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CHAPTER 8

CONSULTATION AND COORDINATION

8.1 INTRODUCTION

During the NEPA process for this EIS, the BLM formally and informally consulted and coordinated with other federal agencies, state and local governments, Indian tribes, and the interested public.

The following sections describe the public involvement, consultation, and coordination process. Included are key consultation and coordination activities undertaken to ensure the BLM's compliance with, in both the spirit and intent, 40 CFR Parts 1501.7, 1502.19, and 1503.

8.2 NOTICE OF INTENT AND PUBLIC COMMENTS

Throughout the public involvement process for this EIS, the BLM has sought information from individuals and organizations with knowledge of or concern for resources in the project area. The process included a thorough and ongoing public participation process.

A notice of intent to prepare an EIS was published in the Federal Register on June 27, 2014. It notified the public of the BLM's intent to prepare an EIS, provided information on the open houses, and included an overview of the proposed action and a list of BLM-identified preliminary issues. The scoping period conducted for the CRI EIS was from June 27 to July 27, 2014. Two open houses were held during this time frame, the first in Lovelock on July 9 and the second in Winnemucca on July 10. The meetings, held from 5:00 to 7:00 pm, provided opportunities for the public to learn about the project and to provide comments.

The preliminary issues were as follows: air quality; climate change; cultural resources; geochemical; hazardous materials; mitigation measures; Native American and tribal interests; reclamation plan; recreation; social and environmental justice; vegetation; visual resources; water quality and supply; wild horses and burros; and wildlife.

Public participation will be ongoing throughout the remainder of the EIS process. One substantial part is the opportunity for the public to comment on this draft EIS during the comment period. In the final EIS, the BLM will respond to all substantive comments received during the 45-day comment period.

8.3 CONSULTATION AND COORDINATION WITH AGENCIES AND TRIBAL GOVERNMENTS

Various federal laws require the BLM to consult with American Indian tribes, the SHPO, the USFWS, and the EPA during the NEPA decision-making process. In addition to formal scoping, the BLM implemented collaborative outreach and a public involvement process that included inviting agencies to be cooperative partners for the EIS planning process. A cooperating agency is any federal, state, or local government agency or Native American tribe that enters into formal agreement with the lead federal agency to help develop an environmental analysis.

8.3.1 Government-to-Government Consultation with Native American Tribes

The federal government works on a government-to-government basis with Native American tribes. This relationship was formally recognized on November 6, 2000, with Executive Order 13175 (*Federal Register*, Volume 65, page 67249). As a matter of practice, the BLM coordinates with all tribal governments, associated native communities, native organizations, and tribal individuals whose interests might be directly and substantially affected by activities on public lands. In addition, Section 106 of the NHPA requires federal agencies to consult with Indian tribes for undertakings on tribal lands and for historic properties of significance to the tribes that may be affected by an undertaking (36 CFR, Part 800.2[c][2]). BLM Manual 8120 (BLM 2004a) and BLM Handbook H-8120-1 (BLM 2004b) provide guidance for Native American consultations.

Executive Order 13175 stipulates that, during the NEPA process, federal agencies consult tribes identified as being directly and substantially affected. The BLM contacted the following tribal governments early in the EIS process:

- Pyramid Lake Paiute Tribe
- Lovelock Paiute Tribe
- Fort McDermitt Paiute-Shoshone Tribe

On January 3, 2015, the BLM sent letters to the tribes initiating formal consultation, in accordance with the NHPA and other legal authorities. Although no tribes responded to the letter, they are on the EIS's mailing list to receive updates and notification of the availability of the Draft EIS. The BLM will keep the tribal governments informed of the EIS's progress. The tribal governments were also consulted during the earlier EA processes for the project.

8.3.2 Nevada State Historic Preservation Officer Consultation

In accordance with the requirements of Section 106 of the NHPA, the BLM is coordinating with and soliciting input from the State of Nevada. Any formal comments submitted by the SHPO will be addressed in the final EIS. As the BLM continues to develop the final EIS, it will formally consult with the SHPO on the potential effects on cultural resources from the proposed alternative. The BLM will finalize SHPO consultation before the ROD is signed.

