U.S. Forest Service
Caribou-Targhee National Forest
Caribou County, Idaho

Draft Record of Decision
Authorization of Off-lease Activities, On- and Off-lease Mineral Material Permits, and a Revised Forest Plan Amendment
East Smoky Panel Mine
February 2020
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**Draft Record of Decision**

**Authorization of Off-lease Activities, On- and Off-lease Mineral Material Permits, and a Revised Forest Plan Amendment**

**East Smoky Panel Mine**

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<td>4350 Cliffs Drive</td>
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<td>Pocatello, Idaho 83204</td>
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Abstract

The Final Environmental Impact Statement (FEIS) analyzes impacts from developing the proposed East Smoky Panel Mine and Reclamation Plan (M&RP) at the J.R. Simplot (Simplot) Smoky Canyon Mine in southeast Idaho. The Proposed Action includes developing and mining an open pit on three federal mineral leases held by Simplot east of the current Smoky Canyon Mine operations; modifying one of those leases to accommodate efficient pit development; amending the Revised Forest Plan (RFP) for a utility corridor relocation; constructing ancillary facilities including transmission lines, haul roads, and stormwater control structures on private lands or under Special Use Authorizations (SUAs); backfilling the Panel B pit with additional overburden; reclaiming mine disturbances using a store and release cover on top of the placed overburden; and topsoiling/reseeding the majority of the total disturbance. Use of existing support and mill facilities would continue. An alternative to the Proposed Action is also analyzed and was chosen as the Environmentally Preferred Alternative as well as the Agency Preferred Alternative. It is generally the same as the Proposed Action, but the pit footprint would be smaller, avoiding mining the cherty shale. This would reduce selenium in the combined overburden materials and allow a topsoil-only cover on the East Smoky Panel and the currently approved cover on Panel B. The reduced pit shell would reduce the disturbed area by 78 acres, but the pit would be mined deeper and with steeper highwalls to allow equivalent ore recovery. The No Action Alternative is also analyzed, and site-specific mitigation measures were developed.

This Draft Record of Decision (ROD) documents the U.S. Forest Service (USFS) decision to issue SUAs for 30 acres of off-lease disturbance on National Forest System (NFS) lands for the features including a haul road (11.7 acres), topsoil stockpile (6.1 acres), two transmission line relocations (2.4 acres, combined), and stormwater control features (9.8 acres). Further, Mineral Materials Permits would be issued for the on- and off-lease portions of a borrow area, 10.6 and 10.1 acres, respectively, under this ROD. The ROD also addresses an RFP amendment that would be required to change the management prescription of the lands contained in a proposed 115 kilovolt (kV) transmission line reroute to allow designation of a 200-foot wide utility corridor.
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<td>Adaptive Management Plan</td>
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Preface

Authority to issue phosphate leases and approve Mine and Reclamation Plans (M&RP) for mining operations within lease boundaries lies with the U.S. Department of the Interior, Bureau of Land Management (BLM), under the Mineral Leasing Act of 1920. The Secretary of the Interior has no authority to authorize the use of National Forest System (NFS) lands outside of the lease boundaries (“off lease”) for activities related to phosphate mining. Therefore, the use of NFS lands for off-lease activities necessary to conduct phosphate mining operations, such as the construction of off-lease portions of the haul road and stormwater features, must be authorized by the responsible U.S. Forest Service (USFS) official. In this case, the Caribou-Targhee National Forest (CTNF) Supervisor is the responsible official.

For leasable minerals such as phosphate, the BLM administers leases for subsurface mineral rights on federal land. Prior to authorizing the use of NFS lands off lease and approving a M&RP for on-lease operations, the USFS and BLM must analyze the potential effects of the activities each agency will authorize in accordance with the National Environmental Policy Act (NEPA). In this case, the East Smoky Panel Mine Project, with its associated off-lease activities (the Project), proposed by J.R. Simplot Company (Simplot), was analyzed in a Final Environmental Impact Statement (FEIS) (BLM and USFS 2020).

I am the responsible official to decide whether to issue Special Use Authorizations (SUAs) to permit mining-related activities outside of lease boundaries on NFS lands, and determine the terms and conditions of any authorizations issued under regulations codified at 36 Code of Federal Regulations (CFR) 251.54 et seq. As the responsible official for the CTNF, this Draft Record of Decision (ROD) contains my decision to issue SUAs to Simplot to permit the following off-lease activities:

- Construction, operation, and maintenance of the off-lease portion of the haul road (11.7 acres);
- Development, use, and maintenance of an off-lease topsoil stockpile (6.1 acres);
- Construction, operation, and maintenance of the off-lease sections of two transmission line relocations (2.4 acres, combined); and
- Construction, operation, and maintenance of off-lease stormwater control features (9.8 acres).

Further, this ROD contains my decision to issue Mineral Materials Permits for the on- and off-lease portions of a proposed borrow area. These permits allow removal of mineral materials such as growth-medium, alluvium, colluvium, or aggregate from USFS managed lands for use on federal or state lands; 36 CFR Part 228, subpart C – Disposal of Mineral Materials. Part (10.1 acres) of the cover material borrow pit would be located on off-lease NFS land adjacent to Lease IDI-012890 and another part (10.6 acres) would be adjacent, but on-lease. The USFS must determine whether and how to authorize the Mineral Materials Permits for both on- and off-lease portions of the borrow pit.

This draft ROD also addresses a Revised Forest Plan (RFP) amendment that would be required to change the management prescription of the lands contained in the related proposed reroute of a 115 kilovolt (kV) transmission line to allow designation of a 200-foot wide utility corridor for the new route and revised SUA. The 115 kV reroute described above is outside of the existing Caribou National Forest (CNF) RFP designated utility corridor.

Because of separate agency authorities, the USFS and BLM each prepare a separate ROD for their respective decision. The decision of each agency is developed in close coordination with the
other because off-lease and on-lease operations are interconnected. My decision presumes the BLM will select an Action Alternative, most likely the Agency Preferred Alternative (Alternative 1) identified in the FEIS, as opposed to the No Action Alternative.

This USFS ROD is being made available to people and entities on the Project mailing list, as well as the general public via the internet. Questions can be directed to Kyle Free, BLM, Project Lead, at (208) 478-6352 or kfree@blm.gov.

Sincerely,

Mel Bolling
Forest Supervisor, Caribou-Targhee National Forest
PART 1 INTRODUCTION

1.1 About This Document
The Bureau of Land Management (BLM) and U.S. Forest Service (USFS), in cooperation with the Idaho Department of Environmental Quality (IDEQ), Idaho Department of Lands (IDL), and the Idaho Office of Energy and Mineral Resources (OEMR), prepared an Environmental Impact Statement (EIS) to review the potential environmental impacts of the East Smoky Panel Mine Project at the Smoky Canyon Mine (the Project). In addition to the Proposed Action, one Action Alternative was considered along with the No Action Alternative. Public scoping for this Project began in 2015 and resulted in the identification of the issues described in Section 5.3 of this Draft Record of Decision (ROD). The Final EIS (FEIS) (BLM and USFS 2020) was released to the public in July 2019 along with this Draft ROD. This USFS ROD is specific to the off-lease portions of the Project, the issuance of Mineral Materials Permits, and addresses the required Revised Forest Plan (RFP) amendment. The ROD presumes the BLM will select an Action Alternative, most likely the Agency Preferred Alternative (Alternative 1) identified in the FEIS, as opposed to the No Action Alternative.

This ROD is organized into eight parts:

- **Part 1 – Introduction** provides background information about the existing Smoky Canyon Mine and the Mine and Reclamation Plan (M&RP) proposal from J.R. Simplot Company (Simplot), who owns the leases for the East Smoky Mine Panel.
- **Part 2 – Decision** explains the authorities of the USFS to regulate use and occupancy of National Forest System (NFS) lands for off-lease operations associated with development of the East Smoky Panel Mine.
- **Part 3 – Principle Reasons for the Decision** describes the principal reasons for the USFS decisions.
- **Part 4 – Environmental Protection Measures (EPMs), Monitoring, and Mitigation** specifies the requirements necessary for implementation of off-lease activities.
- **Part 5 – Public Involvement and Issues** describes the public involvement process, a summary of public comments, a description of government and tribal consultation, and a summary of the issues.
- **Part 6 – Alternatives Considered** briefly summarizes the No Action Alternative and the Action Alternative that was considered in detail, the environmentally preferred alternative, and alternatives that were eliminated from detailed analysis.
- **Part 7 – Legally Required Findings** lists the laws and regulations that were considered during the decision-making process.
- **Part 8 – Administrative Review** describes the opportunity provided for pre-decisional administrative review under 36 Code of Federal Regulations (CFR) 218 Subparts A and B, identifies the contact person for the Project, and documents the signature authorizing this decision.

1.2 Purpose and Need for Action
The purpose of the proposed federal actions for the BLM and USFS is to decide whether to approve, approve with modifications, or deny Simplot’s proposed M&RP for the Project. Simplot proposed the M&RP for the Project to exercise their right to develop the federal mineral leases they hold. The lease modification would enlarge existing Lease IDI-015259 to encompass a portion of the proposed East Smoky Panel pit and associated disturbance, without which Simplot
would be unable to maximize ore recovery in the East Smoky Panel. In addition, Simplot has proposed to deposit overburden from the East Smoky Panel in the Panel B pit area, which would minimize the seleniferous footprint of the mine by avoiding the creation of additional external overburden disposal areas (ODAs), while continuing to meet reclamation goals to return the Panel B area to more natural contours.

The need for the proposed federal actions for the BLM and the USFS is to evaluate Simplot’s proposal pursuant to applicable laws and regulations. The BLM is required to evaluate mining proposals and issue decisions related to the phosphate leases, as directed by the Mineral Leasing Act of 1920. This includes ensuring economically viable development of the phosphate resources, in accordance with federal law and regulations governing federal leases, including the requirement for ultimate maximum recovery (43 CFR 3594.1), and allowing the lessee to exercise its right to develop the lease. Such is the case for consideration of whether to enlarge lease IDI-015259. USFS authorization is required for operations related to the Project located outside of the phosphate lease boundaries on NFS lands, such as portions of the haul roads, borrow areas, stormwater control features, power line, and topsoil storage areas. The USFS must determine whether and how to authorize these operations. Special Use Authorizations (SUAs) are the most appropriate mechanism for most of the authorizations, in this case. For the proposed borrow area, Mineral Materials Permits are the most appropriate mechanism; these are also addressed in this ROD. Since the on-lease operations would occur on NFS lands, the USFS is a joint lead agency in the analysis of potential effects to those lands, and the BLM has consulted with the USFS in completing the effects analysis for on-lease operations. Further, 36 CFR 219.13(b)(5) requires the responsible USFS official to determine and assess the specific substantive requirements within 36 CFR 219.8 – 219.11 that are directly related to the RFP amendment needed to designate a utility corridor for one of the two proposed transmission line reroutes. The analysis in this document discloses the effects to resources and includes the substantive requirements within 36 CFR 219.8 – 219.11.

