



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

Gibellini Vanadium Mine Project Environmental Impact Statement

Record of Decision and Plan of Operations Approval

**CASE FILE NVN-096259
DOI-BLM-NV-B010-2020-0024-EIS**

Preparing Office:

**U.S. Bureau of Land Management
Battle Mountain District Office
Mount Lewis Field Office
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Battle Mountain, NV 89820**

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**U.S. Environmental Protection Agency
U.S. Fish and Wildlife Service
Nevada Department of Wildlife
Nevada Department of Natural Resource Conservation
(Sagebrush Ecosystem Technical Team)
Eureka County**



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Gibellini Vanadium Mine Project

RECORD OF DECISION

Gibellini Vanadium Mine Project Final Environmental Impact Statement

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DOI-BLM-NV-B010-2020-0024-EIS**

**U.S. Department of the Interior
Bureau of Land Management
Mount Lewis Field Office
Battle Mountain District
50 Bastian Road
Battle Mountain, NV 89820**

RECORD OF DECISION:



Douglas W. Furtado, District Manager



Date

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Gibellini Vanadium Mine Project

Record of Decision

Introduction

On June 28, 2019, Nevada Vanadium Company (NVV) submitted a Plan of Operations (NVN-096259) and Nevada Reclamation Permit Application for the proposed open pit Gibellini Vanadium Mine Project (Project) to the Mount Lewis Field Office (MLFO) of the Battle Mountain District Bureau of Land Management (BLM). Following review by the BLM and consultation between BLM and NVV, NVV submitted revised plans in October 2019 and February 2020. The BLM issued a Plan of Operations Completeness Determination March 16, 2020. NVV submitted the Plan of Operations in accordance with BLM Surface Management Regulations 43 CFR § 3809, as amended, and Nevada reclamation regulations at Nevada Administrative Code (NAC) 519A. NVV revised the Plan of Operations to address comments provided by the BLM, Nevada Department of Environmental Protection (NDEP), Nevada Department of Wildlife, Eureka County, and Nevada Sagebrush Ecosystem Technical Team; the revisions incorporated updates to the mineral processing and closure strategies. The Project is located in the southern extent of the Fish Creek Range approximately 27 miles southeast of Eureka in Eureka County, Nevada, and includes the construction, operation, reclamation, and closure of a new open pit mine and heap leach process facility. The BLM's surface mining regulations at 43 Code of Federal Regulations (CFR) § 3809 require that the BLM fulfill its obligation under the National Environmental Policy Act of 1969 (NEPA) by analyzing and disclosing the potential environmental impacts of the Project. The BLM MLFO determined the level of analysis necessary for the Plan of Operations was an environmental impact statement (EIS).

Overview of the Gibellini Vanadium Mine Project

The Project area is entirely on Federal land administered by the BLM, on unpatented mining claims in Eureka County, Nevada. The Project area includes 6,456 acres of BLM-administered land approximately 27 miles southeast of Eureka, Nevada. The estimated Project life consists of 1.5 years of construction, 7 years of operation, 4 years of active reclamation and closure, and up to 30 years of post-closure monitoring. The Project will disturb approximately 839 acres. The following land use plans applied to the Project EIS:

- Shoshone-Eureka Resource Management Plan (BLM 1986a) administered by the BLM Mount Lewis Field Office;
- Eureka County Master Plan (Eureka County 2010) administered by the Eureka County Government; and
- Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment (BLM 2015a) administered by the BLM Nevada State Office and BLM California State Office.

In September 2018, the Prophecy Development Corporation (parent company to NVV) sent a letter to the U.S. Nuclear Regulatory Commission (NRC) informing NRC that uranium would be processed, and an intermediate uranium product called “yellowcake” would be produced during

vanadium processing operations associated with the Project. The NRC determined that ore would not produce byproduct material (42 U.S.C. 2014(e)) because the ore would not be processed primarily for its source material (42 U.S.C. 2014(z)) content. The Project will produce vanadium as the primary product, and the sale of the extracted source material (yellowcake uranium) is secondary by a significant margin. The State of Nevada, specifically the Nevada Department of Health and Human Services, Nevada State Health Division, Radiological Health Section, is the appropriate licensing authority for the Project under the provisions of NAC 459. The source material is subject to NRC licensing under 10 CFR Part 40, "Domestic Licensing of Source Material." Based on this determination, NVV must obtain a Radioactive Materials License that will contain requirements to monitor human health and the environment, minimize contamination of the facility and the environment, minimize the generation of radioactive waste, facilitate decommissioning to limit site and subsurface residual radioactivity, and remediate the Project area for unrestricted use to protect the public once mining ceases.

Key conditions of the Radioactive Materials License, as stated therein, include:

- Engineering or process controls to be used to control airborne radionuclide concentrations. The majority of operations to be "wet" and unlikely to generate airborne particulates. Water sprays and other dust control measures to be used as necessary including keeping materials wet to the extent possible, using effective local ventilation and air pollution control equipment, and performing good housekeeping practices.
- Radiation surveys and monitoring to be conducted in operational areas of the facility. Air sampling, including radon measurements, to include personal monitoring, area monitors, and monitoring at the site boundary. Respiratory protection required as needed.
- Routine surveys for contamination to be conducted in the restricted area and in areas frequented by personnel working in the restricted area. Personnel to be monitored for external radiation dose and for the potential for intakes of radioactive material as applicable. Personnel, equipment, and vehicles exiting the restricted area to be surveyed for contamination to prevent the spread of contaminants.

The Project will meet the above listed Plans, License, and BLM requirements and adhere to any mitigation measures or other conditions documented in the EIS.

Public Involvement

The BLM published a Notice of Intent to prepare an EIS for the proposed Project in the Federal Register on July 14, 2020 (Volume 85, No. 135, Pages 42424 to 42425) along with a news release announcing the beginning of the scoping process. The BLM published an additional news release on August 17, 2020, announcing the scheduled virtual public meetings. This initiated a 30-day public scoping period for the proposed Project. The BLM held two virtual public scoping meetings for the Project on September 2 and 3, 2020. A short slideshow presentation was given at the beginning of each virtual meeting and then published on the BLM National NEPA Register Project website for public availability. There were 24 attendees at the September 2, 2020, scoping meeting and 9 attendees at the September 3, 2020, scoping meeting. By the close of the scoping process, the BLM received 12 comment documents. The BLM reviewed the scoping comments and the Draft EIS was prepared.

The Notice of Availability (NOA) for the Draft EIS was published in the Federal Register on July 22, 2022 (Volume 87, No. 140, Pages 43894 to 43895). During the 45-day public comment

period, the BLM held one virtual public meeting on August 10, 2022, and two in-person public meetings on August 16, 2022, in Ely, Nevada and on August 17, 2022, in Eureka, Nevada. The BLM received 12 comment letters on the Draft EIS. Public comments received during the public comment period on the Draft EIS were reviewed and responded to. Each comment, as well as a corresponding response, are provided in Appendix E of the Final EIS.

The NOA for the Final EIS was published in the Federal Register on September 15, 2023 (Volume 88, No. 178, Pages 63602 to 63603) releasing the Final EIS for public review. The BLM received 5 comment letters following the publication of the Final EIS. The BLM reviewed and considered the comments while preparing this Record of Decision (ROD). The comments did not identify or present any significant new information that would warrant additional analysis under the NEPA.

The Draft EIS and Final EIS are available on the BLM National NEPA Register website at: <https://eplanning.blm.gov/eplanning-ui/project/2000633/510>.

Cooperating Agency Coordination

The BLM sent letters to several Federal and State agencies and Eureka County inviting them to participate as cooperating agencies for the NEPA process and EIS preparation. The United States (U.S.) Environmental Protection Agency, U.S. Fish and Wildlife Service, Nevada Department of Wildlife, Nevada Department of Natural Resource Conservation (Sagebrush Ecosystem Technical Team), and Eureka County agreed to be cooperating agencies and participated in the preparation and review of the EIS. In addition to the document reviews listed above, BLM regularly coordinated with the cooperating agencies throughout the EIS process. BLM entered into Memoranda of Agreement with each of the cooperating agencies. During the EIS process, cooperating agencies were invited to participate in review of analyses, contribution of technical expertise, and assistance in responses to public comments as required by their jurisdiction or regulatory authority. BLM held bi-weekly meetings with the Cooperating Agencies throughout most of the EIS process. Individual meetings with Cooperating Agencies were held as needed to address individual concerns raised through comments on the Draft EIS and other concerns with the proposed Project.

National Historic Preservation Act

The BLM consulted with the Nevada State Historic Preservation Office (SHPO) in accordance with the State Protocol Agreement between the Bureau of Land Management and the Nevada State Historic Preservation Officer for Implementing the National Historic Preservation Act (the Protocol), which defines how the BLM and SHPO interact to meet the requirements of the National Historic Preservation Act. This process is conducted formally through letter correspondence, separate from the NEPA process. The BLM has determined the Project will have adverse effects on historic properties, which the SHPO concurred on. As a result, the BLM and SHPO have entered into a Memorandum of Agreement on May 18, 2023, that outlines how adverse effects will be resolved.