8.3.3 US Fish and Wildlife Service Consultation

Consultation with the USFWS is required under Section 7(c) of the ESA before the BLM begins any project that may affect federally listed or endangered species or its habitat. Current surveys have indicated that ESA-listed species are not found within the project area. This indicates that a draft biological assessment will not be needed to evaluate the potential impact of the mine expansion on federally listed threatened and endangered species. The BLM will coordinate with the USFWS for review and concurrence on the need for a biological review.

8.3.4 US Environmental Protection Agency

NEPA regulations require that EISs be filed with the EPA (40 CFR Part 1506.9). The draft CRI EIS was submitted to the EPA, as required by CEQ regulations. In addition, the BLM and representatives from CRI conducted meetings with the EPA. An MOU for mining EISs within the State of Nevada between the BLM and EPA was prepared in 2008. The purpose of the MOU is to:

1. Establish and maintain coordination and cooperation between the EPA and the BLM for their respective individual participation in the administration of NEPA for EIS-level mining operations for locatable minerals on federal lands administered by the BLM within the State of Nevada. This coordination allows for BLM to evaluate and address EPA comments and resolve issues early in the EIS process.
2. Develop and maintain common guidelines and procedures for expediting the NEPA process for Plans of Operation approval for mining operations in Nevada.
3. Facilitate the administration, review, and approval of EISs for mining operations in Nevada.

8.3.5 Humboldt-Toiyabe National Forest

A 2013 MOU between the BLM, Humboldt-Toiyabe National Forest, Nevada Department of Conservation and Natural Resources, Barrick Gold of North America, and Newmont Mining Corporation provides a consultation process for proposed mining projects occurring in greater sage-grouse PPH and PGH on federal lands (BLM 2013c). The process guides the design and implementation of appropriate and consistent actions to avoid, minimize, or mitigate adverse impacts to greater sage-grouse and greater sage-grouse habitat associated with mining exploration and development.

The MOU is consistent with BLM Washington Office Instructional Memorandum No. 2012-043, entitled Greater Sage-Grouse Interim Management Policies and Procedures, and Nevada BLM Instructional Memorandum No. NV-2012-058, entitled Revised Direction for Proposed Activities within Greater Sage-Grouse Habitat and the Forest Service (Regions 1, 2 and 4) "Interim Conservation Recommendations for Greater Sage-Grouse and Sage-Grouse Habitat" dated October 2, 2012.

8.3.6 Nevada Department of Conservation and Natural Resources, Division of Environmental Protection

A standing MOU provides procedures and guidance for coordination and cooperation between the BLM, the Nevada Department of Conservation, Division of Environmental Protection (NDEP), and the USFS, Humboldt-Toiyabe and Inyo National Forests on mining-related NEPA issues. The purpose of the MOU is to achieve the following:

1. Establish and maintain coordination among the NDEP, the USFS, and the BLM for their respective joint responsibilities pertaining to the administration and reclamation of lands disturbed by exploration projects and mining operations for locatable minerals on private, state, and federal lands administered by the USFS and BLM within the State of Nevada.
2. Expedite administration and enforcement of their respective authorities pertaining to exploration and mining operations.
3. Prevent unnecessary or undue degradation of public and private lands and to minimize adverse environmental impacts on surface resources.
4. Develop and maintain common guidance to regulate facilities and activities on operations consisting of a mixture of public and private lands.

8.4 COOPERATING AGENCIES

A cooperating agency is any federal, state, or local government agency or Native American tribe that enters into a formal agreement with the lead federal agency to help develop an environmental analysis. Cooperating agencies and tribes work with the BLM, sharing knowledge and resources, to achieve desired outcomes for public lands and communities within statutory and regulatory frameworks.

The benefits of enhanced collaboration among agencies in preparing NEPA analyses are as follows:

- Disclosing relevant information early in the analytical process
- Applying available technical expertise and staff support

- Avoiding duplication with other federal, state, tribal, and local procedures
- Establishing a mechanism for addressing intergovernmental issues

The following five agencies were invited to participate with the BLM as cooperating agencies:

- USFWS
- Pershing County
- Nevada Department of Wildlife
- US EPA
- NDEP

None of the agencies accepted the offer to participate as a cooperating agency. However, the BLM will continue to engage these agencies throughout the EIS process.

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