1.3 Setting

1.3.1 Location, History, and Overview of Existing Operation

Simplot currently operates the Smoky Canyon Mine, located in Caribou County, Idaho. It is located approximately 10 miles west of Afton, Wyoming (Figure 1). Simplot has been involved in phosphate mining in Southeastern Idaho since 1945 and began extracting phosphate ore from deposits located on federal land at its Smoky Canyon Mine in 1984.

The operation has included mining with standard open pit techniques in seven mine panels (Panels A-G) and then concentrating the phosphate content of the ore in an onsite mill. Mining operations are now complete in Panels A, C, D, and E and those areas are reclaimed. Mining continues in Panels B (immediately adjacent to portions of the proposed East Smoky Panel Mine Project Area), F, and G with concurrent pit backfilling and reclamation. The phosphate concentrate is pumped through a buried pipeline to Simplot’s existing fertilizer manufacturing plant (Don Plant) in Pocatello, Idaho. Tailings from the Smoky Canyon milling operation are disposed in two on-site permitted tailings disposal ponds located on private land owned by Simplot. Other existing facilities at the mine include an access road, office/shop complex, mill, ore stockpiles, open pits, backfilled pits, external overburden disposal sites, power lines, and ancillary facilities such as sediment control structures, storage yards, equipment fueling areas, and parking areas.
Legend

- Proposed East Smoky Panel Disturbance
- Smoky Canyon Mine Existing Leases
- Existing Mine Disturbance Boundary
- Existing Tailings and Diversion Ponds (TP)

Land Ownership
- BLM
- Private
- State
- USFS

Note: Disturbance that would occur outside National Forest System Land (both on and off lease) would be on split estate land.

Figure 1
General Project Area
East Smoky Panel Mine EIS
1.3.2 Previous Environmental Analyses
There have been numerous environmental reviews conducted under the National Environmental Policy Act (NEPA) for the Smoky Canyon Mine.

The first EIS for the mine was prepared in 1981 by the U.S. Geological Survey, the agency then in charge of administering phosphate mining in conjunction with the USFS. This initial EIS was followed by several NEPA documents examining the environmental impacts of various components and expansions of the mine. Ultimately, mining of Panels A through E was authorized. Panel B went through subsequent modification requests and NEPA analyses/approvals to variously extend the panel, increase slope angles, reduce chert cover thickness, and relocate runoff recharge areas, as well as minor changes in acreage or reclamation techniques (BLM 2007, 2008a, 2010a, 2010b, 2015a).

Leasing, lease modifications, and exploration activities in Panels F and G (also known as the Manning Creek and Deer Creek lease areas) were analyzed between 1994 and 2005 through several environmental assessment and EIS documents. Decisions based on these NEPA documents authorized the current leases and associated past exploration activities on these properties.

Mining in Panels F and G was authorized by the 2008 RODs (BLM 2008b and USFS 2008) issued upon the completion of the 2007 FEIS (BLM and USFS 2007), which thoroughly evaluated potential effects to environmental resources. Subsequently, modifications to the Panels F and G project were analyzed in a 2013 EIS (BLM and USFS 2014) and authorized by the associated RODs (BLM 2015b and USFS 2015).

1.4 Simplot’s Proposed East Smoky Panel Mine Project
The Proposed Action submitted by Simplot via an M&RP (submitted originally in 2013 and amended in 2015) consists of mining the East Smoky Panel, constructing topsoil stockpiles, reclamation material borrow areas, stormwater ponds and ditches, haul roads, relocation of two existing power lines, and providing for complete backfill rather than the existing partial backfill in a portion of Panel B using a portion of overburden from the East Smoky Panel. As a part of the Project, lease IDI-015259 would be modified by adding 120 acres along the southwest side of the existing lease for mining-related disturbance (Figure 2). The Project would also include development, construction, and reclamation of portions of transmission lines, access roads, and other miscellaneous disturbances (e.g., sediment ponds, topsoil stockpiles) off-lease on federal land administered by the USFS, requiring several new SUAs. All these Project features are discussed in more detail in the following sections.

1.4.1 Pits, Overburden, and Backfilling
The development of the East Smoky Panel pit would require the removal, transportation, and placement of overburden. Most of the overburden would be used to backfill the mined out East Smoky Panel pit and the remaining would be placed on Panel B. While mining in the northern portion of the East Smoky Panel pit, overburden would be placed directly into the previously mined Panel B pit. Overburden from the middle and southern portions of the pit would be backfilled into the East Smoky Panel pit for concurrent reclamation.

As mining progresses, the pit would be backfilled to reclamation contours concurrent with mining. Exposure of center waste shales (i.e., the shale that lies between the upper and lower ore beds and contains high concentrations of selenium and other COPCs) to meteoric weathering processes would be minimized by covering this material as soon as practicable during backfill
operations. No segregation of waste materials is planned for backfilling operations under the Proposed Action, including any backfill into saturated zones. The in-pit backfill would be maximized and there would be no external overburden placement, except for some low-seleniferous overburden (low seleniferous overburden refers to any waste rock material not from the Meade Peak Member) to be used in haul road and ramp construction.

The development of the ore deposit would result in one ultimate pit representing approximately 302 acres of pit disturbance. The ultimate pit is designed with a typical “V” cut configuration. Pit widths of the seven distinguishable mining phases, from highwall to footwall crests, would range from approximately 1,700 feet at the widest in the southern portion of the ultimate pit, to approximately 900 feet at the narrowest point. Pit elevations would range from 7,350 feet at the highest point on the ultimate pit wall to the 6,635-foot elevation of the ultimate pit floor for an overall elevation difference of 715 feet. The existing surface topography varies across the East Smoky Panel; however, the average pit depth for the seven mining phases would be 250 feet deep.

All run-of-mine (ROM) overburden would receive a geologic store and release cover system consisting of chert, overlain by Dinwoody and/or Salt Lake Formation, and a topsoil layer. This type of cover system is designed to limit the percolation of meteoric water into the seleniferous overburden beneath, by increasing runoff and retaining moisture within some of the cover layers that would be available to plants and evapotranspiration. By reducing water movement into the seleniferous overburden, the intent of the store and release cover is to reduce the amount of selenium that can be transported by groundwater away from the overburden pile.

Disturbance within the previously authorized disturbance boundary for Panel B under the Proposed Action would consist of the backfilling of overburden from the East Smoky Panel into the Panel B pit area. This would minimize the seleniferous footprint of the mine by avoiding creation of an ODA for the East Smoky Panel overburden. In addition, placement of East Smoky Panel overburden in the Panel B pit area would elevate the final contours for the Panel B pit closer to the pre-mining topography than that currently approved.

Under the Proposed Action, Simplot is proposing a store and release cover system over all locations in the Project Area receiving seleniferous overburden, which would include the Panel B contour improvement area and almost the entire East Smoky Panel (minus the unreclaimed high wall in the extreme southeastern portion of the pit), for a total of approximately 364 acres. The store and release cover system would consist of approximately two feet of chert, overlain by three feet of Dinwoody and/or Salt Lake Formation and, finally, a topsoil layer estimated at a minimum of 16 inches, contingent upon the topsoil availability. Dinwoody and/or Salt Lake Formation material would be obtained from either pit overburden or borrow areas within the Project Area. Should suitable in-pit cover material be used, the material would be stockpiled within the same footprint as the proposed borrow areas (Figure 3).
The store and release cover system is expected to limit the amount of net percolation of meteoric water through the seleniferous overburden by increasing runoff as well as increasing moisture storage in the Dinwoody or Salt Lake Formation layer, making the water available for plant uptake and evapotranspiration. By limiting meteoric water percolation into the overburden, the chances for mobilization of selenium and transport to surrounding areas would be expected to be reduced when compared with the originally approved “cap”. Less percolation equates to less water in contact with the selenium-bearing overburden, which in turn equates to lower selenium mobilization and transport.

1.4.2 Land Ownership, Mineral Rights, and Lease Modification
The proposed Project would occur on federal and split estate lands in existing federal phosphate leases IDI-015259, IDI-026843, and IDI-012890 held by Simplot. Off-lease portions of the mining disturbance would occur on NFS land under existing SUAs, on NFS lands that would require new SUAs, and on split estate lands. In addition, all mineral rights associated with the Project are federally held except in portions of Sections 21, 29, and 32 which are held in half interest by Simplot with half interest retained by Raymond S. Petersen and Sons Inc., where future exercise of those mineral rights may be affected by topsoil stockpiles, borrow areas, proposed access roads, a potential dewatering pipeline, and storm water control features.

The BLM’s leasing regulations at 43 CFR 3510.15(f)(2)(iii) state, “Generally a quarter-quarter section, a lot or a protraction block in the smallest subdivision for which you may apply [for a lease]. The lands must be in reasonably compact form.” In following that direction, Simplot has proposed to enlarge Lease IDI-015259 by 120 acres (Figure 2), an area greater than a quarter-quarter section, which would encompass the proposed disturbance. The proposed modification to the lease would occur within Township 8 South, Range 46 East, Boise Meridian, Idaho, and specifically include the following lands:

- East ½ of the Northeast ¼, Section 31; and
- Northeast ¼ of the Southeast ¼, Section 31.

The Caribou National Forest (CNF) RFP (USFS 2003a) uses management prescriptions to designate planned land uses on the Forest and these management prescriptions are applied to specific areas of NFS lands to attain multiple-use and other goals and objectives. The land within this proposed lease modification area was previously managed under Management Prescription 5.2 (b) – Forest Vegetation Management. The area is currently managed under Management Prescription 8.2.1 – Inactive Phosphate Leases, and if the lease modification is approved, the prescription would become 8.2.2 (g) – Phosphate Mine Area.

1.4.3 Water Management

1.4.3.1 Water Usage
Currently water is recycled as much as possible with the milling and mining process at the Smoky Canyon Mine. Recycled water is supplemented with water pumped from an industrial well. Under the Proposed Action, the amount of water used annually at the Smoky Canyon Mine would not change. With the Project adding approximately three years of overall mine life to the Smoky Canyon Mine, this would result in a total of approximately 800 million gallons of additional water usage.
1.4.3.2 Surface Water Controls

Run-on and run-off ditches (Figure 3) would be constructed to collect stormwater. Run-on ditches would collect all water that does not contact Project disturbance; run-off ditches would collect water that contacts disturbance. Run-on control ditches along the west side of the pit would be designed to infiltrate clean water into limestone outcrops of the Wells Formation or divert water around the disturbed areas to prevent clean water from running into Project disturbance. All run-off stormwater collected in the ditches would be diverted into stormwater ponds (Figure 3). All stormwater conveyances would be designed with energy dissipation as needed to reduce erosion in transition areas, junctions, and discharge areas. Ditches and ponds would be designed to accommodate peak flow from a 100-year 24-hour precipitation event.

Where drainage channels would be permanently routed over overburden fills, channels would be designed to be stable without damage for the peak flow from a 100-year, 24-hour storm on top of snowmelt. To prevent seepage into underlying seleniferous overburden, a clay liner would be installed under the channel and the channel surface would be protected from erosion with chert riprap. Sedimentation ponds designed to control runoff and sedimentation would be located off seleniferous overburden fills and primarily on Dinwoody or Salt Lake Formation areas. The ponds would rely on evaporation to remove water rather than infiltration.

