

RECORD OF DECISION AND PLAN OF OPERATIONS APPROVAL

September 25, 2002

NEWMONT MINING CORPORATION'S

LEEVILLE PROJECT N16-97-004P (N-71251)

INTRODUCTION

In March 1997 Newmont USA Limited d/b/a Newmont Mining Corporation (Newmont)¹ submitted to the Elko Field Office of the Bureau of Land Management (BLM) a Plan of Operations, as required by 43 CFR 3809, for a proposed underground mining operation, Newmont's Leeville Project. The proposed Action includes: (1) construction of five shafts to access three main ore bodies at depths of approximately 2,500 feet below ground surface, (2) construction of ancillary mine facilities including shaft hoists, waste rock disposal facility, refractory ore stockpile, facilities to support mine dewatering, facilities to support backfill operations, (3) dewatering of up to 25,000 gpm for eighteen years.

To respond to Newmont's Plan of Operations, BLM conducted public scoping on Newmont's proposal, and prepared a Draft Environmental Impact Statement (DEIS) which was issued on March 1, 2002. Comments on the DEIS were solicited by BLM until April 29, 2002. After evaluating the comments received, BLM, with input from Newmont, prepared a Mitigation and Monitoring Plan to eliminate or reduce the potential impacts relating to the proposed underground mine that were identified in the EIS. The Mitigation and Monitoring Plan (hereafter referred to as the Mitigation Plan) was reviewed and accepted by BLM. BLM prepared a Final EIS (FEIS) which was published July 26, 2002, that considered the comments that were received as well as the Mitigation and Monitoring Plan that was committed to by Newmont.

DECISION

Based upon the FEIS, I have determined that the implementation of the Leeville Project Plan of Operations incorporating the agency preferred alternatives (as described below), as modified by the Mitigation Plan, as well as the additional mitigating measures described below, will not cause unnecessary or undue degradation of the public lands, and will not cause any unacceptable conflict with other significant resources in the area. Approval and implementation of the Plan of Operations is consistent with the Elko Resource Area Management Plan, which was approved in March 1987. The Plan of Operations is approved.

¹ The Plan of Operations was originally submitted by Newmont Gold Company. Through a series of mergers and name changes, that entity is now known as Newmont USA Limited, which is doing business as Newmont Mining Corporation.

Included as a part of this Decision is the approval of the proposed reroute of the Sierra Pacific powerline, case file N-47775, located in a portion of the S½, Section 2 and the NW¼, Section 11, T. 35 N., R. 50 E., M.D.M. The reroute will facilitate the implementation of the Leeville Project Plan of Operations.

**ALTERNATIVES, INCLUDING THE PROPOSED ACTION,
BLM'S PREFERRED ALTERNATIVE, AND
THE ENVIRONMENTALLY PREFERRED ALTERNATIVE**

The DEIS considered several alternatives designed to address issues identified during public scoping. The BLM concluded that several of those alternatives were technically or economically infeasible or were inconsistent with the purpose and need for the proposed project. The DEIS evaluated in detail the Proposed Action, the No Action Alternative, and the following action alternatives:

- Eliminate canal portion of water discharge system.
- Backfill the mine shafts.
- Relocate the waste rock disposal facility and refractory ore stockpile.

A full description of each of the alternatives can be found in the Leeville DEIS and FEIS.

BLM's Agency Preferred Alternative incorporates all three alternatives and is described in more detail in the FEIS. This Decision is consistent with the Agency Preferred Alternative.

The National Environmental Policy Act, as interpreted through the regulations promulgated by the Council on Environmental Quality, requires that the Record of Decision for any federal action also identify the "environmentally preferable" alternative. Because mining is, by its nature, disruptive to the resources in the immediate area being mined, the No-Action Alternative would result in the least disturbance to the environment, and would therefore be the environmentally preferable alternative. However, BLM has concluded that the Mitigation Plan adequately addresses the potential impacts identified in the DEIS that may result from implementing the Preferred Alternative.

MANAGEMENT CONSIDERATIONS

Newmont's Plan of Operations provides for mining at Leeville, an area within the Elko District where mining has been identified as an appropriate land use that is in conformance with the Elko Resource Management Plan. The mine area is not included in any areas of designated national, regional or local significance. Mining, by law, is a valid use of the public lands, which is inherently site-specific and which does not lend itself to relocation.

Newmont's and Barrick's past operations in the general vicinity have established mining as the principal land use in the area in the near term. BLM anticipates that implementation of the Mitigation Plan as part of the Plan of Operations will be successful in reducing impacts to the

environment. Approval of the Plan will permit Newmont to utilize approximately 400 people from its existing workforce and its existing equipment and infrastructure to develop its Leeville Project.

