RECORD OF DECISION

CELATOM MINE EXPANSION PROJECT

Harney and Malheur Counties, Oregon

Environmental Impact Statement: DOI-BLM-OR-B050-2009-0037-EIS
Interior Control Number: FES 12-12
Case File: OROR 058109

United States Department of the Interior
Bureau of Land Management
Burns District Office
28910 Hwy 20 West
Hines, Oregon 97738

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Cooperating Agencies:
Harney County Court
Oregon Department of Geology and Mineral Industries
U.S. Fish and Wildlife Service

INTRODUCTION

EP Minerals, LLC (EPM), or its predecessors, has been actively mining and exploring in the Celatom mining area since the 1980s on state, private, and public lands. EPM submitted their first mine plan of operations to Burns BLM in 1984. BLM prepared Environmental Assessment EA-OR-020-5-2 and issued the Decision Record in 1985 authorizing mining activities on BLM lands at the North Mill Gulch mine site (now called Kelly Field), construction of two new access roads from the Altnow-Buelah County Road to the North Mill Gulch and Beede Desert mine sites, and improvements to the Altnow-Beulah County Road and the Juntura Cutoff County Road. EPM's existing Celatom Mine operations consist of approximately 465 acres of surface disturbance in the Project Area. Existing operations include three open pit mine areas, ore stockpiles, waste rock repositories, access roads, water wells, ground water monitoring wells, a staging area, a mine camp, exploratory drill holes, and reclaimed areas. The open pit mining areas are referred to as the Section 36 Mine Operations Area (State land), the Kelly Field Mine Operations Area (BLM land plus a small amount of private land), and the Beede Desert Mine Operations Area (private land plus a small amount of BLM land). The Puma Claims Area is a five acre mine support area on BLM land with stockpiles, water well, and water tank.

In July 2008 EPM submitted to Burns BLM the Celatom Mine Plan of Operations (CMP) pursuant to the 43 CFR 3809 regulations proposing expansion of mining and exploration operations for diatomaceous earth (DE) in the Celatom Mine Complex in Harney and Malheur Counties, Oregon (Project). The Project is located approximately 50 miles east of Burns and 60 miles west of Vale, Oregon. Access to the Project is via the Juntura Cutoff Road (Harney County Road 303). The Project area extends between three and nine miles north of Highway 20 in portions of Township 19 South, Range 36 East (T19S, R36E); T19S, R37E; T20S, R36E; and T20S, R37E; Willamette Meridian (WM) (Project Area). The Project Area covers 12,640 acres, including 1,280 acres of State of Oregon land, 1,680 acres of private land, 8,080 acres of federal land administered by the BLM, and 1,600 acres of land patented under the Stock Raising Homestead Act (SRHA) with private surface estate and federal mineral estate, 320 acres of which are owned by EPM in Section 25. Generally speaking the proposed actions are: 1) expand mining operations at the Kelly Field Mine Operations Area, Section 36 Mine Operations Area, and Beede Desert Mine Operations Area; 2) implement mining operations at the Hidden Valley, North Kelly Field, and Eagle mine operation areas, 3) exploratory drilling, development drilling, sampling, trenching, and bulk sampling within the Project boundary, and 4) water quality and quantity monitoring. The life span of this plan is approximately 50 years. Concurrent and final reclamation activities would be implemented to reduce soil erosion, establish plant cover, and reduce noxious weed establishment during mining and rehabilitate disturbed areas post mining use.

The main documents referenced in this decision, FEIS and appendicies, "Celatom Mine Plan of Operations" and appendicies, and the "Baseline Characterization Report for the Celatom Mine …" (SRK 2010) and articles are available on the Burns BLM website http://www.blm.gov/or/districts/burns/plans/celatom/index.php. The website for the "Greater Sage-Grouse Conservation Assessment and Strategy for Oregon: a Plan to Maintain and Enhance Populations and Habitat" is provided with the References.