Native American Government-to-Government Consultation

The BLM invited the Battle Mountain Band of the Te-Moak Tribe of Western Shoshone, Duckwater Shoshone Tribe, Ely Shoshone Tribe, Te-Moak Tribe of Western Shoshone, Yomba Shoshone Tribe, and the Timbisha Shoshone Tribe to become cooperating agencies during the NEPA process. On April 17, 2012, and March 12, 2013, the BLM sent letters to the tribes

regarding the Project and inquiring whether any of the Tribes wished to consult. The BLM invited the tribes to participate in the baseline needs assessment meeting and the NEPA kick-off meeting, as well as the public meetings held by NVV in August 2020 and the BLM virtual public scoping meetings held on September 2 and 3, 2020. The BLM conducted a site visit with the Duckwater Shoshone and Ely Shoshone Tribes on August 12, 2020, and met with the Duckwater Shoshone Tribal Council on April 14, 2021, and October 4, 2021. The BLM met with the Yomba Shoshone Tribe on September 10, 2021, the Timbisha Shoshone Tribe on September 15, 2021, Battle Mountain Band of the Te-Moak Tribe of Western Shoshone on September 23, 2021, and the Elko Band Colony of the Te-Moak Tribe of Western Shoshone on September 29, 2021. The BLM invited the tribes to the Draft EIS virtual public meeting held on August 10, 2022, and in-person public meetings held on August 16 and 17, 2022. On August 31, 2022, the BLM and NVV staff participated in a meeting with the Duckwater Shoshone Tribe at the Duckwater Reservation. The BLM gave a presentation to the Tribe using the presentation from the virtual public meeting.

The Duckwater Shoshone and Ely Shoshone Tribes have requested that the BLM continue to coordinate with the Tribes regarding the Project and the EIS process.

Consultation between the BLM and contacted bands and tribes currently is ongoing and will continue up to and including Project construction. Additional details of ongoing consultation with area Tribes, Tribal groups, and their representatives are maintained in the BLM consultation records for the Project, and this information is considered confidential.

Record of Decision

The BLM Battle Mountain District Manager, who is the decision-making authority for the Final EIS, has reviewed the environmental analysis in the Final EIS and has determined the Renewable Energy Alternative best fulfills the agency's statutory mission and responsibilities, along with the Applicant-Committed Environmental Protection Measures (EPMs) specified in Appendix B of the Final EIS, Section 2.5 of the Plan of Operations, and included as Conditions of Approval in the Plan of Operations Decision included as part of this ROD. The BLM's selection is based on the environmental analysis in the Final EIS. The final Plan of Operations will be authorized in a separate Decision regarding the financial guarantee. The BLM decision is based on the final Plan of Operations (NVN-096259), submitted to the BLM pursuant to 43 CFR § 3809 and § 3715, and the analysis in the Final EIS. The BLM has considered the analysis of the effectiveness of the mitigation measures, and 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 and is consistent with applicable legal requirements.

In accordance with 40 CFR § 1505.2(a)(3), the mitigation measures and EPMs represent all practicable means to avoid or minimize environmental harm from the BLM's Preferred Alternative. The EPMs, which were developed to avoid or minimize environmental impacts resulting from the selection of the BLM's Preferred Alternative, are part of the Plan of Operations. All EPMs were designed to avoid or minimize environmental impacts to resources affected by the operations proposed under the Plan of Operations. 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

Cultural Resources

NVV has adjusted the mine layout and design to the extent practicable to avoid impacts on properties eligible for listing on the National Register of Historic Properties and unevaluated cultural resources. The main mine access road for the Project in the Proposed Action was developed to minimize impacts on known archaeological resources.

Because NRHP-eligible and unevaluated cultural resources will be adversely affected by the Proposed Action, the BLM and SHPO have entered into a Memorandum of Agreement (MOA) that requires development of an HPTP to address how adverse effects will be treated and to mitigate adverse effects. That MOA was developed in consultation with other interested parties including Tribal organizations. Unanticipated discoveries or unanticipated effects will be treated as described in the MOA.

Adverse effects on NRHP-eligible and unevaluated cultural resources resulting from the Project will be treated per the stipulations in the MOA and HPTP. In addition to these mandated measures, NVV will commit to the following EPMs for cultural resources:

- Tribal observers from stakeholders will be invited to observe ground-disturbing activities, including both construction and archaeological investigations.
- NVV employees and its subcontractors will be provided Cultural Sensitivity Training.

Geology and Minerals

NVV has developed practices derived from the general requirements established in the BLM's surface management regulations at 43 CFR § 3809 and NDEP Bureau of Mining Regulation and Reclamation (BMRR) mining reclamation regulations, as well as other water regulations and BLM guidance documents, to prevent unnecessary or undue degradation during the life of the Project. These measures are described below.

- Monitoring of the stability of the open pit will be performed in accordance with requirements under the Water Pollution Control Permit and Reclamation Permit and will include daily visual stability monitoring of the highwall and the crest area behind the highwall for any signs of movement.
- The Adaptive Waste Rock Management Plan describes the procedures for the identification, handling, and management of potentially acid generating (PAG) materials to minimize the potential for the formation of acidic drainage.

Grazing Management

NVV will develop an agreement with the grazing permittee and Eureka County to ensure no economic impact will occur either during operations or post closure. Lost productivity, both temporary and permanent, will be mitigated in full consultation with the grazing permittee and Eureka County.

Paleontology

NVV has developed the following practices to prevent unnecessary or undue degradation during the life of the Project. These practices are derived from the general requirements established in the BLM's surface management regulations at 43 CFR § 3809 and NDEP-BMRR mining reclamation regulations, as well as other applicable regulations and BLM guidance documents.

- All Project personnel will receive training that covers the importance of paleontological resources and that if any potential fossils are discovered during the life of the Project, the fossils should be left in place untouched, the BLM will be notified, and a qualified BLM-permitted paleontologist will be employed to assess the discovery and make further recommendations.
- In the event that any significant paleontological resource is discovered by the Project personnel or any person working on their behalf during the course of activities on Federal land, it 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 will determine the significance of the discovery and what mitigation measures are necessary to allow activities to proceed. The permit holder is responsible for the cost of evaluation and mitigation. Operations may resume only upon written authorization to proceed from the authorized officer.

Visual Resources

To protect visual resources, NVV will apply lighting mitigation measures that follow “Dark Sky” lighting practices throughout the life of the Project. Light fixtures will be placed at the lowest practical height and will be directed to the ground and/or work areas to avoid being cast skyward or over long distances. Mitigation measures identified in the visual contrasting worksheets were incorporated into the Plan of Operations (NVV 2020).

Greater Sage-Grouse (*Centrocercus urophasianus*)

Impacts from the Renewable Energy Alternative to Greater sage-grouse will be offset through the Nevada Conservation Credit System (CCS). The CCS is administered by the State of Nevada Sagebrush Ecosystem Program and led by the Sagebrush Ecosystem Council. The CCS provides a regulatory mechanism for Greater sage-grouse habitat protection that ensures habitat effects from anthropogenic disturbances (debts) are fully compensated by long-term enhancement and protection of habitat that result in a net benefit for the species (credits). Net benefit for Greater sage-grouse is achieved through mitigation offsets in the CCS, and overall program risk is limited by awarding management action-based credit releases only as much as one third of the anticipated credits and using a combination of additional mechanisms, including mitigation ratios, the reserve account, and financial assurances. The use of the CCS is required to fulfill mitigation requirements for disturbances to Greater sage-grouse habitat on public lands. As stipulated by Nevada Administrative Code 232.400-232.480, the Renewable Energy Alternative was analyzed using the CCS Habitat Quantification Tool to calculate a debit obligation based on the proposed Project disturbance following habitat field verification. The Sagebrush Ecosystem Technical Team (SETT) completed a formal quality assurance review of the results of the Habitat Quantification Tool. The Renewable Energy Alternative will generate 1,961 term debits and 0 permanent debits. NVV is working with SETT to use the CCS to offset effects of the Project’s surface disturbance to Greater sage-grouse and sagebrush habitat. Mitigation developed under the CCS is intended to meet regulatory requirements under State of Nevada NRS 232.162 and is administered solely by the SETT. The BLM does not administer the development of credits or debits under the CCS and is not responsible for enforcement of program requirements. Mitigation obtained by NVV through the CCS program is used to offset impacts on Greater sage-grouse and sagebrush habitat only and is not intended to offset effects on other resources.

Management Considerations

The rationale for the above decision is supported by the Surface Management Regulations (43 CFR § 3809 *et seq.*) and the Federal Land Policy and Management Act of 1976 (FLPMA). BLM has analyzed the potential environmental impacts from implementing the Plan of Operations under the Council on Environmental Quality implementing regulations for NEPA (40 CFR § 1500 *et seq.*). Selection of the BLM's Preferred Alternative authorizes NVV to carry out a legitimate use of the public lands in an environmentally sound manner without causing unnecessary or undue degradation.

The Proposed Action, No Action Alternative, South Access Road Alternative, and Renewable Energy Alternative were analyzed in the Draft EIS. In addition, 11 alternatives were considered but eliminated from detailed analysis. The action alternatives were considered in the context 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 BLM's selection of the Preferred Alternative was primarily based on the avoidance and minimization of impacts to environmental resources.

