

# Decision Record

## **Western Energy Development Corporation Kings Valley Uranium Exploration Project Environmental Assessment DOI-BLM-NV-WO10-2010-0008-EA**

### **Introduction**

Western Energy Development Corp. (WEDC) submitted a Plan of Operations (PoO) expanding their two existing Notice-level uranium exploration projects in the Kings River Valley, on the western slopes of the Montana Mountains, located approximately sixty-three miles north-northwest of Winnemucca in Humboldt County, Nevada. The project is located within portions of T.45 N., R. 34 E., Sections 4, 9 and 16; and T.46 N., R. 34 E., Sections 22, 27, 28, 33 and 34. MDB&M, and covers approximately 1,383 acres of public land, of which 250 acres (including the approximately nine acres already disturbed under their current Notices) are planned to be disturbed in a multi-phased project.

The proposed Phase I surface disturbance (including approximately nine acres of existing notice level disturbances) will consist of up to 210 new drill sites accessed by approximately 44,925 linear feet of new roads on 44.65 acres on public land. Subsequent surface disturbance in future phases would be dependent upon the results of exploration in Phase I. The project is planned to run for approximately 10 years. Reclamation will include recontouring the surface disturbances and revegetation.

### **Compliance/Conformance**

The proposed action is in conformance with and is consistent with the *Paradise-Denio Management Framework Plan*, approved July 9, 1982. The proposed action is consistent with the plans and policies of neighboring local, county, state, tribal, and federal governments to the greatest extent possible. Under the proposed action, no federal, state, or local law, or requirement imposed for the protection of the environment will be threatened or violated.

### **Decision**

Based on the Kings Valley Uranium Exploration Project Environmental Assessment (EA), DOI-BLM-NV-WO10-2010-0008-EA and the attached Finding of No Significant Impact (FONSI) it is my decision to implement the proposed action subject to the stipulation listed below.

#### *Stipulation*

Rangeland improvements located within the Project Area will be avoided in planning for the phased drilling, and should unintentional impact occur to any range improvement by WEDC, they must repair or replace the improvement to meet BLM design specifications.

## **Public Involvement**

### *Preliminary EA*

On February 27, 2009, a scoping letter was posted to the BLM's website and sent to potentially interested parties by the BLM, and on May 10, 2010, a notification of availability to review the Preliminary EA was posted to the BLM's website and sent to potentially interested parties by the BLM. Several comments that fall within the parameters of the EA were received during the 30-day review period on the preliminary EA. Based on a thorough review of public comments received during the 30-day review, no changes to the conclusions made in the EA were made. Additionally, in finalizing the EA, Chapter 9 – *Public Involvement* was updated.

### *Native American Consultation*

The BLM contacted the Fort McDermitt Paiute and Shoshone Tribe by letter and follow-up telephone calls regarding this project. A sacred site in the vicinity of the project area was identified by the Fort McDermitt Tribe and a consultation field trip was held with the Tribe. Since the sacred site will be avoided by the proposed exploration project and all disturbance associated with the proposed action will be reclaimed, it was determined that the proposed action will not impact the sacred site. Additional concerns were expressed by the McDermitt Tribe about impacts to air quality. However, it was determined that impacts to air quality will be short-term and minimal.

Copies of the preliminary EA were also sent to the Fort McDermitt Paiute and Shoshone Tribe, Battle Mountain Band Council, Pyramid Lake Paiute Tribe, and the Summit Lake Paiute Tribe when the PEA was made available for public review. No additional comments were received from these tribes.

## **Rationale**

My decision is based on the attached FONSI, the proposed action, which includes two additional environmental measures (listed below) WEDC committed to adding to their Plan during the NEPA process, the environmental analysis in the EA, and compliance with the stipulation in this decision record. Additionally, the proposed action will not result in any unnecessary or undue environmental degradation of public lands, has addressed public comments, and is consistent with federal, state and local laws, regulations and plans.

Through the NEPA process, WEDC committed to the following four additional environmental measures as part of their Plan.

