR 3809.420, and the Applicant Committed Environmental Protection Measures as set forth in the EA and restated in this Decision under the Conditions of Approval.

Approval of the Plan by the BLM does not constitute a determination regarding the validity or ownership of any unpatented mining claims involved in the exploration operation. Newmont is responsible for obtaining any use rights or local, state or federal permits, licenses or reviews that may be required before operations begin.

This decision also constitutes concurrence with Newmont's use and occupancy of public lands as described in the approved Plan. Newmont must maintain compliance with the Use and Occupancy regulations at 43 CFR 3715.2, 43 CFR 3715.2-1 and 43 CFR 3715.5 throughout the

duration of the approved Plan. Concurrence by BLM on Newmont's proposed use and occupancy is not subject to State Director review, but may be appealed by adversely affected parties directly to the Interior Board of Land Appeals as outlined in enclosed BLM form 1842-1.

Financial Guarantee

Based on your reclamation cost estimate, BLM review of the cost estimate, and consideration of the conditions of approval, the required financial guarantee amount is hereby set at **\$1,512,025** for reclamation of phase 1 of the Project. This amount is subject to change pending further review by the BLM and the Nevada Division of Environmental Protection, Bureau of Mining Regulation and Reclamation (NDEP-BMRR). You must provide a financial guarantee in this amount using one or more of the acceptable financial guarantee instruments listed in 43 CFR 3809.555.

A financial guarantee in the amount of **\$1,512,025** 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 you a decision as to the acceptability of your financial guarantee. You must not begin surface disturbing activities under this Plan until you receive notification from the BLM State Office that the financial guarantee has been accepted.

2. Conditions of Approval

Water Quality

All drill holes will be plugged in accordance with NAC 534.425 through NAC 534.428. If any drill hole produces artesian flow, the drill hole will be contained pursuant to Nevada Revised Statute (NRS) 534.060 and NAC 534.378 and will be sealed by the method described in Subsection 2 of NAC 534.4371. If casings are set in a drill hole, either the drill hole must be completed as a well and plugged pursuant to NAC 534.420, or the casings will be completely removed from the drill hole and then plugged.

Storm water BMPs (Nevada Division of Environmental Protection and Nevada Division of Conservation 1994) will be used at construction sites to minimize erosion from storm water.

Drill cuttings will be contained on site and the fluids managed utilizing appropriate control measures. Sediment traps will be used as necessary and filled at the end of the drill program. Newmont would follow the Spill Contingency Plan included in Appendix D of the Plan.

Only nontoxic fluids will be used in the drilling process.

Wildlife

In order to avoid potential impacts to breeding migratory birds (including golden eagles [*Aquila chrysaetos*]), a nest survey will be conducted by a BLM approved biologist prior to any surface disturbance associated with exploration activities during the avian breeding season (March 1 through July 31 for raptors, and April 1 through July 31 for other avian species). Pre-disturbance

surveys for migratory birds are only valid for 14 days. If the disturbance for the specific location does not occur within 14 days of the survey another survey will be needed. If active nests are located, or if other evidence of nesting (i.e., mated pairs, territorial defense, carrying nesting material, transporting food) is observed, a protective buffer (the size depending on the habitat requirements of the species) may need to be delineated after consultation with the BLM resource specialist, and the buffer area avoided to prevent destruction or disturbance to nests or birds until they are no longer actively breeding or rearing young. The site characteristics to be used to determine the size of the buffer area are as follows: 1) 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.

During biological surveys, raptor nests were located within the Project. Land clearing or other surface disturbance associated with the activities within the Project Area will be conducted outside of the raptor nesting season, whenever feasible, to avoid potential destruction or disturbance of nesting raptors at known nests. When surface disturbance occurs during the raptor nesting season (March 1 – July 31) within 0.25 miles of the known raptor nests a qualified biologist will survey the nest to determine if it is occupied. If raptor nests are occupied during the raptor nesting season (March 1 – July 31), no surface disturbing activities will occur within 0.25 mile of the nest during the raptor nesting season.

If raptor nests are occupied during the raptor nesting season (March 1 – July 31), no surface disturbing activities will occur within 0.25 mile of the nest during the raptor nesting season.

If the golden eagle nest is determined to be active during the breeding season (March 1 – July 31), no surface disturbing activities will occur within 0.5 mile of the nest.

During the lekking period (March 1 to May 15), surveys will occur at the only known lek (Battle Mountain lek 7) if the disturbance would occur within three miles of the lek. Surveys will be performed to determine if the leks are active per the Nevada Department of Wildlife (NDOW) lek survey protocol guidelines. Prior to conducting surveys, the BLM and NDOW will be consulted. If the sage grouse lek is active, no surface disturbing activities will occur within three miles of the lek during the lekking season (March 1 – May 15).