The Plan of Operations, including the Mitigation Plan, will minimize the adverse environmental impacts identified in the EIS and ensure that all practicable means to avoid or reduce environmental harm have been incorporated into the project. The monitoring requirements of the Plan of Operations and Mitigation Plan will assist Newmont, BLM and others in identifying and mitigating or avoiding any unforeseen environmental impacts that may occur. The long-term monitoring and mitigation committed to, including periodic review and recalibration of Newmont's hydrogeologic numerical groundwater model, will provide additional protection and periodic opportunities for BLM to refine and modify the analysis, mitigating measures and determinations contained in this Decision.

Considering all pertinent factors, the Agency Preferred Alternative provides for the systematic development of a minable resource in the least environmentally impacting manner. All practicable means to avoid or minimize environmental harm from the selected alternative have been adopted.

Pursuant to the Endangered Species Act, 16 U.S.C. §§ 1531 *et seq.*, BLM has prepared a Biological Assessment for the Leeville Project. As set forth in the Biological Assessment, BLM has concluded that implementation of the Plan of Operations is not likely to have any adverse impacts to Lahontan Cutthroat Trout (LCT) or any other listed species or critical habitat. The Biological Assessment was submitted to the U.S. Fish & Wildlife Service (FWS) for review on July 16, 2002 (50 C.F.R. § 402.12(j)). The FWS responded in writing, in a letter received by BLM on August 5, 2002 following informal consultation, stating their concurrence with the conclusions of the Biological Assessment (50 C.F.R. § 402.13(b)).

Pursuant to the National Historic Preservation Act, 16 U.S.C. §§ 470 *et seq.*, BLM evaluated whether operations under the Plan of Operations would affect properties eligible for listing on the National Register of Historic Places, and concluded that there would be no adverse effect. By letter received by BLM on June 4, 2002, the Nevada State Historic Preservation Office agreed that the proposed project would have no effect on traditional cultural properties, and concurred with BLM's "no effect" determination with respect to properties eligible for listing on the National Register.

MITIGATION AND MONITORING

This Decision expressly incorporates each of the following mitigation measures and monitoring requirements, as well as those set out in the Mitigation Plan.

1. Any significant modification of the Plan of Operations affecting public lands or resources must be reviewed and approved by the Authorized Officer prior to its implementation. BLM reserves the right to require Newmont to submit a modification to their Plan of Operation, in accordance with 43 CFR 3809.431, in the event that BLM determines that current operations would cause unnecessary or undue degradation of public lands or resources. In addition, if BLM determines at any time that the Plan of Operations as

approved in this Record of Decision is causing environmental impacts beyond those analyzed in the Leeville Project EIS, BLM may require the preparation of supplemental environmental documentation under NEPA to analyze those impacts. Such circumstances may include, but are not limited to, any expansion of the dewatering cone of depression beyond the area of impact analyzed in the EIS, and surface disturbance of previously undisturbed areas in connection with the augmentation plan or otherwise.

2. Within 90 days after implementation of the Plan of Operations, Newmont shall prepare and record an amendment to Section 1.6 of the existing conservation easement (recorded in the Eureka County Recorder's Office at Book 338, pages 476-496), which Newmont granted to BLM, covering riparian exclusion and restoration zones along middle Maggie Creek. The amendment shall include the following language, which extends the term of the easement by seventy eight (78) years:

“The Easement conveyed by this Article I shall terminate in the year 2120 or at such time as Maggie Creek flow augmentation required under the South Operations Area Project 1993 Environmental Impact Statement Mitigation Plan, if any, ceases, whichever is later; provided that in no event shall the term of this Easement extend beyond 2161.”

3. Newmont will continue to implement the draft Refractory Stockpile and Waste Rock Dump Monitor Plan as modified and described in the Leeville Project Mitigation Plan. Newmont will work with NDEP and BLM towards finalization of this monitoring plan.
4. Newmont shall avoid or mitigate impacts to cultural resources determined to be eligible for inclusion on the National Register of Historic Places (Historic Properties) resulting from the proposed action and associated mitigation measures, regardless of surface ownership. To achieve this, Newmont shall ensure that, prior to the initiation of surface disturbing activities, a qualified archeologist has examined the proposed development area and, in consultation with BLM, identified any Historic Properties.
 - a. When Historic Properties are located on lands owned or controlled by Newmont and avoidance is not practicable, Newmont shall contract with a qualified archeologist to conduct a data recovery program. Upon completion of the fieldwork phase of data recovery, Newmont may proceed with the surface disturbing activity affecting such Historic Properties. Newmont shall provide BLM with a technical report documenting the data recovery no later than one year from the completion of the fieldwork.
 - b. When Historic Properties are located on public lands Newmont shall comply with the procedures established under the National Historic Preservation Act of 1966 as amended.
5. Any public or private wells that are adversely affected by the Leeville Mine dewatering, with respect to beneficial use, shall be replaced or another water source of equivalent

yield and quality will be provided during the period of effect, as required by the State of Nevada.