The BLM, NVV, and the Cooperating Agencies have collaborated to develop measures designed to reduce environmental impacts that may result from the Project. EPMs identified in the Plan of Operations and the mitigation measures outlined above will reduce adverse environmental impacts identified in the Final EIS. Monitoring requirements in the Plan of Operations and the Final EIS will assist NVV, the BLM, and others in identifying, mitigating, or avoiding unforeseen environmental impacts that may occur.

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. The required financial guarantee amount must be obligated prior to the commencement of any surface disturbing activities in accordance with the applicable regulations.

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 MLFO, and the public lands within the Project area are open for mineral exploration and development. The Preferred Alternative is in conformance with the Shoshone-Eureka Resource Management Plan (RMP). Specifically, the Preferred Alternative is in conformance with the following objectives:

- 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.
- Assure that mineral exploration, development and extraction are carried out in such a way as to minimize environmental and other resource damage and to provide, where legally possible, for the rehabilitation of lands.
- Develop detailed mineral resource data in areas where different resources conflict so that informed decisions may be made that result in optimum use of the lands.

Management decisions for locatable minerals and current mineral production areas includes:

- All public lands in the planning areas will be open for mining and prospecting unless withdrawn or restricted from mineral entry.

- Recognize these areas as having the highest and best use for mineral production and encourage mining with minimum environmental disturbance. Make thorough mineral examinations of all sites proposed for other Bureau programs in these areas.

The Preferred Alternative is also in conformance with the 2015 Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment (ARMPA). The 2015 ARMPA provides guidance on measures to avoid and minimize potential impacts resulting from proposed projects, in addition to providing appropriate measures to compensate for impacts that are unavoidable on GRSG habitat resulting from development projects. The ROD is consistent with the 2015 ARMPA, subject to valid and existing rights and applicable law.

The Preferred Alternative is in conformance with the Eureka County Master Plan for natural resources and federal or state land uses.

Summary of the Proposed Action and Other Alternatives

Proposed Action

The Project includes the construction, operation, reclamation, and closure of a new open pit mining operation and heap leach process facility to extract and recover vanadium in the Gibellini Mining District of Eureka County, Nevada, on BLM-administered public lands. The Project would produce approximately 24 million tons of ore material containing 66,000 tons of vanadium and 168 tons of uranium over the mine life. Approximately 2 million tons of waste rock material would be mined during the life of the Project. The total mine life would consist of 1.5 years of construction, 7 years of operation, 4 years of active reclamation and closure, and up to 30 years of post-closure monitoring.

The Project includes a water, power, and communications corridor extending approximately 6.5 miles from the Fish Creek Ranch to the Project area. The existing 69-kilovolt (kV) power line for the Pan Mine would supply power to the Project. The Gibellini power line would extend to the Project area from a tie-in point along the Pan Mine power line. The Project includes: open pit, rock disposal area (RDA), mine office and facilities, crushing facilities and stockpile, heap leach pad (HLP), process facility, various process and make-up water ponds, borrow areas, the mine and access roads, water and power supply lines, and ancillary facilities.

The Project included existing exploration and mine area that are being conducted under plans approved by the BLM. The Project area consists of 6,456 acres of public land administered by the BLM and managed under the Shoshone-Eureka Resource Management Plan. Project-related activities would result in approximately 806 acres of surface disturbance. A total of 760 acres of disturbance would occur in the Project area boundary, consisting of mining infrastructure, communication, water pipelines, power lines, and roads. An additional 46 acres of disturbance would occur from exploration. All surface disturbance, except for the pit, would be reclaimed at the end of mine life. Surface disturbance associated with the pit (85 acres) would not be reclaimed.

Renewable Energy Alternative (BLM Preferred Alternative)

As an alternative to the Proposed Project, which only includes use of a power line from the existing 69-kV distribution line from Mt. Wheeler Power, this alternative would include supporting the mine operations with a combination of renewable energy and a utility interconnection with large-scale battery storage whose batter type and technical specifications

would be determined based on technology available at the time of procurement. All other facilities described under the Project would be the same under the Renewable Energy Alternative. Total surface disturbance associated with this alternative would be 839 acres, which includes an additional 33 acres that would be reclaimed at the end of the Project. This alternative would retain the original access road alignment included in the Proposed Action.

Onsite power generation would be achieved with the use of solar electric PV and future battery storage. The field of PV panels and the battery storage would be constructed on a 33-acre site immediately north of the process area and main office. The site would be cleared of vegetation and leveled, and gravel would be applied to minimize soil erosion, weed establishment, particulate emissions, and dust accumulation on the solar panels. NVV would use gravel underneath the solar panels and mow the vegetation in the laneways between the panels and around the perimeter of the solar facility. The solar facilities would consist of 6 MW of solar electric PV generation and a battery that would deliver 2 MW at any given time with 10 MW-hour storage capability.

As part of this alternative, NVV would be required to meet all regulatory requirements for battery containment. Additionally, NVV intends to utilize a vanadium redox flow battery as part of the larger energy storage system that would be determined at the time of procurement. A key characteristic of the vanadium redox flow battery that would be used is that it has no risk of “thermal runaway” compared to solid-state batteries.

The anticipated electrical load for the Gibellini mine site would be 2.5 MW for the connected load, 1.6 MW for the average load, and a 95 percent power factor. The utility connection would supply power on demand to the mining facility to compensate for any power deficit by the renewable energy generation and storage system while the solar electric PV system is transitioning to full operation.

Based on the preliminary design of the solar electric PV system, the system would be constructed in 1-MW Alternative Capacity blocks using two 500-kilowatt SMA 500CP inverters. Two inverters would connect to a local step-up transformer that would increase the voltage from the inverter output to 24.9 kV. The transformers would be connected via daisy chain with underground medium-voltage cable and protected by breakers in the switchgear. Detailed design may take advantage of new technology and use higher-efficiency modules and larger inverters.

The incoming power would be supplied by a three-phase, overhead 69-kV line from Mt. Wheeler Power. This new 69-kV line would originate at a tap location on an existing 69-kV line on Strawberry Road north of U.S. Highway 50; the existing 69-kV line currently terminates at the Pan Mine. The connection to this existing line would be made approximately 3 miles south of the Fish Creek Ranch. The new substation would be on the mine site property and would be a 69-kV/24.9-kV substation with a base transformer rating between 5 and 10 megavolt-amperes. There would be a separate 24.9-kV automatic voltage control NVV substation that would support plant operations and renewable energy production. NVV would have unrestricted access to 24.9-kV switchgear and controls in the 24.9-kV substation.

South Access Road Alternative

The South Access Road Alternative would include the same mine components as described for the Project, except the access road would be constructed in a different location. This alternative access road would be approximately 7 miles long and extend from County Road M-103 (Duckwater Road) to the Project area. The access road would be constructed parallel to the

power line corridor, as described for the Project, and would be constructed in accordance with Eureka County road specifications, which require sufficient sub-base and wearing course to accommodate both heavy and light vehicle access. The running width of the access road would be constructed with a 40-foot-wide running surface and up to 5-foot-wide shoulders due to the relatively flat terrain.

Overall, this alternative would result in approximately 38 additional acres of surface disturbance relative to the Project. Total surface disturbance would include 844 acres of BLM-administered land. Post-reclamation topography would be similar to the Project, except the access road would be in a different location and would not be reclaimed.

This alternative was developed to minimize environmental impacts by minimizing potential resource conflicts with Greater sage-grouse populations that utilize water in and vegetation along Fish Creek as habitat, as well as avoiding a cultural resource site near the intersection of Fish Creek Road and Duckwater Road.

No Action Alternative

Under the No Action Alternative, the Plan of Operations would not be authorized by the BLM, and the activities described proposed under the Plan of Operations would not occur. Mineral resources would remain undeveloped, and the construction and operation of the proposed mining and associated facilities would not occur.

Alternatives Considered but Eliminated from Detailed Analysis

An additional 11 alternatives were identified but were eliminated from further analysis. These included power line route alternatives, pit design alternatives, HLP design alternatives, rock disposal area design alternatives, and closure alternatives. These 11 alternatives were considered relative to their means of addressing the identified purpose and need for the Project; their technical and economic feasibility; as well as their potential to address environmental issues and reduce potential impacts. Consideration of these alternatives was made in conjunction with NVV, the BLM, and the Cooperating Agencies. Each of these 11 potential alternatives was ultimately rejected and not further analyzed in the Final EIS for the reasons outlined in **Table 2**. Complete discussion of the components of these 11 alternatives is provided in Section 2.5 of the Final EIS.