DECISION

Based on the analysis in the Celatom Mine Expansion Project (Project) Final Environmental Impact Statement (FEIS), it is my decision to approve the "Celatom Mine Plan of Operations" with the specific changes and additions identified below. The Mine Plan is the Proposed Action in the FEIS Section 3.2 using the mining methods described in Chapter 2. The complete Celatom Mine Plan of Operations is available on the Burns BLM website. The Celatom Mine Area is a mixture of public, private, and state of Oregon lands. While this decision is only for BLM managed lands, mines and facilities on other ownerships are referenced in this decision and the FEIS. This approval provides for use of the public lands within the Project area necessary for the following aspects of the Project plus changes to the Proposed Action that occurred during the Environmental Impact Statement (EIS) process.

Mining

Mining methods as described in FEIS Chapter 2 and the Mine Plan are approved. Mining is done using heavy equipment, blasting is not done. Exploratory drilling is done to locate and characterize ore bodies both before opening new mines and for mining in existing mines. Test holes are used to locate and characterize ore bodies. Test holes are immediately reclaimed unless the site will be mined within one year. Bulk sampling is done to determine the end product of ore processing. Bulk sampling sites are immediately reclaimed unless the site will be mined within one year. Up to 250 acres of exploration and bulk sampling are authorized within the Project area. Processing is done at the mill near Vale, OR, not at the mine site. Top soil, overburden, mine waste, and mineral process waste are stockpiled in the mine operation areas. As a mine expands overburden and mine waste are used to backfill areas where mining is completed. When areas are no longer needed for mining operations they are reclaimed. Once mining is completed the mines and support facilities will be reclaimed which includes removal and proper disposal of all structures, equipment, and support facilities, reclamation of the mine roads not specifically excepted, grading, contouring, and seeding. The reclaimed mines will look different than pre-mining, because large amounts of diatomite will be removed. Several highwalls may also remain post reclamation. Because the mines are in an area of hills and steep narrow valleys, these differences will not be apparent to the average person unless right at a mine location. Water quality and quantity monitoring will be conducted throughout the 50 year life of the Plan.

Kelly Field Mine Operations Area: Continued mining and expansion of mining up to a total disturbance area of 255.5 acres. Mining operations include mining; stockpiles of ore, mine waste, overburden, top soil and reclamation media, and mineral process waste; surface water control and sediment basins; and mine roads.

North Kelly Field Mine Operations Area: Mine development with disturbances up to 512.5 acres in two pits one on each side of Mill Gulch. Mining operations include mining; stockpiles of ore, mine waste, top soil and reclamation media, and mineral process waste; surface water control and sediment basins; and mine roads.

Hidden Valley Mine Operations Area: Mine development with disturbances up to 255.0 acres. Mine operations include mining; stockpiles of ore, mine waste, top soil and reclamation media, and mineral process waste; surface water control and sediment basins; and mine roads.

Eagle Mine Operations Area: Mine development with disturbances up to 286.0 acres. Mine operations include mining; stockpiles of ore, mine waste, top soil and reclamation media, and mineral process waste; surface water control and sediment basins; and mine roads.

Puma Claim: Continued operation of the Puma Claim service area with disturbance up to 5 acres. There is an existing water well and storage tank at this location. It is also used to stockpile road maintenance and other materials. This decision approves continuation of existing uses and adding one to several stock water troughs near the storage tank to service livestock when they are on the Mill Gulch Allotment.

Roads and Public Access

Connector Road: This decision approves construction of the connector road between the Section 36 service area and the Hidden Valley mine as described in FEIS Section 3.2.2.3.4. The connector road will be 1.75 miles long and 25 feet wide with wider turnouts. It will be a natural surface road with culverts across draws sized to accommodate 100-year floods. The connector road will include surface water control and sediment basins. The connector road will disturb up to 6.5 acres. The purpose for this road is moving mining equipment between the mines in Mill Gulch and the west side mines without further damaging the blacktop road in Mill Gulch. When the connector road is no longer needed for mining it will be reclaimed. It will not be a public road.

Other New Roads proposed in the Mine Plan or FEIS in the Project area but outside of mine operation areas are not approved and will not be constructed on BLM lands. These include the Hidden Valley – Eagle Connector Road, Box Springs Extension Road, and Short Rocky Basin Road. Any other roads that fit these criteria but are not specifically discussed are not approved by this decision.