1.4.3.3 Groundwater Dewatering

During the last two phases (6 and 7) of mining in the southern portion of the East Smoky Panel pit, there is potential for groundwater to be encountered during mining of the lower benches of the pit. Should groundwater enter the active mining area, the water would be directed to a sump pump and pumped to the tailings pond via a dewatering pipe system located on split estate lands where Simplot holds the surface ownership (Figure 3). Pit dewatering, should it occur, would be estimated to last several weeks.

1.4.3.4 Tailings Ponds

The existing Smoky Canyon Mine tailings ponds (Figure 3) would be utilized for the Project without modification. Adequate capacity remains to support development of the Project.

1.4.4 Haul Roads

Several external pit roads would be required throughout the life of the mine for both overburden and ore transportation. These roads would be constructed of chert or limestone with cut side ditches, culverts as appropriate, and fill side berms where necessary for safety.

Approximately 4.5 miles of new haul roads would be required in the Project Area over the life of the mine. Total disturbance due to haul roads for the Proposed Action is approximately 96 acres (approximately 27 acres would be re-disturbance). All haul road disturbance would be reclaimed. For the most part, these roads would be contained on lease. However, in a few small areas (approximately 12 acres) USFS SUAs would be required for haul roads (Figure 3).

Simplot is proposing an external haul road along the length of the ultimate East Smoky Panel pit to haul overburden to Panel B and back into the pit, ore to the mill, material from borrow areas to cover seleniferous overburden and topsoil to reclaim disturbed areas.

The haul roads would also divert and control surface water and stormwater. All proposed haul roads external to the East Smoky Panel pit are designed to be safe, minimize surface impacts, and insure maximum efficiency in truck haulage.
1.4.5 Power Line Relocation and Associated Revised Forest Plan Amendment

The existing Smoky Canyon Mine, maintenance, administrative, and milling facilities would continue to be used. Electric power for the proposed mining operations would be provided with the existing power lines. However, two segments of existing power lines (Figure 3) are proposed for reroute around the proposed Project.

The 25 kilovolt (kV) distribution power line providing power across the northern part of the Project to the tailings ponds would be relocated across the edge of Panel B disturbance. On USFS-administered lands, the 1.2-mile re-routed portion of the line would be contained within existing leases or areas authorized by SUAs. Approximately 0.75-mile of the existing northern power line route would be reclaimed; the remainder of the existing power line would be removed when the East Smoky Panel pit is developed.

The 115 kV Lower Valley Energy transmission line that transects the southern part of the Project would be rerouted approximately 1 mile around the south end of the pit. The rerouted transmission line would occur on a combination of private land, existing leases, and a proposed lease modification area. Since a portion of the rerouted line would occur on NFS lands not on leased lands, a new SUA would be required for that portion of the line (Figure 3). A portion of the existing southern transmission line route would be reclaimed; the remainder of the existing power line would be removed when the East Smoky Panel pit is developed.

New line segments would be constructed to match the existing infrastructure and activated prior to decommissioning and removing existing line segments. Line construction and removal disturbance would consist of overland travel as well as new spur roads, as needed; clearing or trampling of pole sites and pulling and tensioning locations; and augering of new foundation locations. USFS-administered lands containing the portions of the existing lines that would be removed, outside of the Project disturbance, would be reclaimed.

The CNF RFP (USFS 2003a) uses management prescriptions to designate planned land uses on the Forest and requires that power lines over 66 kV be contained within utility corridors, which are designated by a specific management prescription (i.e., Prescription 8.1(b) – Concentrated Development Areas). The existing Lower Valley Energy 115 kV transmission line crossing the southern part of the Project is contained within an SUA authorized by the Caribou-Targhee National Forest (CTNF) and located within a larger 200-foot wide utility corridor designated in the CNF RFP. The 115 kV reroute described above is outside of the existing CNF RFP designated utility corridor. Thus, an RFP amendment would be required to change the management prescription of the lands contained in the proposed reroute to allow designation of a 200-foot wide utility corridor for the new route and revised SUA for the 115 kV transmission line (Figure 4).

1.4.6 SUAs

This Project would use existing SUAs and require additional new SUAs. There are existing SUAs (Figure 2) in the Project Area that contain the existing northern power line. Under the Proposed Action, a number of Project components would require new SUAs (Figure 3), including run-on and run-off diversion ditches, relocated power lines, roads, and topsoil stockpiles. The relocated power lines would include a 50-foot buffer on either side of the centerline for a 100-foot wide SUA. The ditches would include a 25-foot buffer on either side of the centerline for a 50-foot wide SUA. The remaining components (i.e. haul roads, borrow pit, ponds, topsoil stockpile) would not be buffered but would only include the area of proposed disturbance, thus the proposed SUA areas would total approximately 30.0 acres as detailed in Table 1 and shown on Figure 5.
Table 1 Acreages of Proposed SUAs

<table>
<thead>
<tr>
<th>PROPOSED SUA MAP ID*</th>
<th>PRIMARY FEATURE</th>
<th>AREA (ACRES)</th>
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<tr>
<td>A</td>
<td>Stormwater Ponds</td>
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</tr>
<tr>
<td>B</td>
<td>Run-on Diversion Ditch</td>
<td>0.2</td>
</tr>
<tr>
<td>C</td>
<td>Rerouted Overhead Power Line</td>
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<tr>
<td>D</td>
<td>Runoff Diversion Ditch</td>
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</tr>
<tr>
<td>E</td>
<td>Haul Road</td>
<td>11.7</td>
</tr>
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<td>F</td>
<td>Topsoil Stockpile</td>
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</tr>
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<td>G</td>
<td>Run-on Diversion Ditch</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>30.0</strong></td>
</tr>
</tbody>
</table>

*ID number from Figure 5.

1.4.7 Reclamation Activities

Almost all the disturbance associated with the Project would be reclaimed at the end of the Project. The ultimate new surface disturbance resulting from the implementation of the Project would total approximately 725 acres, plus 124 acres of re-disturbance, although the larger Project Area boundary totals approximately 920 acres (Figure 2) which includes approximately 70 acres that would not be disturbed. However, upon final abandonment, approximately 719 acres or approximately 98 percent of the total new disturbance, in addition to the areas of re-disturbance, would be reclaimed. The unreclaimed portion would be all situated on private land owned by Simplot. Reclamation of disturbed areas that are no longer needed for active mining operations would be conducted concurrent with other mining operations, as soon as practicable. Reclamation to return the NFS land to productive and recreation uses following mining and backfilling would include placing a store and release cover over all seleniferous backfill in both the East Smoky Panel and Panel B pits and a topsoil cover over all non-seleniferous material; grading to return disturbed areas to more natural contours; reestablishing drainage patterns; and revegetation.

The Project operations would utilize existing Smoky Canyon Mine facilities. Facilities would eventually be demolished according to previously established and approved permit obligations.

Backfilling was described above in Section 1.4.1. However, it should be noted that the final Project configuration (Figure 6) has been developed based upon the current understanding of the ore body geometry, mining methods, mining rates, and overburden swell parameters. Modifications to the final configuration may also be necessary if strip ratios and other economic factors that drive the considerations used to develop the topography vary significantly from current assumptions. If needed, these would only occur with agency approval through mine plan modifications with applicable NEPA analysis (e.g., Determination of NEPA Adequacy, Environmental Assessment).

Additional armor would be added to channels on concave reclamation surface(s). All reclaimed areas would tie into existing contours recreating a similar function of pre-disturbed land. Roads would be reclaimed by rounding off road crests and revegetating the road disturbance. Any road culverts would be removed unless otherwise specified and the natural drainage patterns would be reestablished.
8.1(b) Concentrated Development Area

8.2.1 Inactive Phosphate Leases and KPLAs

8.2.2(g) Phosphate Mine Areas

Notes:
1. Coordinate System: NAD 1983 UTM Zone 12N
2. Service Layer Credits: Content may not reflect National Geographic's current map policy. Sources: National Geographic, Esri, HERE, USGS, NOAA, GeoEye, Airbus DS, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community
3. Disturbance that would occur outside National Forest Service System Land (both on and off lease) would be on split estate land.

Project Location: T8S R46E, T9S R46E

Figure 4
Proposed CNF Revised Forest Plan Amendment
East Smoky Panel Mine EIS
Legend

- Proposed Dewatering Pipeline
- Existing Overhead Power Line
- Overhead Power Line Proposed Re-route
- Run-On Ditch
- Run-Off Ditch
- Existing Tailings Pipeline
- Project Area Boundary
- Mine Components
- Unreclaimed High Wall
- Surface Ownership Boundary
- BLM Lease
- Proposed Lease Modification Area
- Existing Special Use Authorization (SUA)
- Proposed Special Use Authorization (SUA)
- Proposed Mineral Materials Permit Area

Notes
3. Disturbance that would occur outside National Forest Service System lands (both on and off lease) would be split estate land.
4. Project Location: BLM RAE, TVS RAE, Caribou County, Idaho

Figure 5
Proposed and Existing Special Use Authorizations (SUAs)
East Smoky Panel Mine EIS
Legend

1. Drainage
2. Project Area Boundary
3. Township Boundary
4. Section Boundary
5. Surface Ownership Boundary

Final Configuration Mine Components

- Seleniferous Waste, Geologic Store & Release Cover
- Unreclaimed High Wall Disturbance

10 ft Final Reclamation Contours
10 ft Existing Contours
50 ft Existing Contours

Notes:
1. Coordinate System: NAD 1983 UTM Zone 12N
2. Service Layer Credits: Content may not reflect National Geographic's current map policy. Sources: National Geographic, USGS, NOAA, USAMM, NASA, INR, USFS, BOEM, OCM, NOAA, NRCAN, GEBCO, NASA, increment P Corp.
3. Disturbance that would occur outside National Forest Service System land (both on and off lease) would be on split estate land.
4. Project Location: T8S R46E, T9S R46E Caribou County, Idaho

Figure 6
Proposed Action Final Configuration and Reclamation Pit Covers
East Smoky Panel Mine EIS
1.4.7.1 Topsoil Placement

The proposed cover system was also described above in Section 1.4.1. As part of the cover, direct-placed or stockpiled topsoil would be used in reclamation as plant growth media. Where practical and economically feasible, topsoil salvage for direct placement would be used on reclaimed areas. A topsoil stockpile is proposed in a strategic location next to the mining area (Figure 3) for use in reclamation of all disturbed areas.

A minimum of 16 inches of topsoil would be distributed over disturbed areas to prepare for revegetation. The amount of topsoil used would be dependent upon the amount of topsoil salvaged during mining. Should more topsoil be available, the minimum thickness may be increased. Topsoil would be sampled prior to placement to determine the agronomic characteristics and to determine the optimum rate and analysis of fertilizer application; the ultimate goal would be to maximize the recovery and reutilization of topsoil. Topsoil would be graded into place with dozers, graders, or other equipment suitable to this purpose prior to revegetation.

1.4.7.2 Revegetation

Revegetation of disturbed areas would be handled in two distinct steps. The first step would be the temporary re-vegetation of areas disturbed by construction. The second step would be permanent re-vegetation of reclaimed areas.