Table 2. Alternatives Considered but Dismissed from Detailed Analysis

Alternative Category	Alternative Considered but Eliminated from Detailed Analysis	Rationale For Elimination of Alternative
HLP Design Alternatives	2012 HLP Design – one single HLP	Not Environmentally Reasonable
	HLP Liner Design – double geomembrane liner system	Not Environmentally Reasonable
	HLP Cover Design – two-layer cover; single-layer cover	Not Environmentally Reasonable
	HLP Draindown and Rinsing Options – no rinse alternative	Not Environmentally Reasonable
Power Line Route	Power line corridor from southern end of Fish Creek Ranch following existing site access road to the Project area	Not Environmentally Reasonable
Pit Design	Original pit design with maximum depth of 194 feet below ground elevation	Not Environmentally Reasonable
Groundwater Pumping Stations	Groundwater pumping station for a water supply of approximately 500 gallon per minute	Not Environmentally Reasonable

Alternative Category	Alternative Considered but Eliminated from Detailed Analysis	Rationale For Elimination of Alternative
Northern Rock Disposal Area Design	Northern rock disposal area visible from the access roads and Fish Creek Ranch	Not Environmentally Reasonable
Open Pit Backfill	Full backfill and partial backfill for final closure of the open pit	Not Environmentally Reasonable
Open Pit Slot Drain	Installation of a slot drain in the low point of the final pit wall to allow incidental precipitation collected within the pit to drain out of the pit	Not Environmentally Reasonable
Water Treatment/ Closure Options	Installation of a water treatment plant at the end of leaching operations and prior to closure of the HLP	Not Environmentally Reasonable

Gibellini Vanadium Mine Project

DECISION

Plan of Operations Approval Determination of Required Financial Guarantee Notices Vacated

Introduction

The Bureau of Land Management (BLM) has reviewed the Plan of Operations titled *Gibellini Project Mine Plan of Operations and Nevada Reclamation Permit Application* Eureka County, Nevada and has prepared an Environmental Impact Statement (EIS), DOI-BLM-NV-B010-2020-0024-EIS, which analyzes the affected environment, potential environmental impacts, and identifies applicant-committed environmental protection measures and mitigation associated with the Nevada Vanadium LLC (NVV) Gibellini Vanadium Mine Project (Project). NVV revised its Plan of Operations to reflect the BLM Preferred Alternative and submitted it to BLM in October 2023, in accordance with the BLM Surface Management Regulations, 43 CFR subpart 3809, as amended. It has been assigned BLM case file number NVN-096259. The Project will result in a total of 839 acres of new surface disturbance at the Project site, including 46 acres of exploration disturbance. The Project area boundary will consist of 6,456 acres of BLM-administered public lands in Eureka County in Township (T) 15 North (N), Range (R) 52 East (E), Sections 1, 2, 3, 10, 11, 12, and 15; T. 15 N., R. 53 E., Sections 6 and 7; T. 16 N., R. 52 E., Sections 25, 26, 34, 35, and 36; T. 16 N., R. 53 E., Sections 15, 20, 22, 25, 26, 27, 29, 30, 31, 32, 33, 34, and 35.

Background

American Vanadium Corporation (AVC) acquired the mining claims in the Project Area in March 2006. During 2006, AVC expanded its land position, mapped the surface geology, collected surface and underground geochemical samples, and conducted preliminary metallurgical test work under Notice NVN-083142. In 2007 and 2008, AVC conducted reverse-circulation (RC) and core drilling at Gibellini Hill, Rich Hill, and the historic Gibellini manganese-nickel mine, metallurgical test work, and a preliminary economic analysis on the Gibellini Hill deposit. All the notice level disturbance resulting from AVC's activities has been reclaimed and released except for 2.4 acres (rounded up to 3 acres in Table 1) which is now included in the proposed project disturbance total.

Prophecy Development Corporation (PDC) acquired the claims in the Project Area in 2017 and has consolidated the land position, collected surface geochemical samples and developed a mining and production plan that is presented in the Plan of Operations.

Under the Gibellini Vanadium Mine Project, NVV, a subsidiary of PDC, will construct and operate an open pit mine that will produce approximately 24 million tons of ore material containing 66,000 tons of vanadium and 168 tons of uranium over the mine life. Approximately

2 million tons of waste rock material will be mined during the life of the Project. The total mine life will consist of 1.5 years of construction, 7 years of operation, 4 years of active reclamation and closure, and up to 30 years of post-closure monitoring. NVV's proposed open pit mine will include the following new mine components:

- The open pit;
- Rock disposal area (RDA);
- Mine office and facilities;
- Crushing facilities and stockpile;
- Heap leach pad (HLP);
- Process facility;
- Various process and make-up water ponds;
- Solar photovoltaic field;
- Borrow areas;
- Mine and access roads;
- Water and power supply lines; and
- Ancillary facilities.

Decision

As a result of the analysis presented in the EIS, and after carefully considering the comments and input received from the public, it is the Decision of the Authorized Officer to approve the Plan of Operations with the financial guarantee requirements and vacate Notices NVN-083142 and NVN-093142 for the Project. The BLM approval of the Plan of Operations will be subject to operating, reclamation, and monitoring measures in the Plan of Operations, the performance standards set forth in 43 CFR § 3809.420, the mitigation, and Applicant-Committed Environmental Protection Measures, as set forth in the EIS and restated in this Decision under the Conditions of Approval.

Approval of the Plan of Operations by the BLM does not constitute a determination regarding the validity or ownership of any unpatented mining claims involved in the mining and exploration operation. In accordance with the BLM regulations at 43 CFR § 3830.5, NVV developed a mill site claim plan for the waste rock storage facility. BLM has reviewed the Plan of Operations and has made an administrative determination that this Project is in compliance with the provisions of the Ninth Circuit Court of Appeals in *Center for Biological Diversity v. United States Fish and Wildlife Service*, 33 F.4th 1202 (9th Cir. 2022) or *Rosemont Decision*. NVV 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 NVV's use and occupancy of public lands as described in the approved Plan of Operations. NVV 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 of Operations. Concurrence by BLM on NVV'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 (IBLA) as outlined in enclosed BLM form 1842-1. This Decision is also issued pursuant to 43 CFR § 3809.803. It is effective immediately and will remain in effect while appeals are pending before the IBLA unless IBLA grants a stay under 43 C.F.R. §4.21 (b).

Financial Guarantee

Amount of Financial Guarantee

The BLM Mount Lewis Field Office has determined that the amount of **\$33,625,420** is sufficient to meet all anticipated reclamation requirements. The reclamation cost estimate is based upon the operator complying with all applicable operating and reclamation requirements as outlined in the Plan of Operations and the regulations at 43 CFR § 3809.420. Note that 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.

All line items contained in the approved reclamation cost estimate are not to be considered as the limits of financial guarantee expenditures in that respective category or task should forfeiture of the financial guarantee become necessary. The line items listed are solely for the purpose of arriving at a total amount for the financial guarantee. This total amount may be spent however the BLM deems necessary to implement the approved reclamation plan and does not represent a reclamation cost limit or constraint, nor does it preclude you, the operator, from financial liability for reclamation costs.

Required Financial Guarantee

A financial guarantee in the amount of **\$33,625,420** must be submitted to and accepted by the Bureau of Land Management, Nevada State Office, Branch of Mineral Resources (Solids) at 1340 Financial Blvd., Reno, Nevada 89502-7147. You must receive written notification from that office accepting and obligating your financial guarantee before you begin any surface-disturbing operations.

Conditions of Approval¹

NVV has committed to implementing the following practices to prevent unnecessary or undue degradation during the life of the Project. These practices were derived from the general requirements established in the BLM's surface management regulations at 43 CFR § 3809 and Nevada Division of Environmental Protection-Bureau of Mining Regulation and Reclamation (NDEP-BMRR) mining reclamation regulations, as well as other water regulations and BLM guidance documents. These measures are informed by the Supplemental Environmental Reports that identified potential resource conflicts and measures that could be taken to avoid or minimize those resource conflicts and are to be considered part of the Plan of Operations. The purposes of these measures are to ensure responsible mining operations, reduce adverse impacts, avoid unnecessary or undue effects to human health and the environment, and to reclaim disturbed areas. All EPMs that will be implemented at the Project are described in full below.

¹ All citations refer to EIS number DOI-BLM-NV-B010-2020-0024-EIS.

General EPMs

- Speed limits will be posted at 35 miles per hour (mph) on haul roads and 45 mph on access roads. When road conditions are poor, drivers will be required to travel at reduced speeds (below 25 mph) to ensure safe passage to and from the mine site.
- Speed limits within the open pit and inside fenced process areas will be based on site-specific safety requirements and will be set based on factors such as ramp slopes, ramp widths, and curve radius.
- New hire and annual refresher training for all employees and contractors will include wildlife and wild horse protection training that specifically addresses the commitment of NVV to implement the protection program and the need for all employees to avoid harassment and disturbance of wildlife and wild horses, especially during breeding seasons. NVV will work with NDOW and BLM in the development of training materials.
- Site-specific training will also include internal contact numbers for reporting sick or injured animals in the Project area, as well as reporting procedures to the BLM and NDOW for any wildlife and wild horse mortalities. NDOW Industrial Artificial Pond Permit requirements will include reporting by the next business day any mortalities of wildlife species.
- Fences will be constructed to BLM and NDOW standards. Surrounding the active mine area, the process pond area will be a continuous 8-foot-high woven wire fence, with no breaks, except for gates, that will be kept closed; and smooth or barbed wire will be used above the top horizontal portion of fencing to discourage perching.
- All lined ponds will be constructed with escape ramps consisting of textured liner to assist in a safe footing during egress, should any wildlife manage to gain access and inadvertently fall into one of the ponds.
- Leach lines on the HLP will be managed to preclude surface ponding on the heap surface that could attract avian or terrestrial resources to potentially toxic leach solutions.
- Hazardous material storage will include secondary containment to preclude contamination of surface or groundwater resources that animals could access.
- During all phases of the Project, all food, waste, and other trash will be placed in containers with lids or covers that can be closed to discourage scavenging by wildlife.
- NVV will prohibit employees, contractors, and sub-contractors from feeding wildlife or wild horses, or making food available for scavenging wildlife.
- All contract and full-time workers will be required to adhere to all Nevada driving laws as specified under NRS, including, but not limited to: General Traffic Laws (NRS 484A); Rules of the Road (NRS 484B); Driving Under the Influence (DUI) (NRS 484C); Equipment & Loads (NRS 484D); and Accidents (NRS 484E).
- NVV will provide vans or buses for transport of most employees to/from the site. Use of private vehicles on the mine site will be restricted. Limited senior staff of NVV may have company vehicles assigned to them.

