

RECORD OF DECISION AND PLAN OF OPERATIONS APPROVAL

July 26, 2002

NEWMONT MINING CORPORATION'S

SOUTH OPERATIONS AREA PROJECT AMENDMENT N16-81-009P

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) an amended Plan of Operations, as required by 43 CFR 3809, for a proposed expansion of Newmont's South Operations Area Project. The proposed amendment would allow Newmont's existing Gold Quarry Mine to continue for ten years beyond the current permit. The proposed Action includes: (1) additional mining to approximately 350 feet below the currently approved operating level of the Gold Quarry open pit mine with attendant 139 acre lateral expansion, (2) continuing to dewater the mine and discharge groundwater at a rate no greater than 25,000 gallons per minute directly into Maggie Creek six miles above its confluence with the Humboldt River, (3) expanding waste rock disposal facilities and leach facilities, and (4) constructing associated ancillary facilities.

To respond to Newmont's amended Plan of Operations, BLM conducted public scoping on Newmont's proposal, and prepared a Draft Environmental Impact Statement (DEIS) which was issued on September 1, 2000. Comments on the DEIS were solicited by BLM until October 31, 2000. After evaluating the comments received, BLM, with input from Newmont, prepared an amendment to the existing 1993 South Operations Area Project Mitigation and Monitoring Plan to eliminate or reduce the potential impacts relating to the proposed expansion that were identified in the EIS. The amended Mitigation and Monitoring Plan (hereafter referred to as the Mitigation Plan) was reviewed and accepted by BLM on April 12, 2002. BLM prepared a Final EIS (FEIS) 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 amended Plan of Operations, 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 amended Plan of Operations is consistent with the Elko Resource Area Management Plan, which was approved in March 1987. The amended Plan of Operations is approved.

¹ The amended 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.

**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:

- Backfilling the MAC open pit mine with waste rock generated from the Gold Quarry Pit;
- Relocating waste rock to be placed in Waste Rock Dump Facilities to reduce surface disturbance associated with those facilities.

A full description of each of the alternatives can be found in the SOAPA FEIS.

In the DEIS, BLM selected the Proposed Action with backfilling of the Mac Pit as the Preferred Alternative. BLM reviewed the comments received during the 60 day public review period on the DEIS. Based on those comments, the Mitigation Plan, and additional geotechnical studies prepared after issuance of the DEIS, the BLM revised its Preferred Alternative. Generally, those who commented on the Mac Pit backfill option considered it to be a waste of resources with very little return; i.e., aesthetic appearance and recovery of 40 acres of potential grazing land/wildlife habitat. Reduction in the size of the waste rock dump facilities would have been insignificant. No comments were received supporting the Mac Pit backfill Alternative. The Preferred Alternative identified in the FEIS includes all components of the Proposed Action with implementation of the Mitigation Plan. BLM's Agency Preferred Alternative 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 amended Plan of Operations provides for the continuation and expansion of existing mining within the South Operations Area, 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 past operations in the South Operations Area and the operations of other mining companies in the same general vicinity have established mining as the principal land use in the area in the near term. Newmont's past efforts to minimize adverse environmental impacts have been successful and have actually resulted in improvement of certain habitat types in the area, namely riparian and aquatic habitat. BLM anticipates that continued implementation of the Mitigation Plan as part of the amended Plan of Operations will be similarly successful. Approval of the Plan will permit Newmont to utilize its existing workforce of approximately 900, and its existing equipment and infrastructure to further develop its South Operations Area Project.

The amended 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 amended 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 South Operations Area Project Amendment. As set forth in the Biological Assessment, BLM has concluded that implementation of the amended 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 December 6, 2001 (50 C.F.R. § 402.12(j)). The FWS responded in writing April 23, 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 amended 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 dated June 15, 2001, 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 South Operations Area Project Amendment 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 amended 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 eight years:

The Easement conveyed by this Article I shall terminate in the year 2050 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 2091.
3. If, at any time following cessation of active mining at the Gold Quarry pit, BLM determines that the water quality of the pit lake is hazardous to migratory birds, Newmont shall take such measures as BLM determines are reasonably necessary to mitigate such hazard.
4. Newmont will continue to implement the draft Refractory Stockpile and Waste Rock Dump Monitor Plan. Newmont will work with NDEP and BLM towards finalization of this monitoring plan.
5. 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.
 - c. Newmont shall contract with a qualified archeologist to periodically monitor, as prescribed by BLM, and identify any potential impacts to site CRNV-12-11723 resulting from Newmont's dewatering discharge into Maggie Creek. In the event any such potential impacts are identified, Newmont shall comply with the provisions of subparagraph a. above.
6. Any public or private wells that are adversely affected by the Gold Quarry 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.
 7. 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.
 8. Before any surface disturbing activities are initiated, Newmont shall provide good and sufficient financial surety for post-mine closure reclamation to BLM, in a manner consistent with the regulations of the Nevada Division of Environmental Protection governing financial surety for reclamation (NRS and NRC 519A).
 9. Within 90 days after implementation of the amended Plan of Operations, Newmont shall post \$3,000,000 under BLM bonding authority, for post-mine closure mitigation including, without limitation, potential streamflow augmentation. 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 cost increases over the previous three years. At the end of mining, the final bond amount shall be sufficient to cover potential cost increases over the following 18 years. The bond amount will continue to be reevaluated every three years following mining. If, following mine closure, recovery of the water table as evidenced by the pit lake water surface, has been found to differ

from the original prediction of a 90% recovery in 18 years, the bond amount shall be adjusted accordingly. Funds remaining when the pit lake has achieved 90% recovery shall be returned to Newmont.

10. Within 90 days after implementation of the amended Plan of Operations, Newmont shall post \$465,000 under BLM bonding authority, for the purposes of long term groundwater and surface water monitoring, as described in Appendix C of the FEIS. Such monitoring shall be conducted until the surface of the pit lake rises to within 90% of the pre mining water table as measured from maximum drawdown achieved during the life of the project. The MINEDW groundwater model has predicted this recovery time to be 18 years following cessation of mining. The bond amount is the cost, in current dollars, necessary for 18 years of post mining monitoring as required by Nevada BLM Bonding Process For Notices and Plans of Operations authorized by 43 CFR 3809, June 2002. 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 18 years, or until the pit lake surface achieves 90% recovery, 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 calculated by BLM, and the bond amount shall be adjusted accordingly. At the end of mining, the final bond amount shall be sufficient to fund 18 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. If, following mine closure, recovery of the water table as evidenced by the pit lake water surface, has been found to differ from the original prediction of a 90% recovery in 18 years, the bond amount shall be adjusted accordingly. Funds remaining when the pit lake has achieved 90% recovery shall be returned to Newmont.
11. 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 amended Plan of Operations for the South Operations Area Project Amendment was submitted to BLM in March of 1997. A formal public scoping meeting was held in Elko, Nevada, on July 9, 1997. In addition to the officials and agencies identified above, 214 scoping letters were sent to various agencies, groups, and individuals. Each of the 13 individuals who attended the scoping meeting held in Elko also received a copy of the scoping letter.

Scoping comments were accepted until July 18, 1997. During that period a total of six 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 September 1, 2000. A 60 day comment period was held through October 31, 2000. The public, including all those interested parties identified on the updated South Operations Area Project Amendment 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 in September 2000 and was attended by approximately 75 individuals. Seventy-four 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 May 28, 2002. Eleven 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
Field Manager


Date