Temporary re-vegetation would occur on cuts and fills around the mine facilities areas, on road fills, and on sediment pond embankments and other areas that would remain disturbed for the life of the Project. The objective would be to provide a self-regenerating cover that is easily established. This cover would be a mixture of grasses and forbs designed solely to stabilize the surface against erosion. USFS-approved seed mixes for species and application rates would be used for temporary re-vegetation on USFS land. Temporary re-vegetation would be completed during the first planting season following completion of construction of a specific area or phase of the Project. Planting would be conducted either in the spring or fall.

The objectives of the permanent re-vegetation of disturbed areas on USFS land are similar to those of the temporary program except that in addition to stabilizing the ground surface, the long-term objective would be a vegetative community suitable to support the post-mining land use of grazing and wildlife habitat, as well as to enhance the evapotranspiration function of the proposed cover system. Long-term revegetation would include a mixture of native grasses and forbs, as well as reforestation of some areas. Seed mixes to be used and re-forestation goals would be determined by the USFS.

The geologic store and release cover would be revegetated with grasses and forbs surrounding “islands of diversity” (defined as native forbs, shrubs, and trees that would be seeded or planted in clusters where they are most likely to establish and where there are no concerns relative to the uptake of selenium). Modifications to the final configuration may also be necessary if strip ratios and other economic factors that drive the considerations used to develop the topography vary significantly from current assumptions. If needed, these would only occur with agency approval through mine plan modifications with applicable NEPA analysis (e.g., Determination of NEPA Adequacy, Environmental Assessment).

The areas to be revegetated would be properly prepared to receive seeds by ripping or scarifying the surface and drilling or broadcasting seed onto the area. All revegetation efforts would be conducted either in the spring or the fall to take advantage of high ground moisture conditions. Permanent revegetation would be conducted during the first planting season following the
preparation of an area to reduce the time a disturbed area would be exposed to erosional forces. The existing noxious weed control program for Smoky Canyon Mine would be employed at the Project throughout the life of the Project.

PART 2 DECISION

2.1 Introduction and Decision Authority
The BLM and USFS are making separate but coordinated decisions related to Simplot’s proposed East Smoky Panel Mine Plan. Decisions are based on the FEIS and applicable laws, regulations, and policies with consideration also to rights granted to Simplot in its federal phosphate leases. The BLM’s decision also considers any recommendations from the surface owners and managers of split estate lands (Simplot) and USFS recommendations regarding surface management and mitigation on NFS lands located on lease and within the areas recommended for enlargement by lease modification. The USFS is making a separate decision regarding the issuance of SUAs for off-lease disturbances/structures located on NFS lands (e.g., off-lease portions of the haul road, stormwater control features), and on- and off-lease sale of mineral materials.

Authority to issue phosphate leases and approve M&RP’s lies with the U.S. Department of the Interior (DOI) under the Mineral Leasing Act of 1920. The Secretary of the Interior does not have authority to authorize the use of NFS lands outside of the lease boundaries for activities related to phosphate mining. Therefore, off-lease activities necessary to conduct phosphate mining operations are authorized by the responsible USFS official (in this case, the CTNF Supervisor).

SUA applications received by the USFS must be reviewed using screening criteria published at 36 CFR 251.54. Applications for uses of NFS lands that do not meet the requirements described there must be rejected, and those accepted for consideration must undergo environmental analysis in accordance with the NEPA. In this case, a FEIS (BLM and USFS 2020) was used to analyze the Project.

Because of their separate authorities, each lead agency must prepare a separate ROD. The decision of each agency is developed in close coordination, for neither decision can be implemented independently. The BLM’s decision cannot be implemented without a decision by the USFS to authorize off-lease activities related to the Project. Similarly, the USFS decision would not be necessary if the lessee (Simplot) had not proposed development of the mineral leases. The USFS and BLM decisions are connected actions as defined in the Council on Environmental Quality regulations at 40 CFR 1508.25(a)(1)(ii).

I am the USFS official responsible for the decision whether to issue SUAs to permit mining-related activities outside of lease boundaries on NFS lands under regulations codified at 36 CFR 251 Subpart B. In this ROD, my decision is specific to the issuance of SUAs for off-lease disturbances/structures located within the CTNF and associated with the Project (as listed in Table 1). The decision also addresses Mineral Materials Permits for the borrow pit, under 36 CFR 228 Subpart C, and an RFP amendment that would be required to change the management prescription of the lands contained in a proposed 115 kV transmission line reroute to allow designation of a 200-foot wide utility corridor. The BLM will issue a separate ROD to address the on-lease portions of the Project. The USFS will provide recommendations to the BLM regarding surface management and mitigation of impacts to leased NFS lands.
2.1.1 BLM Consultation with the USFS

The BLM is delegated authority by the Secretary of the Interior to administer phosphate leases under the Mineral Leasing Act of 1920. As such, the BLM is authorized to issue leases and to approve and administer on-lease operations for exploration, development, production, and transportation of phosphate on NFS lands. When administering phosphate development on NFS lands, the BLM and the USFS act as joint lead agencies in preparing the environmental analysis under the NEPA to assess the potential effects of authorizing both on-lease and off-lease phosphate mining operation proposals under an interagency agreement signed in 1987. Under that agreement and regulations at 43 CFR 3503.20(a) and 3590.2(a), the USFS, as the surface management agency, is consulted by the BLM regarding the protection of National Forest resource values and the continued post-mine multiple use of lands mined for phosphate on lease. However, the BLM is solely responsible for authorizing on-lease operations, and the USFS is separately responsible to authorize off-lease operations.

I have provided recommendations and advice to the BLM during the BLM’s evaluation of the on-lease portions of the Project for the protection, reclamation, and restoration of NFS lands that would be directly and indirectly affected by the Project. My recommendations were based on the USFS mission to manage NFS lands for multiple use and the sustained yield of product and services. The CNFRFP (USFS 2003) and other appropriate laws and regulations require that mining does not unnecessarily interfere with other land uses and restores long-term post-mine use of NFS lands affected by phosphate mining.

As a component of the BLM’s decision, the BLM will decide whether or not to issue a modification to Federal Phosphate Lease IDI-015259 associated with mining the East Smoky Panel. The 120-acre parcel meets the regulatory criteria for a lease modification as detailed in 43 CFR 3510.15 and the impacts of issuing the lease modification have been analyzed in the FEIS. By approving the M&RP and lease modification, the BLM will authorize on-lease mine operations for the recovery of phosphate ore and require mitigation necessary to protect leased lands from undue and unnecessary degradation from mining activities. In making its decision, the BLM will incorporate recommendations from the USFS.

2.2 The USFS Decision

As the responsible official for the CTNF, I have decided to issue SUAs and Mineral Material Permits on NFS lands related to the proposed East Smoky Panel Mine Project at the Smoky Canyon Mine.

2.2.1 Construction, Operation, and Maintenance of the Off-lease Portion of the Haul Road

As analyzed in the FEIS (BLM and USFS 2020), the external haul road constructed and used for the Project would be the same under the Proposed Action and Alternative 1. This external haul road would be placed along the length of the ultimate pit on its east side. Chert and limestone from pit overburden would be used for coarse and durable armor of the haul road. Water trucks would be used to water haul roads to control dust. The road would be used to transport ore between the East Smoky Panel Mine and the existing mill, and transport overburden for backfill. Total disturbance due to haul roads is approximately 96 acres (approximately 27 acres would be re-disturbance). A SUA is required for approximately 11.7 acres of off-lease disturbance associated with this external haul road (Figures 3 and 5).
2.2.2 Development, Use, and Maintenance of an Off-lease Topsoil Stockpile and On- and Off-lease Borrow Area
As analyzed in the FEIS (BLM and USFS 2020), the disturbance for the off-lease topsoil stockpile and borrow area related to the Project would be the same under the Proposed Action and Alternative 1. These features would be subject to runoff management and interim temporary revegetation as needed for erosion control. A SUA is required for the 6.1 acres of new disturbance off-lease on NFS lands for these facilities (Figures 3 and 5). Further, Mineral Materials Permits would be required for the on- and off-lease areas associated with the borrow area. The off-lease portion is 10.1 acres and the on-lease portion is 10.6 acres.

2.2.3 Construction, Operation, and Maintenance of the Off-lease Sections of Transmission Line Relocations
As analyzed in the FEIS (BLM and USFS 2020), the disturbance for the off-lease sections of two transmission line relocation would be the same under the Proposed Action and Alternative 1. Two SUAs are required for the 2.4 acres of new disturbance off-lease on NFS lands for these relocations (Figures 3, and 5). For the northern relocation (25 kV line) across the edge of Panel B disturbance, 1.8 acres of SUA would be required and for the southern relocation (115 kV line) around the southern end of the East Smoky Panel Mine pit, 0.6 acres of SUA would be required.

An RFP amendment would also be required to change the management prescription of the lands contained in the proposed 115 kV transmission line reroute to allow designation of a 200-foot wide utility corridor for the new route and revised SUA (Figure 4).

2.2.4 Construction, Operation, and Maintenance of Off-lease Stormwater Control Features
As analyzed in the FEIS (BLM and USFS 2109), the disturbance for the off-lease stormwater control features related to the Project would be the same under the Proposed Action and Alternative 1. A SUA is required for the 9.8 acres of new disturbance off-lease on NFS lands (Figures 3 and 5).

PART 3 PRINCIPLE REASONS FOR THE DECISION
My decision is based on review of the Project record, which shows a thorough examination of relevant and best available scientific information, consideration of responsible opposing views, and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk.

I have taken into consideration the degree to which the EPMs, monitoring, and mitigation measures will reasonably reduce potential impacts to the environment, and the predicted effects of the Action Alternatives on groundwater and surface water quality in the area in light of state and federal requirements. All practicable means to avoid or reduce environmental harm, while providing sufficient access to allow mining operations to proceed within the lease areas under the M&RP to be approved by the BLM, have been adopted. I have ensured that an evaluation of the environmental impacts in the FEIS was accomplished through coordination with other ongoing and planned studies by state and federal agencies in cooperation with Simplot.

The requirements of the 2003 RFP were considered as I formulated my decision. My decision is consistent with the RFP, which recognizes phosphate mining as an appropriate use of NFS lands in this portion of the CNF.
All the portions of the Project where new SUAs are required are within Management Prescription 5.2 – CNF Vegetation Management / Prescription 8.2.1 Inactive Phosphate Leases and (Known Phosphate Leasing Areas (KPLAs), except for a small section of the southern transmission line relocation, which is in management Prescription 8.1(b) – Concentrated Development Area (BLM and USFS 2020).

This section presents the principal reasons supporting the USFS decision to authorize SUAs and Mineral Material Permits on NFS lands of the Project. Rationale for approval of the on-lease portions of the Project is described in the separate ROD prepared by the BLM to be issued following the applicable availability period for the FEIS.

3.1 **Principle Reason – Haul Road**

Construction of the external haul road will result in approximately 11.7 acres of new off-lease disturbance to be permitted under a SUA. New disturbance associated with the road will be adjacent to the proposed pit disturbance and this disturbance constitutes a minor amount compared to the total disturbance associated with both the Smoky Canyon Mine in general and the East Smoky Panel Mine Project, specifically. By design, the haul road must connect the new pit with the mill and with the Panel B backfill, so options for its alignment are limited. The proposed design represents an efficient alignment, considers topography, and provides for safe road width/grades. Out of the total 95.5 acres of road disturbance associated with the Project, only 12 percent would require an SUA.