- All orders of supplies and consumables will be made at the NVV purchasing office in Eureka. No solicitors will be permitted at the mine site. This practice will reduce the volume of vehicles to and from the mine during normal business hours.
- Maintenance of the access to the Project along County Road M-103 (Duckwater Road) will be done in cooperation with the Eureka County road department. NVV will provide financial support, as required, to supplement the County in any required upgrades and maintenance of the road to ensure safe access to and from the mine site. A cooperative maintenance agreement will be developed between NVV and Eureka County that defines the responsibilities and services to be provided.
- All shipping of petroleum products (gasoline and diesel fuels) and other hazardous chemicals to the site will be by an approved transport company on a regular schedule using a predetermined route and pilot guide vehicles (as per applicable Department of Transportation [DOT] regulations). All unloading and transfer will be by trained NVV personnel.
- Monitoring of the stability of the open pit will be performed in accordance with requirements under the Water Pollution Control Plan (WPCP) and Reclamation Permit and will include daily visual stability monitoring of the highwall and the crest area behind the highwall for any signs of movement. If any signs of instability are detected, the geotechnical engineers from AMEC (now Wood) will inspect the highwall and advise next steps that will be reported to the BLM and NDEP.
- NVV will implement regular fence inspections/maintenance to ensure livestock do not get into the active mining area and NVV will work with the BLM and the grazing permittee to resolve any unexpected issues that may arise.
- To quantify the project specific impacts to grazing capacity, a production survey within the Project area will be conducted during the peak of the growing season as much of the area of the mine is of low grazing forage value and will not result in a measurable loss of actual AUMs. NVV will conduct the production survey both prior to construction and post reclamation to assist the grazing permittee, BLM and Eureka County in the quantification of any forage potentially lost as well as improvements in range productivity following reclamation.
- NVV will develop a compensation agreement with the grazing permittee and Eureka County to ensure no economic impact will occur either during operations or post closure. This compensation agreement will be based on the production survey within the fenced area where grazing will be prohibited.
- With the exception of the open pit, all of the surface disturbance associated with the mine components will be reclaimed.
- NVV will work with Eureka County to develop uranium specific emergency response training materials and provide the training and materials to the Eureka and White Pine County emergency response teams, the Duckwater Reservation emergency response team, and the Nevada Highway Patrol officers. The materials will include facility drawings showing the location of all hazardous materials and the uranium product storage

areas and procedures that will include notifications to the emergency response teams that will be made of the route and timing of the yellowcake shipments.

- Although sand cholla is not a protected species, NVV will minimize impacts on known locations of sand cholla by reducing the mine area footprint as much as possible. Locations of support facilities, ponds, and stormwater controls may be adjusted during construction to avoid more dense population clusters.
- NVV will conduct pre-construction surveys for sand cholla in suitable habitat and coordinate with the BLM on a Management Plan if sand cholla are found in the disturbance footprint.

Air Quality

The Project will be operated to control both gaseous and particulate emissions and to meet all state and federal regulatory standards. Appropriate air quality permits will be obtained from the NDEP Bureau of Air Pollution Control (BAPC). Specific Air Quality EPMs include:

- A Fugitive Dust Control Plan will be implemented for all mine operations and Project access roads. In general, the fugitive dust control program will provide for water application on haul roads and other disturbed areas; chemical dust suppressant application (such as lignin sulfate or magnesium chloride) where appropriate; and other dust control measures, as per accepted and reasonable industry practice. Also, disturbed areas will be seeded with an interim seed mix to minimize fugitive dust emissions from unvegetated surfaces where appropriate.
- The dust generated from the use of roads and excavation activities will be minimized to the extent reasonable and practicable by minimizing vehicular traffic, application of approved dust suppressants on gravel roads, including Eureka County gravel access roads, and using prudent vehicle speeds.
- Fugitive emissions in the process area will be controlled at the crusher and conveyor drop points through the use of dust collectors, enclosures and/or water sprays, where necessary. Other process areas requiring dust and/or emission controls will include the SX Plant, the various ancillary screening and sizing processes, agglomerator, refinery, generators, and the laboratory. The agglomerator is expected to be permitted as a zero-emissions unit due to the inherent nature of the agglomeration process (binding of fine materials with polymer).
- Appropriate emission control equipment will be installed and operated in accordance with an NDEP-issued Air Quality Operating Permit.
- Equipment and machinery will be maintained in good working condition to minimize emissions.
- Storage Tanks: Small amounts of volatile organic compound fugitive emissions likely will result from the onsite storage of petroleum-based fuels. These emissions will be mitigated by using Best Management Practices for fueling operations and using light-colored paint for tank exteriors.
- Emergency Diesel Generators: Effects from diesel generators will be mitigated by using engines that are compliant with the appropriate New Source Performance Standards and

NESHAP requirements for Reciprocating Internal Combustion Engines. Diesel engines will be maintained and operated in accordance with the manufacturer's specifications. Effects also will be mitigated by the use of ultra-low sulfur diesel fuel, which has sulfur content of 15 parts per million or lower.

- Protective measures will be maintained to ensure employee exposure to dust containing vanadium pentoxide in the product production area will comply with all state and federal vanadium exposure limits including Occupational Safety and Health Administration and Mine Safety and Health Administration (MSHA) limits.

Water Resources

In order to protect water resources, process components will be designed, constructed, and operated in accordance with NDEP regulations and include engineered liner systems. The process facilities will be zero discharge, and the heap leach facility will have an engineered liner and leak detection systems in accordance with NAC 445A design criteria. Waste rock generated from mining of the pit has been evaluated for potential to generate acid and/or mobilize deleterious constituents that could degrade Waters of the State. Based on the geochemical characterization program completed for the Project, the waste rock material will originate from the high carbonate acid neutralizing zones that will not be placed on the HLP due to their high acid consumption rate in the process. Given the oxidized nature of the ore, there is a very low amount of material that is acid generating. Any acid-generating material will be directly placed on the lined HLP. The Adaptive Waste Rock Management Plan described the procedures for the identification, handling and management of Potentially Acid Generating (PAG) to minimize potential oxidation and solute generation along with monitoring and reporting procedures.

A Water Management Plan (WMP) has been developed in compliance with 43 CFR § 3809.401(b)(2)(iii). The WMP identifies more specific control measures and monitoring requirements. The actual locations and numbers of sediment controls will be determined during final design and where appropriate during operations. In either case, the controls will be developed in accordance with the site-wide stormwater management plan and engineering design documents developed as part of the NDEP-BMRR WPCP application.

A survey to identify waters of the U.S. (WOTUS), or areas where water could be discharged into so designated waters, was conducted within the Project area. No WOTUS [as currently defined by the Clean Water Act and 40 CFR § 230.3(s)], or areas where water could be discharged into so designated waters, were identified (3 Parameters, 2014a: USACE, 2014).

Groundwater Quality EPMs include:

- Mine processing components will be designed, constructed, and operated in accordance with NDEP regulations and include engineered liner systems.
- The process facilities will be zero-discharge, and the heap leach ponds will have an engineered liner and leak detection system in accordance with NAC 445A design criteria.
- NVV will sample groundwater on a quarterly basis from monitoring wells located within the perimeter of the site's process facilities. Groundwater sampling will be conducted using NDEP and EPA approved sampling methodologies. Water purged from the well during sampling will be managed at the well head. All groundwater purged from wells within the process area will be managed within the process area.

- Water collected within sumps inside of the open pit will be restricted to be used for dust suppression only within the pit limits to minimize the potential for contaminants leached from the ore to be discharged outside of the pit.

Surface Water Quality EPMs include:

- Fish Creek Ranch owns certified water rights for Fish Creek Springs of 5,730 acre-feet per year (afy), with 805 afy of water from Fish Creek Springs to be transferred to NVV. The point of diversion will stay the same, but the place and manner of use will be transferred to the Project area. Fish Creek Ranch will then modify the ranch irrigation plan to reduce either the irrigated land area or the irrigation rate to correspond with the 805 afy used by the Project. The Project will lease, but not use, an additional 30 percent of spring water to offset loss of irrigation recharge for a total lease of 1,046.5 afy to ensure no changes will occur to the water balance in the water basin.
- The pipe inlets will continue to be screened as they are for the irrigation supply. Mine water pump intake in the Fish Creek irrigation canal will be screened to ensure aquatic species are not drawn into the pumping system.
- NVV will develop a revegetation plan for the areas taken out of hay production on the Fish Creek Ranch to plant vegetation that uses less water.