Road-killed wildlife within the Project Area will be promptly removed in order to control raven numbers.

Applicant committed practices at abandoned mine shafts, old buildings, or structures within the Project Area will include a 200-foot buffer for drilling activity (excluding vehicle operation) to avoid bat roosting and foraging habitat.

In order to avoid damage or disturbance to riparian areas, no surface disturbing activities will be conducted within 300 feet of a stream channel, meadow, or spring.

Cultural and Paleontological

Pursuant to 43 CFR 10.4(g), Newmont would notify the BLM authorized officer, by telephone, and with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined in 43 CFR 10.2). Further pursuant to 43 CFR 10.4 (c) and (d), the operator will immediately stop all activities in the vicinity of the discovery and not commence again for 30 days or when notified to proceed by the BLM authorized officer.

In the event that previously undiscovered paleontological resources are discovered in the performance of any surface disturbing activities, the item(s) or condition(s) would be left intact and immediately brought to the attention of the authorized officer of the BLM. If significant paleontological resources are found, avoidance, recordation, and data recovery would be required.

Any cultural resource discovered by the permit holder, or any person working on their behalf, during the course of activities on federal land will be immediately reported to the authorized officer by telephone, with written confirmation. The permit holder will suspend all operations in the immediate area of such discovery and protect it until an evaluation of the discovery can be made by the authorized officer. This evaluation would determine the significance of the discovery and what mitigation measures are necessary to allow activities to proceed. The holder is responsible for the cost of evaluation and mitigation. Operations may resume only upon written authorization to proceed from the authorized officer.

Newmont's exploration activities will avoid features that are contributing elements to the District to the maximum extent possible. However, if features that are contributing elements to the District could not be avoided, then those features will be mitigated through an approved treatment plan.

Public Safety, Recreation, and Access

Public safety will be maintained throughout the duration of the Project. All equipment and other facilities will be maintained in a safe and orderly manner.

Sumps and trenches will be reclaimed as soon as practical after the completion of sampling and logging.

Any survey monuments, witness corners, and/or reference monuments will be protected to the extent economically and technically feasible. Should moving such a feature be required, Newmont will ensure that a licensed Professional Land Surveyor oversees and executes the relocation in a manner consistent with applicable laws. The BLM will be notified in writing prior to the moving of any such survey monument.

All solid wastes will be disposed of in a state, federal, or local designated site.

Pursuant to 43 CFR 8365.1-1(b)(3), no sewage, petroleum products, or refuse will be dumped from any trailer or vehicle.

Newmont will comply with all applicable state and federal fire laws and regulations and all reasonable measures (i.e. vehicle hand tools, extinguisher, contact BLM concerning fire controls on welding) will be taken to prevent and suppress fires in the Project Area.

Newmont will position active drilling equipment so that mountain bike trails will not be restricted (except for the time it would take to cross the trail with drilling equipment and supply deliveries [approximately ten minutes]) and mountain bikers would be allowed ingress and egress to trails. Newmont will provide notice at the trailhead that active drilling was occurring in the area and will also post temporary signage near the impacted trail stating "Caution, Drilling Activities Ahead" or something similar.

Air Quality

Emissions of fugitive dust from disturbed surfaces will be minimized by the application of water from a water truck as a method of dust control. In addition, Newmont may need to gravel some existing pre-1981 roads and the exploration roads to minimize excess disturbance and control dust. A Surface Area Disturbance (SAD) Permit will be required, as necessary, for the Project because the proposed surface disturbance exceeds five acres. A Dust Control Plan will be included in the SAD Permit. All permits and permit requirements are subject to the State of Nevada requirements.

Noxious Weeds

Noxious weeds will be controlled through implementation of the following BMPs: concurrent reclamation efforts; schedule weed management activities to maximize the effectiveness of control efforts on reclaimed areas; washing heavy equipment prior to entering the Project Area; and avoiding areas of known invasive, non-native, and noxious weeds during periods when the weeds could be spread by vehicles.

Noxious weeds can readily invade disturbed areas associated with exploration projects. Newmont will be responsible for the following: 1) identifying noxious weeds in the Project Area (noxious weed information would be provided by the BLM); 2) excluding noxious weeds from disturbed areas until reclamation has been accepted and released; and 3) ensuring that all equipment is "weed free" before traveling to and from the Project Area so that noxious weeds are not spread to new locations. All vehicles originating from outside northern Nevada will be cleaned in a powerwash in Battle Mountain or another suitable location. When noxious weeds are encountered in the Project Area, documentation of their location and extent, as practical, will be provided to the BLM as soon as possible. Newmont will obtain approval from the BLM-authorized officer prior to any herbicide application. Newmont will contact the BLM's noxious weed program lead regarding any issues concerning noxious weeds.