3.2 **Principle Reason – Off-lease Topsoil Stockpile and On- and Off-lease Borrow Area**

Implementation of the Project, specifically constructing a suitable overburden cover and providing topsoil for final reclamation, requires development of a topsoil stockpile and a borrow area. The off-lease disturbance for the topsoil stockpile will be 6.1 acres to be permitted under a SUA and will be in the immediate proximity of other mining disturbance. The on-and off-lease disturbances will also be in the immediate proximity of other mining disturbance. The 10.1 acres for the off-lease portion of the borrow area will be permitted under a Mineral Materials Permit, as will the 10.6 acres on-lease. Placing these facilities in immediate proximity helps to ensure conservation of the resources and allows for efficiencies in hauling distance.

3.3 **Principle Reason - Off-Lease Sections of Transmission Line Relocations**

Implementation of the Project requires electricity for operations, including continued use of the tailings ponds. The Project design would interfere with this existing 25 kV line across the edge of Panel B disturbance and therefore this line must be rerouted. The off-lease disturbance for this reroute will be 1.8 acres, which will be in the immediate proximity of other mining disturbance. Further, implementation of the Project requires an economically feasible mine pit and in the case of the Project this means interference with the existing 115 kV line Lower Valley Energy transmission line. Therefore, this line must also be rerouted around the southern end of the East Smoky Panel Mine pit. The off-lease disturbance for this reroute will be 0.6 acres, which will be in the immediate proximity of other mining disturbance. The southern reroute will be permitted under an RFP Plan amendment.
3.4 **Principle Reason - Off-Lease Stormwater Control Features**

Implementation of the Project requires effective stormwater control features to assure protection of water quality. The off-lease disturbance for stormwater control features will be 9.8 acres to be permitted under a SUA and will be in the immediate proximity of other mining disturbance.

**PART 4 ENVIRONMENTAL PROTECTION MEASURES, MONITORING, AND MITIGATION**

To the extent specific mitigation measures relating to the surface protection and reclamation aspects of the East Smoky Panel Mine Project are not addressed in this ROD; however, they will be contained in a letter of recommendation from the USFS to the BLM deciding official regarding their decision on this Project. All EPMs, monitoring, and applicable mitigation measures required by the FEIS (BLM and USFS 2020) will apply to the Project. EPMs are outlined in Section 2.5 of the FEIS.

Further, Simplot currently conducts extensive monitoring at the Smoky Canyon Mine as described in their existing Comprehensive Environmental Monitoring Program Plan (CEMPP), which is updated as needed to address changing monitoring requirements. The CEMPP is an organizational tool that allows the monitoring programs for various media, including water, to be efficiently implemented. Simplot must revise the existing Smoky Canyon Mine CEMPP to include the monitoring requirements specific to this decision. Specific monitoring requirements are provided in Section 2.5 of the FEIS. The process for updating the CEMPP is described in Section 15.0 of the CEMPP. Simplot is required to annually prepare environmental monitoring reports to document and present the collected data to the USFS, BLM, and IDEQ. Monitoring required by this decision must be included in the annual reports. An Adaptive Management Plan (AMP), located in Appendix 4B of the FEIS describes the circumstances by which monitoring wells are added or removed from Simplot’s overall monitoring plan only with agency approval.

In addition, mitigation measures were identified in Chapter 4 of the FEIS for water resources and land use. For water resources, springs currently in use that are disrupted by mining would be replaced with alternate, permanent, and generally equivalent water sources by Simplot, in accordance with the RFP requirements. For land use, Simplot would be required to prevent livestock grazing on active and reclaimed mine disturbances until these areas are accepted for grazing management by the CTNF. This would be done by coordination between Simplot and the permittee to identify exclusion areas and discuss additional measures that may be needed, such as fencing or bilingual signs. Simplot would also collaborate annually with the permittee to share mining progress plans and to discuss and resolve any potential access issues.

Last, the BLM ROD for this Project will set forth several Conditions of Approval (COAs), as follows.

**General**

1. **M&RP:** Simplot is required to submit a revised M&RP that is consistent with the alternative selected in this decision that meets the requirements at 43 CFR 3592.1 as determined by the BLM before any ground-disturbing activities.

2. **Performance Bonding:** Prior to commencement of ground disturbing activities at East Smoky, Simplot will update the Smoky Canyon Mine performance bond consistent with requirements of 43 CFR 3504.50-71. The amount of the bond will include the estimated cost to the government to reclaim the site to the standards set forth by the Final M&RP. The bond will include the appropriate administrative costs to complete reclamation and
costs to conduct any required monitoring for the duration Simplot holds the leases. The performance bond will also include three months projected lease production royalties. Simplot's existing bonds may already include three months production royalty which would be considered in calculating the bond amount. BLM will review the bond on a regular basis. If at any time, monitoring data indicate that additional earthwork or remedial action is necessary beyond what is required in the approved plan, the bond will be adjusted to reflect these additional costs.

3. Research on Public Lands: Simplot will provide the BLM copies of their plans for conducting research on public lands. Simplot will promptly provide the BLM with copies of research collected on public lands.

4. Protection of Survey Corner and Boundary Line Markers: Evidence of the Public Land Survey System (PLSS) and related Federal property boundaries will be identified and protected prior to commencement of any ground-disturbing activity. This will be accomplished by contacting BLM Cadastral Survey to coordinate data research, evidence examination and evaluation, and locating, referencing or protecting monuments of the PLSS and related land boundary markers from destruction. In the event of obliteration or disturbance of the Federal boundary evidence, the responsible party shall immediately report the incident, in writing, to the Authorizing Official. BLM Cadastral Survey will determine how the marker is to be restored. In rehabilitating or replacing the evidence the responsible party will procure the services of a Certified Federal Surveyor (CFedS), using qualification-based selection, or reimburse the BLM for all costs incurred for a Federal Authority survey. All surveying activities will conform to the Manual of Surveying Instructions and appropriate State laws and regulations. Local surveys will be reviewed by BLM Cadastral Survey before being finalized and filed in the appropriate county office. The responsible party shall pay for all survey, investigation, penalties, and administrative costs.

5. Compliance with Current Panel B M&RP: Simplot must continue to comply with the COAs of the original approved M&RP for Panel B, and any subsequent COAs. The BLM Authorized Officer will provide direction regarding any conflict, if necessary.

6. CEMPP Updates: Simplot currently conducts extensive monitoring at the Smoky Canyon Mine as described in their existing CEMPP, which is updated as needed to address changing monitoring requirements. The CEMPP is an organizational tool that allows the monitoring programs for various media, including water, to be efficiently implemented. Simplot must revise the existing Smoky Canyon Mine CEMPP to include the monitoring requirements specific to this decision.

**Water Resources**

7. Flow Monitoring at Upper Roberts Creek: The FEIS estimates a significant loss of flow at LT-3 on Upper Tygee Creek which serves as northern leatherside chub habitat. Monitoring of UR-3 will be used to measure the actual flow losses as mining at the East Smoky Panel proceeds. If significant flow loss is measured at UR-3, Simplot has agreed to work with the USFS to address impacts to the northern leatherside with appropriate measures.

8. Replace Disrupted Springs: Springs currently in use that are disrupted by mining under Alternative 1 would be replaced with alternate, permanent, and generally equivalent water sources by Simplot, in accordance with the RFP requirements and as described in Section 4.5.3 of the FEIS.
9. Water Monitoring: Water resources monitoring sites pertaining to the approved M&RP shall be added to the current water monitoring program at the Smoky Canyon Mine. (FEIS 4.5.3)

10. Stream Protection: Roads shall be designed, constructed, and operated to prevent a fuel or oil spill from entering a nearby stream by implementing suitable Best Management Practices (BMPs) to contain such an event. (FEIS 4.5.3)

11. Construction Materials: Middle waste and cherty shale material would not be used as construction materials for building haul roads, ditches, or any other miscellaneous mining features associated with the Project.

Grazing

12. Grazing: Simplot has indicated a willingness to provide adjacent, off-NFS land forage to mitigate lost grazing time on NFS lands. Any reductions in numbers or days of permitted use would be determined through monitoring of forage use and impacts to water sources, if and when they occurred.

13. Grazing: Simplot would be required to prevent livestock grazing on active and reclaimed mine disturbances until these areas are accepted for grazing management by the CTNF. This would be done by periodic coordination between Simplot and the permittee to identify exclusion areas and discuss additional measures that may be needed, such as fencing or bilingual signs. Simplot would also collaborate annually with the permittee to share mining progress plans and to discuss and resolve any potential access issues.

Cultural Resources (including Paleontological Resources)

14. Cultural: If unanticipated cultural materials or historic sites are encountered during mining, the CTNF Forest Archaeologist would be notified, and operations would be halted in the vicinity of the discovery until evaluated by the Forest Archaeologist or a professionally trained archaeologist in consultation with the CTNF Forest Archaeologist and a mitigation plan developed, if necessary.

Vegetation

15. Timber Harvest: Timber would be cruised by the USFS and then harvested from proposed disturbance areas as directed by the USFS. Simplot would purchase the timber at the market value appraised at the time of harvest.

PART 5 PUBLIC INVOLVEMENT AND ISSUES

5.1 Public Involvement Process

The Notice of Intent (NOI) for the Smoky Canyon Mine East Smoky Panel Project EIS was published in the Federal Register on April 3, 2015. Additionally, a legal notice was published in two local newspapers: the Idaho State Journal in Pocatello, Idaho on April 3, 2015; and the Star Valley Independent in Afton, Wyoming on April 8, 2015. Also, on April 3, 2015, a news release was submitted to approximately 40 different television stations, radio stations, and newspapers. Public meetings were held in Afton, Wyoming, Fort Hall, and Pocatello.

The open house meetings provided a Project overview, maps of the Project area, and a forum for exchange of information and ideas or concerns related to the Project. Scoping information was also provided on the BLM Land Use Planning and NEPA Register website and on the CTNF
Current and Recent Projects website. Public comments regarding the Project helped determine the concerns, issues, and potential alternatives for evaluation in the environmental analysis.

A 90-day Draft EIS review period was initiated by publication of the Notice of Availability (NOA) for the Draft EIS in the Federal Register on September 28, 2018.

The Draft EIS was distributed as follows:

- An NOA was published in the Federal Register specifying dates for the comment period and the date, time, and location of the public comment meetings.
- A news release was provided by the Agencies at the beginning of the 90-day comment period on the Draft EIS. Legal notices and news releases were submitted to the same news organizations as for the initial public scoping announcement.
- The Draft EIS was distributed to interested parties identified in the updated EIS mailing list, as previously described, and made available via the BLM and CTNF websites.

Public meetings were held at the same Afton, Wyoming and Pocatello, Idaho locations as for the initial public scoping meetings to obtain comments on the Draft EIS and to answer questions that the public has regarding the Project or the EIS process. These took place on November 13, 2018 and November 14, 2018, respectively.