Cultural and Paleontological Resources

Avoidance is the BLM-preferred management response for preventing impacts to historic properties. If avoidance is not possible, or is not adequate to prevent adverse effects, NVV will undertake prescribed data recovery from such sites. Development of a treatment plan, data recovery, archeological documentation, and report preparation will be based on the Secretary of the Interior's "Standards and Guidelines for Archeology and Historic Preservation," 48 CFR § 44716 (September 29, 1983), as amended or replaced. If an unevaluated site could not be avoided, additional information will be gathered, and the site will be evaluated. If the site does not meet eligibility criteria, as defined by the National Historic Preservation Act, no further cultural work will be performed. If a site meets eligibility criteria, a data recovery plan or appropriate mitigation will be completed.

Cultural resource EPMs include:

- A treatment plan will be developed, and mitigation activities completed and approved by the BLM and SHPO prior to construction activities in the area of any eligible cultural sites.
- If previously unidentified cultural resources are discovered or an unanticipated discovery occurs, all Project-related activities within 100 meters (or approximately 328 feet) of the discovery will cease immediately, and NVV will secure the location to prevent vandalism or other damage and will notify the BLM Authorized Officer immediately.
- Cultural monitors from the Duckwater Tribe will be notified of cultural mitigation activities and Project construction activities with sufficient advanced notice to be on-site during these activities.
- Pursuant to 43 CFR § 10.4(g), NVV will 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), NVV 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.

- Any cultural resource discovered by NVV 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. NVV 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 will determine the significance of the discovery and what mitigation measures are necessary to allow activities to proceed. NVV is responsible for the cost of evaluation and mitigation. Operations may resume only upon written authorization to proceed from the authorized officer.

Paleontological resources EPMs include:

- All Project personnel will receive training that covers the importance of paleontological resources and that if any potential fossils are discovered during the life of the Project, the fossils should be left in place untouched, the BLM will be notified, and a qualified BLM-permitted paleontologist will be employed to assess the discovery and make further recommendations.
- In the event that any significant paleontological resource is discovered by the Project personnel or any person working on their behalf during the course of activities on Federal land, it will be immediately reported to the authorized officer by telephone, with written confirmation. NVV 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 will determine the significance of the discovery and what mitigation measures are necessary to allow activities to proceed. NVV is responsible for the cost of evaluation and mitigation. Operations may resume only upon written authorization to proceed from the authorized officer.

Erosion and Sediment Control

BMPs will be used to limit erosion and reduce sediment in precipitation runoff from Project facilities and disturbed areas during construction, operations, and initial stages of reclamation.

Because there are no waters of the U.S. in or around the Project area (USACE 2014, 2020), NVV will not be specifically required to manage stormwater discharges in accordance with provisions set forth in the NDEP Stormwater General Permit NVR300000, nor will NVV be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the NDEP. However, as general corporate environmental policy, and good environmental stewardship, NVV will adhere to the policies and guidelines set forth in NVR300000 to ensure that appropriate stormwater BMPs will be employed in the Project area. As per NVR300000, BMPs for the Project will include “erosion and sediment controls, conveyance, stormwater diversions, and treatment structures, and any procedure or facility used to minimize the exposure of pollutants to stormwater or to remove pollutants from stormwater.” A Stormwater Management Plan has been developed for the Project. BMPs will include, but will not be limited to:

- Erosion and sediment control structures such as diversions (e.g., runoff interceptor trenches, check dams, or swales), siltation or filter berms, filter or silt fences, filter strips, sediment barriers, and/or sediment basins;
- Collection and conveyance structures, such as rock lined ditches and/or swales;
- Vegetative soil stabilization practices such as seeding, mulching, and/or brush layering and matting;
- Non-vegetative soil stabilization practices such as rock and gravel mulches, jute and/or synthetic netting;
- Slope stabilization practices such as slope shaping, and the use of retaining structures and riprap;
- Infiltration systems such as infiltration trenches and/or basins;
- Following construction activities, areas such as cut and fill slopes and embankments and growth media/cover stockpiles will be seeded as soon as practicable and safe; and
- Concurrent reclamation will be maximized to the extent practicable to accelerate revegetation of disturbed areas. All sediment and erosion control measures will be routinely inspected, and maintenance/repairs performed, as needed. Concurrent reclamation will be conducted on inactive mine and exploration areas when reclamation is practical and safe, and the area is no longer needed.
- The dust generated from the use of roads and excavation activities will be minimized to the extent reasonable and practicable by minimizing vehicular traffic, application of approved dust suppressants on gravel roads and using prudent vehicle speeds.
- Collected sediments in the sediment control structures will be analyzed prior to clean out of these structures and the contained sediments will be managed in compliance with NDEP or Nevada Division of Health standards. Sediments exceeding levels in these standards will be transported off-site to an appropriate waste management facility. If levels are below these standards, the sediments will be relocated to either the HLP or the rock disposal area (RDA).

Erosion and Sediment Control EPMs include:

- The surfaces of the growth media stockpiles will be shaped after construction with overall slopes of 3H:1V to minimize erosion;
- To further minimize wind and water erosion, the growth media stockpiles will be seeded after shaping with an interim seed mix developed in coordination with the BLM;
- Diversion channels and/or berms will be constructed around the growth media stockpiles, as needed, to prevent erosion from overland runoff; and
- BMPs, such as straw wattles or staked straw bales, will be used as necessary to contain sediment during precipitation events.

Waste Rock Management

Ore and waste rock analyses have shown that some of the rock has the potential to generate acid or mobilize constituents. Therefore, NVV has developed an Adaptive Waste Rock Management

Plan (AWRMP) that describes the placement of the PAG waste rock materials on the fully lined HLP and all remaining high carbonate waste rock on the Rock Disposal Area (RDA). Given the potential water holding capacity of the high carbonate waste rock, it is anticipated that some or all of this material will eventually be used as a resource to construct an evapotranspiration cover on the HLP at closure. The AWRMP provides additional detail on methods to segregate, manage, and monitor waste rock. SER 17 - Water Resources and Geochemistry has a more complete description of the AWRMP, which was included as part of the Plan of Operations.

Noxious Weeds, Invasive, and Non-Native Species

NVV recognizes the economic and environmental impact that can result from the establishment of noxious weeds and has committed to a proactive approach to weed control.

- A Noxious Weed Monitoring and Control Plan will be implemented during construction and mining operations in consultation with the BLM and Eureka County Weed District. The plan contains management strategies, provisions for annual monitoring and treatment. The results from annual monitoring will be the basis for updating the plan and developing annual treatment programs.
- A noxious weed survey will be completed prior to any earth moving disturbance. Areas of concern for noxious weeds will be flagged by a weed specialist or qualified biologist to alert all personnel to avoid those areas, as practicable.
- Information and training regarding noxious weeds management and identification will be provided to all personnel affiliated with the implementation and maintenance of the Project.
- All vehicles and heavy equipment that may have been exposed to noxious weeds will be inspected, and if required, cleaned with a power or high-pressure washer prior to entering or leaving the Project area. Vehicle cleaning will minimize the transport of vehicle-borne weed seed, roots, or rhizomes.
- To minimize the transport of soil-borne noxious weed seeds, roots, or rhizomes, infested soils or material will be stockpiled adjacent to the areas from which they were stripped. Appropriate measures will be taken to avoid wind or water erosion of the affected stockpile.
- All interim and final seed mixes, hay, and straw products will be certified weed-free.
- Weed monitoring will be conducted for the life of the operation or until the site is released and the reclamation financial surety is released. If the spread of noxious weeds is noted, weed control procedures will be determined in consultation with BLM personnel and will be in compliance with BLM handbooks and applicable laws and regulations. NVV will coordinate with the Weed District and Eureka Department of Natural Resources regarding weed control efforts.

Safety and Fire Protection

The Project will operate in conformance with all applicable regulations of the Mine Safety and Health Administration (MSHA) safety regulations (30 CFR § 1-199). Site access will be restricted to employees and authorized visitors. Fire protection equipment and a Fire Protection Plan (FPP) will be established for the Project area in accordance with MSHA's regulations, State Fire Marshal, building codes, and commercial insurance standards. The primary focus of an FPP

typically include engineering and administrative controls that will be developed to reduce the risk of fire and the safety measures that will be implemented to respond to a fire in a manner that first protects the health and safety of all people working at the mine and second to protect environmental impacts and third to protect the mine's physical assets.

The fire suppression tank will contain at least 145,000 gallons of water for fire emergency and will be located in the northwestern portion of the Project area near the truck shop. The water in the tank will have a separate plumbing system from the potable water tank and will be designated for fire suppression use only. Fire Suppression will also be provided by the Eureka Volunteer Fire Department.