To minimize the introduction of noxious weeds into the Project Area, the following preventative measures will be implemented by Newmont: 1) stay on existing roads to and from the Project

Area and in the Project Area; 2) use a certified weed-free seed mix during reclamation; 3) conduct concurrent reclamation when feasible; and 4) implement a weed monitoring and control program. The BLM will provide Newmont with a color brochure, "Nevada Noxious Weed Field Guide." Through Early Detection/Rapid Response (EDRR), Newmont will survey the Project Area annually to reduce the risk that invasive species become established. Control method(s) will be determined by a range of factors, even for small infestations. For more intensive infestations, Newmont will consult with the BLM on containment or eradication measures.

Wildland Fire Protection

All vehicles will carry fire extinguishers, and a minimum of ten gallons of water.

Adequate fire-fighting equipment, i.e., shovel, Pulaski, extinguisher(s), and a minimum ten gallons of water will be kept at the drill site(s).

Vehicle catalytic converters will be inspected often and cleaned of all brush and grass debris.

Welding operations will be conducted in an area free from or mostly free from vegetation. A minimum of ten gallons water and a shovel would be on hand to extinguish any fires created from the sparks. Extra personnel will be at the welding site to watch for fires created by welding sparks.

Wildland fires will immediately be reported to the BLM Central Nevada Interagency Dispatch Center (CNIDC) at (775) 623-3444. Information reported will include the location (latitude and longitude if possible), fuels involved, time started, who or what is near the fire, and the direction of fire spread.

When conducting operations during the months of May through September, the BLM Battle Mountain District Office, Division of Fire and Aviation will be contacted at (775) 635-4000 to determine if any fire restrictions are in place for the Project and to provide approximate beginning and ending dates for Project activity.

3. BLM Notice NVN-090800 and NVN-091014 are hereby vacated with the approval of the Plan and acceptance of the financial guarantee. Once the financial guarantee is adjudicated for the Plan (NVN-091110) by BLM Nevada State Office, Branch of Minerals Adjudication, the remaining reclamation and financial guarantee requirements under the Notices will be incorporated into the reclamation requirements of the Plan and the Notices terminated.

RATIONALE

The Plan in combination with the preceding Conditions of Approval, and the enclosed FONSI, show that all practicable means to avoid or minimize environmental harm have been adopted and that unnecessary or undue degradation of the public lands will not occur as a result of the exploration activities at the Copper Basin Exploration Project.

The Plan is in conformance with the Shoshone-Eureka Resource Management Plan Record of Decision (ROD) which states: 1) “Make available and encourage development of mineral resources to meet national, regional, and local needs consistent with national objectives for an adequate supply of minerals (page 29),” 2) “All public lands in the planning area will be open for mining and prospecting unless withdrawn from mineral entry (page 29),” and 3) final reclamation will ensure public safety and the return of the exploration disturbance to its pre-exploration land uses of grazing, wildlife habitat, and mineral exploration. Final reclamation will also reduce visual contrast created during the mining operation.

The Plan is in conformance with the President’s National Energy Policy Act of 2005 as per Instruction Memorandum (IM-2002-053), as put forth in Executive Order 13212 and will not have an adverse impact on energy development, production, supply, and/or distribution. The EA and FONSI support this decision.

AUTHORITY

This Decision is in conformance with the National Environmental Policy Act (NEPA) of 1969 (P.L. 91-190) as amended (72 USC 4321 et.seq.); General and Title V of the Federal Land Management and Policy Act of 1976 (FLPMA); 43 CFR Part 3800 Subpart 3809- Surface Management (16 USC et.seq.); and 43 CFR Part 3710 Subpart 3715 – Use and Occupancy Under the Mining Laws.

APPEAL OF THE DECISION

If you are adversely affected by this decision, you may request that the Nevada BLM State Director review this decision. If you request a State Director Review, the request must be received in the BLM Nevada State Office at:

BLM Nevada State Office
State Director
1340 Financial Blvd.
Reno, Nevada 89502-7147

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 50 Bastian Road, Battle Mountain, NV 89820, 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 50 Bastian Road, Battle Mountain, NV 89820, 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 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:

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.



Christopher J. Cook
Field Manager
Mount Lewis Field Office

Enclosures

cc: W. Todd Suessmith
Nevada Division of Environmental Protection
Bureau of Mining Regulation & Reclamation
901 S. Stewart Street, Suite 4001
Carson City, Nevada 89701

Nevada State Office, Branch of Minerals Adjudication (NV-923)