- If Project-related surface disturbance (i.e., vegetation removal, road construction, drilling) will occur during the raptor nesting season, a survey for active raptor nests (with eggs or young) will be conducted by a qualified biologist. If present, active golden eagle (*Aquila chrysaetos*) nests will be avoided by an area one-half mile in radius from February 15 to July 1, or until the young are fledged, of each year the nest is active. If present, active prairie falcon (*Falco mexicanus*) nests will be avoided by an area 0.25 mile in radius from April 1 to July 1, or until the young are fledged, of each year the nest is active. The results of the nesting raptor survey will be reported to the BLM Biologist within two weeks of the survey.
- WEDC will avoid exploration drilling between March 15th and May 15th to protect greater sage-grouse winter, breeding, and brood rearing habitat. However, if avoidance is not possible

during this time period, WEDC will avoid drilling from one hour before sunrise until noon between March 15th and May 15th. WEDC will begin drilling from sites located in the southern part of the Project Area and move northward to protect sage grouse and their leking habitat and their courting behaviors.

- WEDC will avoid road construction and drilling activities between May 1 and June 30 to protect bighorn sheep (*Ovis canadensis californiana*) during the lambing season.
- An open adit located at the Moonlight Mine has the potential to serve as sensitive bat species habitat. WEDC will avoid drilling within 600 feet of the Moonlight Mine adit year-round, unless a survey is conducted by a qualified bat biologist to determine whether the adit serves as sensitive bat species habitat. If a survey finds the adit does provide habitat for sensitive bat species, the restriction could be modified temporally so that the avoidance of 600 feet will apply only during the times of the year when the adit is utilized by sensitive bat species. If a survey finds the adit does not provide habitat for sensitive bat species, the 600-foot restriction may be lifted.
- WEDC will utilize directional lighting directed downward on to the pertinent site only and away from adjacent areas. WEDC will utilize lighting that is hooded and shielded so as not to allow the bulb to shine up or out.

Based on the President's National Energy Policy and Executive Order 13212, the proposed action will not generate any adverse energy impacts or limit energy production and distribution. Therefore, no "Statement of Adverse Energy Impact" is required.

### **Authority**

The authority for this decision is contained in the Mining Law of May 10, 1872, as amended (17 Stat. 91), the Surface Resources Act of 1955 (30 United States Code (U.S.C.) 611-614), the Federal Land Policy Management Act (FLPMA) of 1976 (43 U.S.C. 1701 et seq.), and the Code of Federal Regulations (CFR) at 43 CFR 3809.

### **Appeal Provision**

If you do not agree and are adversely affected by this decision, you may request that the Nevada BLM State Director review this decision in accordance with 43 CFR §3809.804 *et seq.* If you request a State Director review, the request must be received in the Nevada BLM State Office, at one of the following addresses, no later than 30 calendar days after you receive this decision:

<u>By mail:</u>	or	<u>By delivery:</u>
Bureau of Land Management		Bureau of Land Management
Nevada State Office		Nevada State Office
Minerals Adjudication Branch		Minerals Adjudication Branch
P.O. Box 12000,		1340 Financial Blvd
Reno, Nevada 89520-0006		Reno, Nevada, 89502

A copy of the request must also be sent to this office. The request for State Director Review must be in accordance with the requirements of 43 CFR §3809.805. This decision will remain in full force and effect while the State Director review is pending, unless a stay (suspension) is granted by the State Director

under 43 CFR §3809.808(a). If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the Nevada State Director does not make a decision on whether to accept your request for review within 21 calendar days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Nevada BLM State Office to determine when the BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal (see procedures below).

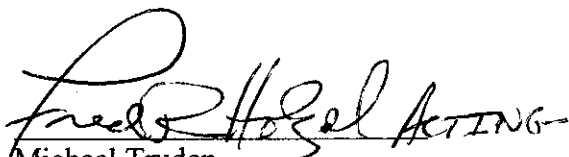
If you wish to bypass a State Director review, this decision may be appealed directly to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4. Your notice of appeal must be filed in this office at 5100 East Winnemucca Blvd, Winnemucca, NV 89445 within 30 days from receipt of this decision. As the appellant, you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1 that contains information on taking appeals to the IBLA.

If you wish to file a petition (request) pursuant to regulation 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413 or Form 1842-1 enclosed) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- 1) The relative harm to the parties if the stay is granted or denied,
- 2) The likelihood of the appellant's success on the merits,
- 3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- 4) Whether the public interest favors granting the stay.

  
Michael Truden  
Field Manager  
Humboldt River Field Office

7/23/10  
Date

Attachments:  
EA (DOI-BLM-NV-WO10-2010-0008-EA)  
Finding of No Significant Impact (FONSI)  
Form 1842-1 (September 2005)