Hazardous Materials and Solid Waste

- NVV will construct, operate, and close the Class III waived industrial landfill in accordance with NAC 444.731 through 444.737. Signs will be installed at the landfill reminding employees of appropriate disposal practices.
- NVV has developed a Radiation Protection Plan that describes procedures for the safe identification, receipt, storage, transport, and disposal of radioactive materials, which minimize risk to staff, public and the environment, in compliance with regulatory permits and agencies that govern the handling and disposal of radioactive materials.
- A Solid and Hazardous Waste Management Plan (SHWMP) will be developed that will include employee training on the appropriate landfill disposal practices such as the allowable wastes that can be placed in the landfill, management of used oil filters, oily rags, fluorescent light bulbs, aerosol cans, and other regulated substances. Any liquid waste will be specifically banned from disposal in the on-site landfill and will be managed under the SHWMP in full compliance with Resource Recovery and Conservation Act (RCRA) and NDEP regulations.
- Hazardous materials and wastes will be transported, stored, and used in accordance with federal, state, and local regulations. Employees will be trained in the proper transportation, storage, and use of hazardous materials and the management of solid and hazardous waste per the SHWMP and Radiation Protection Plan. The Spill Contingency Plan has been developed, which provides the information required to manage spills both inside and outside of containment areas.
- All shipping of petroleum products (i.e., gasoline and diesel fuels) and other hazardous chemicals to the site will be by an approved transport company on a regular schedule using a predetermined route and pilot guide vehicles (as per applicable DOT regulations). All unloading and transfer will be by trained NVV personnel.
- The term "hazardous materials" is defined in 49 CFR § 172.101; hazardous substances are defined in 40 CFR § 302.4 and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act (SARA) Title III. Hazardous materials will be transported to the Project area by U.S. Department of Transportation (USDOT) regulated transporters and stored on site in USDOT approved containers. Spill containment structures will be provided for storage containers. Hazardous waste will be managed in accordance with regulations identified in 40 CFR § 262 Standards Applicable to Generators of Hazardous Waste.

- Hazardous materials and substances that may be transported, stored, and used by the Project in quantities less than the Threshold Planning Quantity (TPQ) designated by SARA Title III for emergency planning include blasting components, petroleum products, and small quantities of solvents for laboratory use. The only chemicals on-site that will exceed the TPQ are sulfuric acid and the vanadium pentoxide that will be produced from mine operations. Small quantities of other hazardous materials, such as materials that are contained in commercially produced paints, office products, and automotive maintenance products, will also be managed by mine personnel.
- Blasting components, including ammonium nitrate and fuel oil (ANFO), will be stored on-site. Prill (without fuel oil) will be stored in a silo located near the truck shop. Explosive agents, boosters, and blasting caps will be stored away from the plant site within a secured explosives storage area in a small draw approximately half-way up the main haul road between the HLP and the mine. All explosive materials will be stored in compliance with MSHA, Nevada State Mine Inspector's regulations, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and U.S. Department of Homeland Security requirements.
- Management of hazardous materials for the Project will comply with all applicable federal, state, and local requirements, including the inventorying and reporting requirements of Title III of CERCLA, also known as the Emergency Planning and Community Right to Know Act.
- All petroleum products and reagents will be stored in aboveground tanks within a secondary containment area capable of holding 110 percent of the volume of the largest vessel in the area. The Spill Contingency Plan (SCP) is reviewed and updated regularly and whenever major changes are made in the management of these materials. Inspections, maintenance schedules and procedures are set forth in sections of the SCP. All employees involved in the transport or use of petroleum products at the Project or involved in maintenance of petroleum storage and dispensing systems will receive training and instruction in the SCP Plan.
- Fuel and oil for diesel- and gas-powered equipment will be stored in aboveground, sealed tanks generally in the processing facilities area. The tanks will be installed in lined or concrete containments. The storage area will be surrounded by berms or containment walls designed to provide secondary containment capacity of 110 percent of the largest vessel in the containment in case of rupture. Surface piping will lead from each tank to the fuel dispensing area. The refueling hoses will be equipped with overflow prevention devices and secondary containment. The monitoring of these facilities is described in the Monitoring Plan.
- Hazardous wastes will be managed in the designated 90-Day Storage Facility prior to their shipment to an off-site licensed disposal facility (per state and federal RCRA regulations). These materials may include waste paints and thinners. Spent cleaning solvents and used oils will be returned to recycling facilities. Used oil and lubricants will be collected and hauled off site by a buyer/contractor for recycling. Solvents will be collected by a contractor and recycled off site.

- Onsite equipment and supplies including bagged absorbent, booms, weirs, and tools will be readily available for timely deployment by trained NVV personnel, and applicable regulations posted conspicuously regarding reporting spills and emergency procedures.
- Designated personnel will be properly instructed in the operation and maintenance of equipment to prevent and clean-up spills. NVV's Environmental Manager will also be responsible for oil spill prevention and training employees with the spill prevention and response program and procedures.
- Uranium specific emergency response training materials will be developed, and training will be provided to the Eureka and White Pine County emergency response teams and the Duckwater Reservation emergency response team. Other agencies that are part of the Mutual Aid agreement, including Nevada Highway Patrol, will be included in the training programs. Facility drawings will be included showing the location of all hazardous materials to ensure protection of emergency response teams. Procedures will include notifications to the emergency response teams regarding the route and timing of the yellowcake shipments.
- Protective measures will be maintained to ensure employee exposure to dust containing vanadium pentoxide in the product production area will comply with all state and federal vanadium exposure limits including OSHA and MSHA limits.

Growth Media Salvage and Storage

- Suitable growth media will be salvaged and stockpiled during the development of the mine open pit, and during construction of the RDA, heap leach facilities, and other mine facility areas. Growth media along linear disturbances (e.g., access roads) will be stockpiled in windrows to the side of the construction area for later use during reclamation.
- Growth media will be stockpiled within proposed disturbance areas. Stockpiles will be located where they will be optimally situated for post-mining reclamation. The surfaces of the stockpiles will be shaped after construction with slopes no steeper than 3.0H:1V to reduce erosion.
- To further minimize wind and water erosion, the growth media stockpiles will be seeded with an interim seed mix.
- Diversion channels or berms will be constructed around stockpiles as needed to prevent erosion from overland runoff. BMPs such as silt fences or staked straw bales will be used as necessary to contain sediment mobilized by direct precipitation.

Wildlife and Wild Horses

- All artificial bodies of water that contain any chemical in solution at levels lethal to wildlife (e.g., barren and pregnant solution ponds) will be covered or contained in a manner that will prevent access by birds and bats in accordance with the NDOW Industrial Artificial Pond Permit.
- Underground openings will be secured with bat gates in a manner that will allow ingress and egress by bats, but not people. NVV will work with NDOW and Nevada Division of Minerals to install bat gates.

- Process facilities including the warehouse/shop, office, laboratory, Adsorption-Desorption-Regeneration (ADR) plant, crushing facilities, HLP, and ponds will be fenced to specifications outlined in the BLM Handbook 1741-1, as applicable. Solution ponds will be fenced, in accordance with the required NDOW Industrial Artificial Pond Permit, with 8-foot-high chain-link or field fencing.
- Primary ponds liners will be single-sided textured geomembrane with the textured side up to facilitate wildlife egress.
- Bird balls will also be used on the ponds to protect wildlife, where required.
- Operators will be trained to monitor the mining and process areas for the presence of larger wildlife, such as mule deer and pronghorn antelope. Mortality information will be collected and reported to the NDOW, as necessary.
- NVV will establish wildlife protection policies that prohibit feeding or harassment of wildlife within the Project area boundary. Harassment will include, but is not limited to, feeding, chasing, approaching, luring, calling or other actions that could result in habituating wildlife to approach human activity.
- New hire and annual refresher training for all employees and contractors will include wildlife and wild horse protection training that specifically addresses the commitment of NVV to implement the protection program and the need for all employees to avoid harassment and disturbance of wildlife and wild horses, especially during breeding seasons. NVV will work with NDOW and BLM in the development of training materials. Surface disturbance activities will follow the protection measures as described for migratory birds.
- Design features will be considered for buildings and other structures that minimize nest building by ravens.

Migratory Birds

The Migratory Bird Treaty Act provides protection for migratory birds, their nests, eggs, and young. Avian species protected under the Migratory Bird Treaty Act include species that migrate from breeding range to winter range, a list of species which includes most waterfowl and water-related birds (i.e., loons, grebes, pelicans, ducks and geese, herons, cranes, and shorebirds), raptors (i.e., falcons, hawks, vultures, and owls), doves, cuckoos, goatsuckers, swifts and hummingbirds, kingfishers, woodpeckers, and passerine birds (i.e., most “songbirds”).

- If surface disturbing activities are unavoidable during the avian breeding and nesting season (March 1 for pinyon jay habitat, April 1 for other migratory birds; through July 31), NVV will commission a BLM-qualified avian biologist to survey to determine if nesting activity is occurring in the area of proposed disturbance. Surveys will be limited to the footprint of the area of disturbance and an additional buffer of at least 300 feet beyond the disturbance footprint. Surveys will be conducted in accordance with BLM policy for migratory bird nest clearance surveys.

Raptors

Most raptors are protected under the Migratory Bird Treaty Act. Therefore, the surveys proposed by NVV for migratory birds will also apply to some raptors and burrowing owls. Golden and bald eagles are protected under the Bald and Golden Eagle Act that prohibits anyone, without a

permit issued by the Secretary of the Interior, from "taking" bald or golden eagles, including their parts, nests, or eggs. Taking also includes "disturb" which means: "to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior." The following EPMs are based on these requirements.