6. Mitigation of fossilized materials may be required by BLM if vertebrate remains are discovered during construction, operation, or closure activities. If vertebrate remains are discovered, BLM shall be notified. BLM will determine the significance of the resources and develop a plan for mitigation and possible salvage of the vertebrate remains. If required by BLM, Newmont shall avoid and protect the remains until a qualified paleontologist, contracted by Newmont, conducts the investigation.
7. Before any surface disturbing activities are initiated, Newmont shall provide good and sufficient financial surety for post-mine closure reclamation to BLM. This reclamation bond currently calculated and approved by the BLM and Nevada Division of Environmental Protection (NRS and NAC 519A) to be \$4,974,200 will be reviewed and updated every three years.
8. The MINEDW groundwater model has predicted that Leeville will add 20 years to the recovery time of current dewatering on the Carlin Trend. Newmont shall assume an additional 20 year commitment (or as determined by recalibration of the model) beyond that commitment by Newmont for the SOAPA project and Barrick for the BETZE Goldstrike Mine project to post-mine closure mitigation including, without limitation, potential streamflow augmentation and replacement of spring, seeps, or wells.
9. Within six (6) months after implementation of the Plan of Operations, Newmont shall post \$875,700 under BLM bonding authority, for the purposes of long term groundwater and surface water monitoring, as described in the Leeville Project Mitigation Plan, Appendix A of the FEIS. Such monitoring shall be conducted until the estimated maximum extent of the drawn down cone, approximately 100 years post closure. The bond amount is the cost, in current dollars, necessary for 100 years of post mining monitoring. Every three years following signing of this Record of Decision, the bond amount shall be reevaluated to guarantee that the amount is adequate to cover the necessary monitoring for 100 years and updated when necessary to account for inflation, changes in State or Federal regulations or policy, and other changes in the cost of doing business. Cost updates shall be approved by BLM, and the bond amount shall be adjusted accordingly. At the end of mining, the final bond amount shall be sufficient to fund 100 years of groundwater and surface water monitoring, with potential cost increases over that time taken into account. The bond amount will continue to be reevaluated every three years following mining.
10. BLM will initiate an annual multi-cooperators (BLM, FWS, Nevada Division of Wildlife, Newmont) interdisciplinary field evaluation of the ongoing riparian monitoring program.

PUBLIC INVOLVEMENT

The Plan of Operations for the Leeville Project was submitted to BLM in April of 1997. A notice of intent to prepare the EIS was published in the Federal Register on August 1, 1997. Publication of this notice initiated a 30-day public scoping period that provided for acceptance of comments

through September 2, 1997. A formal public scoping meeting was held in Elko, Nevada, on August 20, 1997.

During the scoping period a total of twelve written responses were received from individuals and groups. This includes comments received from the Nevada State Clearinghouse. A Public Scoping Report was developed by BLM in August 1997 that summarized the scoping process and comments.

Based upon the public comments received and the issues and concerns identified by BLM a DEIS was prepared. The DEIS was filed with the Environmental Protection Agency which subsequently published a Notice of Availability on March 1, 2002. A 60 day comment period was held through April 29, 2002. The public, including all those interested parties identified on the updated Leeville Project EIS mailing list, and appropriate local and regional news media were notified in writing of the periods available for comment. A Public meeting was held in Elko, Nevada on April 3, 2002 and was attended by approximately 44 individuals. Twenty comment letters were received. Based on those comments, BLM prepared an FEIS, which incorporated additional analyses and responses to those comments. Notice of Availability of the FEIS was published in the Federal Register on April 26, 2002, and a 30-day public comment period was held through August 26, 2002. Comment letters were received. BLM reviewed those comment letters and concluded that they did not present new information that would justify additional changes to the FEIS.

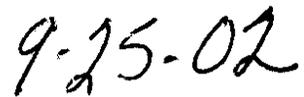
APPEALS

This Decision is subject to appeal pursuant to 43 CFR § 3809.800. A party that is adversely affected may file such an appeal in accordance with the procedures in 43 CFR Part 4. An appeal shall be filed not later than 30 days after the date of publication of the Notice of Availability of the ROD in the Federal Register. See 43 CFR Part 4.

APPROVAL



Helen Hankins
Helen Hankins
Field Manager



9-25-02
Date