5.2 Consultation with Other Agencies and Tribes

Because of its special expertise and authority under various environmental regulations for surface water and groundwater such as the Idaho Ground Water Quality Rule, the BLM invited the IDEQ to participate as a cooperating agency on the EIS. During the preparation of the groundwater and surface water related portions of the Draft EIS and FEIS, IDEQ participated in data analysis, document review, and in Project meetings as needed to provide overall regulatory advice and expertise. IDL and OEMR also participated as cooperating agencies due to those agencies' special expertise and authority.

Further, the following state and federal agencies were consulted during preparation of the EIS:

- Idaho Department of Fish and Game
- Idaho Department of Water Resources
- U.S. Army Corps of Engineers (Corps)
- U.S. Environmental Protection Agency (EPA)
- U.S. Fish and Wildlife Service (USFWS)
- Idaho Department of Water Resources
- Idaho State Historic Preservation Office (SHPO)

BLM also updated local Idaho congressional staffs of issues and progress during the EIS process.

The USFS and BLM have a responsibility and obligation to consider and consult on potential effects to natural resources related to the Shoshone-Bannock Tribes' treaty rights or cultural use. Government-to-government consultation with the Shoshone and Bannock Tribal Council is required on land management activities and land uses that could affect these rights.

Tribal consultation for this Project has been undertaken on a Government-to-Government basis between the United States and the Shoshone-Bannock Indian Nation. Prior to initiation of formal scoping, as a part of routine contacts, the BLM introduced the proposed Project to the Shoshone-Bannock Tribes in a meeting on December 17, 2014. A formal scoping letter was sent certified mail to the Shoshone-Bannock Tribes on March 31, 2015. BLM and USFS met with Tribal technical staff to: brief them on the mining proposal and matters of the EIS; discuss issues to
allow a better understanding of Shoshone-Bannock issues and concerns; and to answer questions that Tribal staff may have in order for them to brief the Tribal Council. This process precedes formal consultation with the Fort Hall Council of the Shoshone-Bannock Tribes regarding the Project’s effect on land management activities and land allocations that could affect Treaty Rights. This process has been ongoing and will continue throughout the NEPA process. Government-to-Government consultation was held on March 12, 2018 and comments on the Draft EIS were received from the Tribes on December 24, 2018.

The USFS understands the Shoshone-Bannock Tribes are generally opposed to the Project due to concerns about loss of resources and the ability to exercise their reserved rights under the Fort Bridger Treaty. A No Action Alternative, which would result in no additional mine disturbance, was fully evaluated in the FEIS and considered by the BLM and USFS. The Agency Preferred Alternative reduces disturbance as well as reducing impacts to groundwater. The USFS has considered the Tribes’ position but feels the Agency Preferred Alternative would not result in significant impacts to the Tribes or tribal resources. No concerns specific to the off-lease portions of the Project were identified by the Shoshone-Bannock Tribes.

5.3 Summary of Public Comment
Letters and other types of comments received by the Agencies on the Draft EIS were reviewed and evaluated to determine if information provided in the comments required a formal response or contained new data that identified deficiencies in the EIS. Any identified deficiencies were addressed and the FEIS revised accordingly. There were nine separate, unique commenters on the Draft EIS, including individuals, the proponent, agencies, the Shoshone-Bannock Tribes, and non-governmental organizations (NGOs). In addition, there were 567 essentially identical form letters generated as part of a call to action from one of the NGOs. All of the form letters were reviewed, and any unique comments were identified. All individual comments received were enumerated and tabulated, and responses to each were prepared by the Agencies. These comments and the responses are presented in the FEIS, Appendix 6A.

Comments received by the agencies from scoping through release of the DEIS generally identified concerns in the following categories.

5.3.1 Groundwater Modeling Uncertainty and other Uncertainties in the EIS analysis
Concerns were expressed in FEIS comments regarding the inherent uncertainties with groundwater modeling and the data used for that modeling. Related recommendations were made that the FEIS include uncertainty analysis be conducted identify the degree to which uncertainty affects predicted groundwater concentrations.

The FEIS (Section 4.5.2) describes the stochastic modeling approach used to predict the groundwater impacts from the Proposed Action and Alternative 1. The stochastic modeling approach inherently includes analysis of variability in the most important model parameters and presents the results statistically. Table 1 (Appendix 6A) of the FEIS further addresses specific concerns relating to model uncertainty.

Commenters also raised concerns about the uncertainty of highwall stability of the steepened pit walls under Alternative 1.

Historically, the unstable highwall areas in southeast Idaho phosphate mines has been limited to a small fraction of the total area of mine highwall. The intent of the statement in the FEIS (Section 4.5.2.2) acknowledging the potential for an unstable highwall was to disclose the unexpected...
possibility that a small portion of the total cherty shale unit could end up being mined. The full statement from the FEIS also states that expert studies indicate steeper slopes should be stable.

5.3.2 Interactions between the East Smoky Expansion and Ongoing CERCLA Investigations at Smoky Canyon Mine

Comments were received that requested that the FEIS provide more detail on the CERCLA investigations, remediation and clean-up operations under CERCLA, including how the mine components interact with the proposed action, the timing of these decisions, etc. Certain comments also suggest that the agencies must require Simplot to demonstrate that it can address its existing selenium pollution before approving an expansion.

The actions of the East Smoky Panel Project and CERCLA are not connected – one does not depend on the other. That said they are most certainly interrelated. The EIS describes these interrelationships. The purpose of the EIS is to evaluate the potential effects of the Proposed Action and Action Alternatives for the Project. It is not relevant for this EIS to evaluate the effectiveness of mitigations from previous mining operations including future CERCLA remedies. However, Section 2.2.3 plus, the water resources sections of the No Action Alternative (Section 4.5.2.3 in the FEIS) and the cumulative effects (Section 5.4) discuss past contamination and remedial investigations under CERCLA that are currently underway at the Smoky Canyon Mine. The Project would make negligible to minor and manageable contributions to the environmental impacts while progress is being made on remediating existing problems. In addition, extensive ongoing monitoring and adaptive management would be implemented as part of this Project.

Additional concerns were raised about the Project’s reliance on water treatment and the assumption that clean-up will be successful in a given timeframe. Comments further claim that the Project fails to protect surface and ground water resources and that it inappropriately relies on CERCLA as mitigation.

The Proposed Action and Alternative 1 impact assessments do not rely on the treatability study, a treatment plant, or any CERCLA remedy; those water quality impacts are assessed based only upon the Project, and not the impacts from past or current mining or future treatment options. Only the No Action Alternative included a discussion on the water treatment pilot plant. Further, the purpose of the EIS is to evaluate the potential effects of the Proposed Action and alternatives. The EIS does not need evaluate the effectiveness of mitigations from previous mining operations including future CERCLA remedies, except as applicable cumulative effects which it does in Chapter 5 of the FEIS.

5.3.3 Range of Alternatives and Cover Systems

Some commenters believe the FEIS does not provide a reasonable range of alternatives and that all alternatives result in expansion of the mine. The No Action alternative is just a postponement, not a real alternative. A reasonable alternative would provide for actions by the agencies and Simplot to correct the damage to this fragile landscape, which is greatly understated in the FEIS.

The Agencies believe that an adequate and appropriate array of alternatives was considered. NEPA and agency policy on how to develop, select, and screen alternatives was followed. The FEIS (Section 2.6.3) included nine additional alternatives for consideration, in addition to the Proposed Action and Alternative 1 that were fully analyzed. These additional nine alternatives were described in the FEIS (Section 2.6.3) and a brief summary of the rationale for not fully analyzing them was included. Simplot holds valid leases to mine phosphate in this area, so the No Action Alternative must recognize that possibility. Last, the purpose of the EIS is to evaluate the potential effects of the East Smoky Panel Project. The EIS does not need to evaluate the
effectiveness of mitigations from previous mining operations including future CERCLA remedies, except as applicable cumulative effects which it does in Chapter 5 of the FEIS.

Commenters assert that neither the Proposed Action nor Alternative 1 provide a cover system that protects surface and groundwater resources and associated beneficial uses. They feel this is particularly inappropriate since there are more robust cover systems that could reduce or potentially prevent selenium from reaching Hoopes Spring. The commenters point out that more robust cover systems have already been deemed feasible in other portions of the mine, and yet they’ve been excluded from consideration in this expansion.

The EIS describes the differences in chemistry between the East Smoky Panel backfill material and prior mine backfills at the Smoky Canyon Mine. The geochemistry of the East Smoky Panel overburden is rather unique and much less concentrated in selenium than the other pit backfills (FEIS Table 4.5-3). The groundwater modeling has shown that selenium concentrations under the East Smoky Panel backfill would be such that increases in selenium concentrations at the single discharge point for groundwater impacted by the Project, Hoopes Spring, would be approximately 0.001 mg/L. This value is well below any surface water standard and would be part of the spring flow that is already destined for capture and treatment. For these reasons, the Agencies do not think it would be necessary to apply more robust cover systems to the East Smoky Panel backfill. The environmental protection measures incorporated into the Proposed Action and Alternative 1 are considered appropriate for the lower level of groundwater impacts predicted for the East Smoky Panel backfill. Section 2.6.3.9 of the FEIS also explains why more robust cover systems were eliminated from detailed analysis.

5.3.4 Clean Water Act Compliance

Some commenters believe that the project is contrary to the Clean Water Act citing that the project would release selenium into surface waters that already exceed water quality standards and are listed as impaired for selenium under 303(d).

Both Alternative 1 and the Proposed Action are predicted to comply with the Clean Water Act. The East Smoky Panel model-predicted selenium concentrations were added to the RI/FS predictions to derive a combined concentration. For Hoopes Spring, the resulting concentration after the Proposed Action groundwater is added would be 0.026 mg/L (0.025 + 0.001), a very small increase. For South Fork Sage Creek Springs, the concentration would be 0.005 mg/L (0.005 + 0.000), or no increase. Therefore, under the aforementioned assumptions, the Proposed Action would have a minor selenium impact at Hoopes Spring and no selenium impact at South Fork Sage Creek Springs. Based upon the model-predicted selenium concentrations and with implementation of the Adaptive Management Plan (AMP) described in the FEIS (Section 4.5.3) and provided in Appendix 4B, the East Smoky Panel Project itself would be in compliance with the CWA. Expected concentrations at both locations would remain at (for South Sage Fork Creek Springs) or well above (for Hoopes Spring) the chronic aquatic life criterion for selenium.

5.3.5 Size of Impact Study Area

Comments expressed concerns that the study area for evaluating various resources were inadequate in size.

The Agencies believe that the Study Areas and Cumulative Effects Areas (CEAs) were appropriately determined. Section 3.1.3 of the FEIS describes the general rationale used to define how the Study Areas used in the analysis were established. The Study Area for each resource is described in the subsection addressing that resource.
Guidance from CEQ, “Considering Cumulative Effects – January 1997,” was used in identifying geographic boundaries and ultimately the CEA for each resource. The CEA for each environmental resource – and the rationale for its boundaries – is described in the FEIS Chapter 5 for each specific resource. However, for simplicity, ease of cumulative impact analysis, and in an attempt to avoid having only slightly different CEAs for some resources, CEA boundaries were left identical for the resources where it seemed reasonable and conservative to do so.