- Annual raptor surveys will be conducted for an area inclusive of the Project area and a two-mile radius beyond the Project area boundary for all raptors, and a 10-mile radius for golden and bald eagles. The surveys will be performed in accordance with the United States Fish and Wildlife Service (USFWS) Interim Golden Eagle Technical Guidance (Pagel et al. 2010). This guidance states that a project should be surveyed at least twice for nesting raptors during the breeding season and that surveys should be conducted at least 30 days apart. Other migratory bird surveys will also be conducted, and raptors or their nests may be discovered during these surveys and will be appropriately protected.
- Disturbance activities will be avoided during the migratory bird nesting season (March 1 for pinyon jay habitat and April 1 for other migratory birds, through July 31). The raptor nesting season is defined as March 1 - July 31 in the Battle Mountain District, although golden eagle breeding season can occur from December through August. Raptor nest building activities or behavior of nesting raptors will be identified during annual surveys. NVV will establish a 1-mile activity buffer around golden eagle and some raptor nests and a 2-mile activity buffer around active golden eagle nests for blasting activity, and NVV will coordinate with the BLM biologist and the NDOW on appropriate avoidance distances for other raptors, as determined by the species identified. The standard buffer for golden eagles may decrease, if BLM and NDOW provide written concurrence to reduce the buffer and if the nest is out of the line of site of the construction activities. The avoidance measures will be in place until a BLM-qualified biologist has determined the young have fledged. The start and end dates of the seasonal restriction may be based on site-specific information, such as elevation and winter weather patterns, which affect breeding chronology. Surveys will be conducted in accordance with BLM policy for migratory bird nest clearance surveys.
- If golden eagles show signs of using an existing nest within 1 mile of mining operations or 2 miles of blasting activities, mining activities and/or blasting activities will be curtailed until after eagles are no longer using the area. If a new eagle nest is discovered within 1 mile of Project activities or within 2 miles of planned blasting activities, operations within these buffers will be curtailed while the BLM, NDOW, and USFWS are consulted to develop appropriate protection measures for the new nest and associated eagle activity.
- Standard raptor protection designs as outlined in Suggested Practice for Avian Protection on Power Lines (Avian Power Line Interaction Committee [APLIC] 2006 and 2012) will be incorporated into the construction of powerlines.

Big Game

- Established mule deer and antelope trails will be identified by BLM qualified biologists, and NDOW will be consulted for identification of big game crossing points. Warning

signs will be posted at appropriate locations along the haul roads to warn drivers of crossing points.

- If needed, berms constructed along haul roads will include openings at major trails to encourage road crossing at these locations where signage can warn drivers. Berms will be constructed as required by MSHA's regulations.
- Littleleaf mahogany was observed interspersed with pinyon-juniper woodlands within the limestone hill ecosite. Littleleaf mahogany is an important browse species for mule deer and other ungulates. NVV will avoid and minimize removal of this species to the extent practicable and include mahogany species in reclamation seed mix for this area.

Greater Sage-Grouse

- NVV will conduct lek attendance monitoring, following NDOW monitoring protocols, for the Fenstermaker Wash lek, which is the closest lek to the Project area. If the lek is found to be inactive or changes to the extent that it is shown to hit a trigger (as discussed in the 2015 GRSG ARMPA) over the course of this Project, mitigation measures will be implemented in consultation with the BLM and NDOW to reverse the downturn if it is determined that the change resulted from activities at the Project. NVV will conduct lek attendance monitoring during all active phases of the Project from construction through final reclamation.
- NVV will implement the Nevada Conservation Credit System (CCS) to mitigate habitat impacts from the Project to ensure an overall benefit for the species, while allowing for the mine development.
- NVV will implement applicable Required Design Features (RDFs) of the Nevada and Northeastern California Greater Sage-Grouse ARMPA, 2015. The applicable RDFs include:
 - Limit all mine activities, including exploration activities, to ensure noise levels do not exceed 10 decibels above ambient sound levels, as measured with appropriate noise monitoring equipment, at least 0.25 mile from active and pending leks, from 2 hours before to 2 hours after sunrise and sunset during the breeding season. Noise monitoring will be performed for a sufficient period to demonstrate conformance with this EPM.
 - During Project construction and operation, establish and post speed limits in Greater sage-grouse habitat to reduce vehicle/wildlife collisions or design roads to be driven at slower speeds.
 - Require dust abatement practices when authorizing use on roads.
 - Instruct all construction employees to avoid harassment and disturbance of wildlife, especially during the Greater sage-grouse breeding (e.g., courtship and nesting) season. In addition, pets shall not be permitted on site during construction.
 - To reduce predators perching in Greater sage-grouse habitat, limit the construction of vertical facilities and fences to the minimum number and amount needed and install anti-perch devices where applicable. Avian Power Line design guidelines will be incorporated to reduce risks of avian electrocution/collusion.

Fences will be constructed with reflectors to minimize the potential of Greater sage-grouse collision.

- Powerline poles will be fit with anti-perch devices in Greater sage-grouse habitat.
- The irrigated field on Fish Creek Ranch that will have the irrigation water diverted for mine use will be planted with a seed mix beneficial to Greater sage-grouse to provide feed and vegetative cover.
- Berms will be constructed along the haul roads in conformance with MSHA requirements that will also assist in the attenuation of noise along the haul roads.
 - Blasting in the open pit will be done after 10:00 a.m. to minimize noise impacts on wildlife.
 - Blasting in the Rhyolite Hill Borrow Area will be restricted from February 1 to June 30 if the nearby golden eagle nest is active.

Pygmy Rabbits and Burrowing Owls

- Pygmy rabbit and burrowing owl pre-construction surveys will be conducted prior to ground-disturbing activities. If occupied burrows/colonies are encountered, consultation with the BLM and NDOW to determine the appropriate avoidance buffer. If removal of the burrow/colony is required, NVV will coordinate with the BLM and NDOW to determine the appropriate monitoring and management measures and mitigation to be implemented.

Survey Monuments

- To the extent practicable, NVV will protect all survey monuments, witness corners, reference monuments, bearing trees, and line trees against unnecessary or undue destruction, obliteration or damage. If, in the course of operations, any monuments, corners, or accessories are destroyed, NVV will immediately report the matter to the authorized officer. Prior to obliteration, destruction, or damage during surface disturbing activities, NVV will contact the BLM to develop a plan for any necessary restoration or re-establishment activity of the affected monument in accordance with Nevada Instruction Memorandum (IM) No. NV-2007-003 and the Nevada Revised Statutes. NVV will bear the cost for the restoration or re-establishment activities including the fees for a Nevada Professional Land Surveyor.

Visual Resources

- To protect visual resources, NVV will apply lighting mitigation measures that follow “Dark Sky” lighting practices throughout the life of the Project. Light fixtures will be placed at the lowest practical height and will be directed to the ground and/or work areas to avoid being cast skyward or over long distances;
- Berms required for haul roads may reduce vehicle lights emanating from haul roads and the pit areas that may be directed toward public roads during travel;
- All lighting, where practicable, will be located to avoid light pollution onto any adjacent land as viewed from a distance. All light fixtures will be hooded and shielded, face downward and be located within soffits and directed on to the operating site. Light fixtures will incorporate shields and/or louvers where possible and be full cut-off type;

- Buildings will be painted or stained to produce flat-toned, non-reflective surfaces and meet BLM visual resource management requirements. As per the BLM's Standard Environmental Color Guidelines (BLM, 2008) NVV anticipates painting the buildings a "Covert Green" color;
- The use of dimmers, timers, and motion sensors will be installed where appropriate; and
- Fugitive dust will be minimized in order to reduce "sky glow" by reducing the light reflectance from the dust particles.
- During operations, the margins of the waste rock facilities will be constructed to provide for variable topography during final regrading, thereby providing a more natural post-mining landscape.

Mitigation Measures

NVV shall conform with all mitigation measures presented in the Record of Decision for the Gibellini Vanadium Mine Project Final Environmental Impact Statement. Those mitigation measures are carried forward and applicable to this Decision.

Notices Vacated

BLM Notices NVN-083142 (Gibellini Notice) and NVN-093142 (Little Smoky Valley Notice) are hereby vacated with the approval of the Plan of Operations and BLM's acceptance of the financial guarantee for the Plan of Operations.

Once the financial guarantee is adjudicated for the Plan of Operations (NVN-096259) by BLM Nevada State Office, Branch of Minerals Resources (Solids), the remaining reclamation and financial guarantee requirements under Notices NVN-083142 and NVN-093142 will be incorporated into the reclamation requirements of the Plan of Operations and the Notices terminated.

Authority

This Decision is in made pursuant to BLM's authority under the Federal Land Management and Policy Act of 1976 (FLPMA) and the implementing regulations at 43 CFR Part 3800 Subpart 3809 - Surface Management; 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 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.

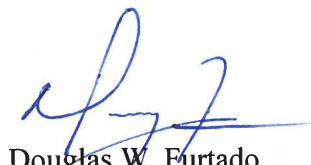
Standards for Obtaining a Stay

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.

Contact

If you have any questions or concerns, please contact the Mount Lewis Field Office at 775-635-4000 or at 50 Bastian Rd., Battle Mountain, NV 89820.



Douglas W. Furtado
District Manager
Battle Mountain District Office