PART 6 ALTERNATIVES CONSIDERED

6.1 Alternatives Considered in Detail in the FEIS

Issues that were raised during public scoping and during public and agency review of the Proposed Action were used to identify potentially significant impacts that could result from the Project. The Proposed Action, Alternative 1, and No Action Alternative were evaluated in detail in the FEIS. In addition to these alternatives, nine other alternatives were also considered and eliminated from further evaluation in the FEIS (Section 2.6.3).

These alternatives provided a reasonable range of alternatives to evaluate opportunities to minimize potential environmental effects by considering changes or additions to the Proposed Action. The alternatives summarized in the following discussion are described in detail in Chapter 2 of the FEIS. A tabular summary and comparison of the impacts of the alternatives considered in detail is presented in Table 2.8-1 of the FEIS. Detailed descriptions of potential effects for specific resources are described in Chapter 4 of the FEIS.

6.1.1 No Action Alternative

Under the No Action Alternative, the proposed M&RP for development of the East Smoky Panel Mine and proposed SUAs would not be approved, existing Federal mineral leases would not be modified, the CNF RFP would not be amended, and mining at other panels of the Smoky Canyon Mine would continue as currently planned by Simplot and authorized by the BLM and USFS. Simplot would retain and be eligible to invoke the mining rights granted in their existing federal leases at another time, with a revised M&RP that meets all regulatory and other established requirements.

In the case of phosphate leases, the lease grants the lessee the exclusive right and privilege to explore for and mine the phosphate deposit on the leased land, subject to the conditions provided in the lease. It also gives the lessee the right to use such surface of the leased land as may be necessary for the development of the phosphate resource. Phosphate leases are not cancellable by the United States, except by due process in the case where the lessee does not meet the terms and conditions of the lease. Thus, the No Action Alternative does not imply that the leases would never be developed, only that they would not be developed under the mining alternatives evaluated in the FEIS. Because the rights to mine the leased phosphate deposits have been acquired, if the No Action Alternative were selected, another M&RP for these three leases could be submitted in the future.

USFS does not support selection of the No Action Alternative because Alternative 1 adequately mitigates the environmental impacts from mining the leases. Alternative 1 allows Simplot to exercise the exclusive development rights granted in the phosphate leases, while still sufficiently protecting water and other resources. Also, the No Action Alternative does not satisfy the Purpose and Need for the action which is to ensure economically viable development of the phosphate resources, in accordance with federal law and the federal leases, and to allow the lessee to
exercise its right to develop these leases. In spite of not meeting the Purpose and Need for the action, the No Action Alternative has been seriously considered by the agencies.

6.1.2 Alternative 1

The action alternative analyzed in the FEIS is similar to the Proposed Action in terms of the mining methods used, the facilities required, and mine sequencing. The key aspects where the alternative differs from the Proposed Action include: 1) a 78-acre reduction in surface disturbance; 2) a reduction in the amount of seleniferous waste generated; and 3) a soil-only cover instead of a geologic store and release cover over seleniferous backfill. Regarding the USFS decisions on designating SUAs, approving the Mineral Materials Permits, and the need for an RFP amendment, there are no differences between the Proposed Action and Alternative 1.

The reduction in surface disturbance is a result of a narrower and deeper pit but does not result in a reduction of ore recovery. The reduced acreage disturbance subsequently reduces the impacts to soils, vegetation, and wildlife resources.

Alternative 1 (Figure 7) eliminates mining the cherty shale material which would in turn reduce the seleniferous nature of the combined overburden materials. Because the overburden placed as backfill into pits would be low in selenium, a store & release cover to limit percolation through the overburden material would not be necessary and instead a simple soil-only cover would be sufficient. The simple soil cover is easier for the proponent to construct and easier for the agencies to oversee the construction of. In addition, reclamation vegetation is less limited with a simple soil cover than with store & release covers. Increased infiltration also reduces surface water runoff and the associated concerns with runoff controls. Under Alternative 1, Panel B would receive its currently approved cover (Figure 8).

6.2 Environmentally Preferred Alternative

The Council on Environmental Quality regulations (40 CFR Part 1505.2) require agencies to identify the environmentally preferable alternative. The environmentally preferable alternative is the alternative that will promote the national environmental policy, as expressed in Section 101 of the NEPA. It is the alternative that will cause the least damage to the biological and physical environment and best protect, preserve and enhance historic, cultural, and natural resources. Alternative 1 was identified as the Agency Preferred Alternative in the FEIS; however, the off-lease actions subject to this ROD do not differ between the Proposed Action and Alternative 1. Considering the Project in its entirety, Alternative 1 is the environmentally preferred alternative when considering the action alternatives.

The No Action Alternative would have the least environmental impacts of all the analyzed alternatives. Under the No Action Alternative, the proposed East Smoky Panel Mine would not be approved for mining or any associated development on the existing leases. Similarly, the lease modification request would not be approved. This would eliminate the risk of local environmental impacts from mining. As a result, the No Action Alternative would not provide ore to be mixed with ore from other panels currently being mined at the Smoky Canyon Mine and would leave the mineral resource unmined. However, the No Action Alternative does not imply that the leases would never be developed, only that they would not be developed under the 2015 M&RP. Another M&RP for the leases could be submitted in the future. The No Action Alternative does not satisfy the Purpose and Need for the action which is to ensure economically viable development of the phosphate resources, in accordance with federal law and the federal leases, and to allow the lessee to exercise its contractual right to develop these leases. The No Action Alternative doesn’t allow the lessee to exercise their contractual rights to mine the phosphate resources with a mitigated mine plan.
Figure 7
Alternative 1 Components
East Smoky Panel Mine EIS

Legend

- Proposed Dewatering Pipeline
- Existing Overhead Power Line
- Overhead Power Line Proposed Re-route
- Run-On Diversion Ditch
- Run-Off Diversion Ditch
- Existing Tailings Pipeline
- Township Boundary
- Section Boundary

Project Area Boundary
Surface Ownership Boundary
Existing Disturbance Boundary
Proposed Lease Modification Area
Existing Lease Boundary
Existing Special Use Authorization (SUA)
Proposed Special Use Authorization (SUA)
Proposed Mineral Materials Permit Area

Mine Components
- Haul Road
- Borrow Pit
- Panel B Additional Backfill Area
- Pit
- Stormwater Pond
- Topsoil Stockpile
- Unreclaimed High Wall
- Lube Car

Notes
1. Coordinate System: NAD 1983 UTM Zone 12N
3. Disturbance that would occur outside National Forest System Land (both on and off lease) would be on split estate land.
4. Project Location: T8S R46E, T9S R46E
Caribou County, Idaho
Figure 8
Alternative 1 Final Configuration and Reclamation Ft Covers
East Smoky Panel Mine EIS
Of the “action” alternatives, Alternative 1 would have the least environmental impacts. Both the Proposed Action and Alternative 1 achieve predicted compliance with applicable surface water quality standards. However, Alternative 1 recovers equal or greater ore with less impacts. For this reason, Alternative 1 is preferable to the Proposed Action.

6.3 Alternatives Eliminated from Detailed Analysis
In addition to the Proposed Action, Alternative 1, and the No Action Alternative, nine other alternatives identified through the scoping process were considered in the FEIS. These alternatives and the reasons why they were eliminated from further consideration are discussed in Section 2.6.3 of the FEIS. Generally, the alternatives were found to be technically infeasible, economically unreasonable, or would not meet the purpose and need of the Proposed Action.

PART 7 LEGALLY REQUIRED FINDINGS
My decision is specific to the off-lease portions of the Project, as well as the on-lease portion of the borrow site that requires a Mineral Materials Permit, and the RFP amendment; however, the following subsections consider the Project in its entirety.

7.1 Caribou National Forest Revised Forest Plan
The Project, including those portions off lease, the on-lease portion of the borrow area that requires a Mineral Materials Permit, and the proposed RFP amendment addressed herein to designate a utility corridor for the 115 kV transmission line reroute, is consistent with applicable RFP forest wide standards and guidelines, for general mining, drastically disturbed lands, and phosphate mine areas. All the proposed components of Alternative 1 on CNF land are within the 0.5-mile buffer of Prescription 8.2.1(d) of the RFP. Following mine approval, these USFS lands will be managed under Prescription 8.2.2(g). The USFS has reviewed the proposed mineral development action and the analysis of predicted impacts. The environmental impacts are predicted to be in compliance with established requirements of the RFP. The M&RP, as mitigated by the selection of alternatives and with the conditions described in this ROD and the FEIS, meets the standards and guidelines in the CNF RFP. The M&RP will provide for long-term multiple-use management on the CTNF. This decision complies with all applicable standards and guidelines for general mining, drastically disturbed lands, and phosphate mine areas.

7.2 National Environmental Policy Act
The M&RP (and the related USFS decision and the connected authorization of mining operations by the BLM has the potential to result in significant effects to the environment. Therefore, in accordance with the provisions of NEPA, this decision considers alternatives and mitigation developed to minimize degradation to the environment. The EIS was prepared to make environmental information available to agency decision makers, other agencies, Indian tribes, and the public. Because there are potential impacts to surface water and groundwater, and because of its special expertise, the IDEQ has been engaged as a cooperating agency in the preparation of the EIS. Because of other issues, IDL and OEMR were also engaged as cooperating agencies. In accordance with the provisions of NEPA, this decision considers alternatives and mitigation developed to minimize degradation of the environment.

7.3 National Forest Management Act
In accordance with the National Forest Management Act (NFMA), the RFP was approved to establish direction for future decisions to include "a systematic interdisciplinary approach to
achieve integrated consideration of physical, biological, economic and other sciences” (16 U.S. Code [USC] 1604). The Project incorporates all applicable RFP standards and guidelines, management area prescriptions, and goals and objectives; therefore, the USFS decision is consistent with the RFP and complies with NFMA.

7.4 Endangered Species Act
Under Section 7 of the Endangered Species Act, the USFS must consult with the USFWS to ensure that its actions are “not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species,” which the Secretary of the Interior determines to be critical (16 USC 1536).

A combined Biological Assessment (BA)/Biological Evaluation (BE) was prepared for the Project to identify endangered or threatened species likely to be affected by this decision. The BA states that implementation of this decision “may effect but is not likely to adversely affect” Canada lynx and is not likely to jeopardize the continued existence of the North American wolverine. The Project is expected to meet the requirement of this Act and the USFWS will provide concurrence with the BA for the Selected Alternative. The USFS authorization therefore meets the requirements of the Endangered Species Act.

7.5 National Historic Preservation Act
Section 106 of the National Historic Preservation Act requires federal agencies to identify historic properties, assess effects of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation an opportunity to comment on such undertakings. The SHPO administers the national historic preservation program at the state level. The Section 106 process seeks to accommodate historic preservation concerns with federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties. The Project (Area of Potential Affect) identified two cultural resource sites and both sites have been recommended as not eligible. The CTNF and the Idaho SHPO have concurred with these recommendations (SHPO 2015). Therefore, no historic properties (cultural sites eligible for the NRHP) have been identified in the cultural resources survey area. These findings meet the requirements of the National Historic Preservation Act.

7.6 Migratory Birds
In January 2001, President Clinton signed Executive Order (EO) 13186 requiring federal agencies (those taking actions that may negatively impact migratory birds) to develop a memorandum of understanding (MOU) with the USFWS to promote the recommendations of various migratory bird programs and conservation considerations. The USFS developed a MOU with the USFWS in 2008. The needs of migratory birds have been incorporated into the CTNF forest planning process and specific mitigation measures required in this decision.

Ground clearing and timber removal are necessary precursors to mineral extraction and are part of this decision. There is potential for the approved action to impact migratory birds. Appropriate measures to minimize those impacts and incorporate them into the Project in the FEIS, such as ground clearing new mining areas outside of nesting seasons, are described in Section 2.5.6 of the FEIS.

7.7 Invasive Species
Noxious weed species, as defined in EO 13112, are those plants of foreign origin, not widely prevalent in the U.S. that can injure crops, ecosystems, interests of agriculture, or fish and wildlife
resources. The State of Idaho is responsible for listing noxious weeds in Idaho. Idaho’s current list has 67 species of noxious weeds, with 12 of those known to occur within Caribou County. Five of these species were recorded in the Project Area, as described in Section 3.7.8 of the FEIS. In 1996, the CTNF adopted Integrated Pest Management guidelines to treat noxious weeds. The RFP establishes standards and guidelines to be used for controlling and eliminating noxious weeds and other invasive plant species. The Project includes incorporation of the existing noxious weed program at the Smoky Canyon Mine, which follows guidelines established by the USFS, and would thus comply with EO 13112.

7.8 Floodplains, Wetlands, and Clean Water Act
Because there would be no impacts to floodplains (EO 11988) or waters of the U.S., including wetlands (EO 11990), from the Project, no new certifications, permits, or decisions are required from the Corps. Simplot will update the Smoky Canyon Mine Storm Water Pollution Prevention Plan, which guides implementation of appropriate site specific activities designed to protect the quality of surface waters from stormwater discharge under the Clean Water Act (CWA). Streams not meeting beneficial uses are recommended by the states to EPA for listing as impaired under CWA, Section 303(d). The applicability of the latest 303(d) listing to the Project is discussed in the FEIS. The IDEQ has concurred with the assessment contained in the FEIS and the Project is anticipated to comply with state surface water quality regulations, the CWA, and the Idaho Ground Water Quality Rule through application of mitigation measures.

7.9 Clean Air Act
Air emissions from the Project are regulated by the IDEQ and EPA. Currently, the existing Smoky Canyon Mine operates under an IDEQ permit issued July 6, 1983 (State of Idaho 1983), which addresses the mill boiler, fugitive dust control measures, haul truck speed limits, blasting and drilling dust suppression, and other air pollution control requirements.

The Project is expected to meet the requirements of the Clean Air Act. Air emissions from the M&RP are regulated by IDEQ and EPA regulations. The East Smoky Panel expansion of the Smoky Canyon Mine will operate under the IDEQ-issued air quality permit, which addresses fugitive dust control measures, haul truck speed limits, blasting and drilling dust suppression, and other air pollution control requirements.

7.10 Idaho Stream Channel Protection Act
The Project meets the requirements of the Idaho Stream Channel Protection Act, which is intended to ensure protection of perennial stream channels, as no perennial stream channels will be impacted by the Project.

7.11 Environmental Justice
This decision will not have disproportionately high and adverse effects on one minority over another or low-income populations under EO 12898. As described in other sections, measures have been included in this ROD and in Alternative 1 to lessen or mitigate effects to Indian tribes exercising treaty rights.

7.12 Consultation and Coordination with Native American Tribal Governments
The U.S. has a unique legal relationship with Native American tribal governments as set forth in the U.S. Constitution, treaties, EOs, federal statutes, federal policy, and tribal requirements, which
establish the interaction that must take place between federal and tribal governments. An important basis for this relationship is the trust responsibility of the U.S. to protect tribal sovereignty, self-determination, tribal lands, tribal assets and resources, and treaty and other federally recognized and reserved rights. Government-to-government consultation is the process of seeking, discussing, and considering views on policy, and/or, in the case of this Project, environmental and cultural resource management issues. The BLM and USFS conducted government-to-government consultation with the Fort Hall Business Council, the governing body of the Shoshone-Bannock Tribes, as described in Section 5.2.

7.13 Resource Conservation and Recovery Act
Hazardous waste is regulated under the federal Resource Conservation and Recovery Act regulations (40 CFR 260 et. seq.). Generators of hazardous waste must follow strict rules regarding the generation, storage, handling, and disposal of their wastes. The Smoky Canyon Mine is considered a Conditionally Exempt Small Quantity Generator because it generates less than 100 kilograms of hazardous waste per month. The mine complies with applicable state and federal hazardous waste regulations, and the Project would not generate any new sources of hazardous waste.

7.14 Safe Drinking Water Act
Surface water downstream of the Project is not used as a drinking water source for human consumption.

7.15 Idaho Ground Water Quality Rule
Existing monitoring plans for the Smoky Canyon Mine monitor the effectiveness of the mitigation needed to comply with state water quality standards. In addition, the AMP for the Project (see Part 4) establishes specific contingencies and adaptive management practices in the event that monitoring shows exceedance of numeric water quality standards for various constituents. IDEQ will assign new Point(s) of Compliance to ensure compliance with the Idaho Groundwater Quality Rule.

7.16 Idaho Roadless Rule
As stated in Section 1.5.2 of the FEIS, none of the proposed mining activities would be located within Inventoried Roadless Areas, thus this Project is compliant with the Idaho Roadless Rule.

7.17 Multiple-Use Sustained Yield Act
The Multiple-Use Sustained-Yield Act of 1960 (MUSYA) directs the Secretary of Agriculture to administer renewable surface resources, including the products and services obtained from them, for multiple use and sustained yield. The MUSYA does not directly affect the use or administration of the mineral resources of NFS lands.

The USFS and BLM are required to consider Simplot’s M&RP relative to compliance with the Mineral Leasing Act, regulations, and land use plans. EPMs and mitigation measures analyzed in the EIS and incorporated into this decision are considered adequately protective of the environment. The USFS and BLM believe there is a place for ongoing natural resource production from federal lands in concert with multiple use management and post mining reclamation of these lands.
7.18 Mineral Leasing Act

Phosphate deposits on federal land are managed under the 1920 Mineral Leasing Act, as amended, and associated regulations at 43 CFR 3500. The BLM is the designated federal agency with authority to issue or modify federal phosphate leases and/or approve exploration and development activities. Where NFS lands are involved, the BLM consults with USFS regarding the potential effects of lease issuance and development proposals. The USFS provided recommendations and advice to the BLM during evaluation of the Project for the protection, reclamation, and restoration of NFS lands that would be directly and indirectly affected by the Project.

The approved action will allow Simplot to exercise its existing development rights granted in its federal mineral leases. The selection of Alternative 1 also includes modifying (enlarging) the existing lease (IDI-015259) which ensures that the ultimate maximum recovery of the mineral deposit can occur. As dictated by the Mineral Leasing Act, Simplot will pay rent and a gross value royalty on phosphate production to the United States. As directed by this Act, half of this money will be returned to Idaho for use by the state government.

7.19 Special Uses

The RFP allows special uses that serve the public, promote public health and safety, protect the environment, are legally mandated, and are compatible with other resources. This may include special uses for exploration and mining-related operations that lie on NFS lands outside mineral lease boundaries. The off-lease portions of the Project meet the special uses screening criteria and considerations put forth at 36 CFR 251 Subpart B and support activities that are authorized under the Mineral Leasing Act.

7.20 Best Available Science

My conclusions are based on a review of the Project record that shows a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgement of incomplete or unavailable information, scientific uncertainty and risk. Chapter 7 of the FEIS contains a list of published scientific documents referenced in preparation of the EIS.

PART 8 ADMINISTRATIVE REVIEW

8.1 Pre-decisional Administrative Review

8.1.1 Objection Opportunity

The portion of the Project related to SUAs for off-lease activities and the Mineral Materials Permits is subject to the USFS objection process pursuant to 36 CFR 218 Subparts A and B. The USFS responsible official issuing a decision on this portion of the Project is Mel Bolling, CTNF Forest Supervisor. Objections will be accepted only from those who have previously submitted specific written comments regarding the Project either during scoping or other designated opportunities for public comment in accordance with 36 CFR 218.5(a). Issues raised in objections must be based on previously submitted, timely, and specific written comments regarding the Project unless based on new information arising after designated opportunities. Incorporation of documents by reference in the objection is permitted only as provided for at 36 CFR 218.8(b). Minimum content requirements of an objection are identified in 36 CFR 218.8(d).
Individual members of organizations must have submitted their own comments to meet the requirements of eligibility as an individual; objections received on behalf of an organization are considered as those of the organization only. If an objection is submitted on behalf of a number of individuals or organizations, each individual or organization listed must meet the eligibility requirement of having previously submitted comments on the Project (36 CFR 218.7). Names and addresses of objectors will become part of the public record.

Written objections, including any attachments, must be filed (regular mail, fax, email, hand-delivery, or express delivery) with the Reviewing Officer within 60 days following the publication date of a legal notice in the newspaper of record, which is the Idaho State Journal. The publication date in the Idaho State Journal is the exclusive means for calculating the time to file an objection to the Draft ROD. Those wishing to object should not rely upon dates or timeframe information provided by any other source.

The Reviewing Officer is the Regional Forester. Send objections to: Objection Reviewing Officer, USFS Intermountain Region, 324 25th Street, Ogden, Utah 84401; or fax to 801-625-5277; or by email to: objections-intermtn-regional-office@fs.fed.us. The office business hours for those submitting hand-delivered objections are: 8:00 AM to 4:30 PM Monday through Friday, excluding holidays. Electronic objections must be submitted in a format such as an email message, pdf, plain text (.txt), rich text format (.rtf), or Word (.doc or .docx). It is the responsibility of objectors to ensure their objection is received in a timely manner (36 CFR 218.9).

8.1.2 Implementation

If no objections are filed within the 60-day objection filing period, the approval and signing of the Final Record of Decision (ROD) may occur on, but not before, the fifth business day following the end of the objection filing period (36 CFR 218.12(c)). If an objection is filed during the objection filing period, the Final ROD will not be signed until the objection reviewing officer has responded in writing to all pending objections and all concerns and instructions identified by the reviewing officer in the objection response have been addressed (36 CFR 218.12(a)(b)).

Per 36 CFR 218, no legal notice is required once the Final ROD is signed. However, the Forest Service may send out a letter or news release to notify any interested parties of the availability of the decision.

8.2 Further Information and Contact Person

Kyle Free, Project Manager
4350 Cliffs Drive
Pocatello, Idaho 83204
Phone: (208) 478-6352
Fax: (208) 478-6376
Email: kfree@blm.gov
Office hours: Monday through Friday, 8:00 am through 4:30 pm
8.3 Responsible Official and Signature

Mel Bolling
Forest Supervisor, Caribou-Targhee National Forest

Date
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REFERENCES


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