Public Access: EPM will maintain public access through Mill Gulch. The exact location of the road can move to accommodate mining activity and ensure public safety. EPM will continue to allow ranchers to trail livestock through the south end of the Kelly Field mine.

The Beede Access Road and the Harney County Cottonwood Road cross public and private lands. The portions of these roads on public land are covered by this decision. Management of these roads is different than in the Mine Plan. The plan for the Beede Access road was developed through meetings between Harney County, EPM, and BLM, and based on comments to the Draft EIS. This road management was analyzed in the FEIS under the issues impacted; vegetation, noxious and invasive weeds, and soils. EPM is in agreement with the following relative to their leased private lands. The Beede Access Road will become the public access to Cottonwood Reservoir. During mining at Hidden Valley and Eagle, EPM will maintain this as the public access road replacing the portion of the Cottonwood Road from the Altnow-Buelah road to the west edge of the Beede Desert mine operation area. As the reclamation of Beede

Desert continues, EPM will maintain access from the Beede Access Road to the Cottonwood Road. This part of the road is on private land and EPM has agreed to do this. Post reclamation public access to Cottonwood Reservoir will be via the Beede Access Road to the Cottonwood Road and on to Cottonwood Reservoir. The Cottonwood Road is a county road, but the existing location of the road is not on the county right of way, and the county rarely maintains the road between Beede Desert and the Altnow-Buleah Road. Although it is officially a posted mine road and not a public road the public already generally uses the Beede Access Road rather than the south end of the Cottonwood Road.

Anticipated Actions on State and Private lands
(outside the scope of this decision)

Section 36 Mine Operations Area (state land): Mining activities will continue and mine expansion will occur on the 640 acres of State of Oregon land. In addition to mining Section 36 is the main support area for the Celatom Mine area. The office, fuel storage, shop, mine camp, and other support facilities are in Section 36. The Section 36 mine will expand north into section 25 on private land.

Beede Desert Mine Operations Area (private land): Limited mining continues to occur and concurrent reclamation is underway and ongoing. Because this mine is dry it is used for stock piling mineral process waste, ore stockpiling, and mine overburden. EPM will provide access through Beede Desert between the Beede Access Road and the Cottonwood Road. The Beede Access Road will provide mining and trucking access to the Hidden Valley and Eagle Mine Operation Areas. The state and private land in Section 36 and Beede Desert are outside the scope of this decision.

The Mine Plan contains sections on Sagebrush Flat (part 17) and Section 25 (part 18). Exploratory drilling and bulk sampling are authorized on BLM lands in these two areas as part of the Project area. Mining on BLM lands in these two areas was not analyzed in the current FEIS and is not authorized by this decision. The Vines Hill Stockpile (part 19) is near Vale, Oregon. Use of Vines Hill is not part of this FEIS or decision. Its use was authorized by a 1998 decision issued by Vale BLM, and its use continues as authorized.

Design Elements and Plans

Project Design Elements (FEIS 3.2.11) covering Reclamation, Public Safety and Access, Air Quality, Water Quality, Wastes, Cultural Resources, Survey Monuments, Invasive and Nonnative Species, Special Status Species and Wildlife, Migratory Birds, Erosion and Sediment Control, and Vegetation are authorized by this decision. In addition implementation of the Reclamation Plan (Mine Plan Appendix 54) on BLM lands is authorized by this decision. Three different reclamation seed mixes were analyzed in Alternatives 2 and 3. Because none were found to have deleterious environmental impacts and each is better in different locations and situations, use of all three is approved by this decision. The seed mix selected for reclamation of a specific location will be the mix most likely to be successful. Implementation of the Sampling and Analytical Plan (ground and surface water quality and quantity monitoring) (FEIS Appendix B and SRK 2010 Article 63) is authorized on BLM lands in the Project area.

The Mine Plan contains two mitigation plans; spill prevention and containment plan (Appendix 31) and Dust Control Plan (Appendix 32). Implementation of these plans on BLM lands in the Project Area as applicable is approved by this decision.

The Habitat Mitigation Plan (FEIS Appendix C) was developed between the draft and final EIS. It was developed by EPM in coordination with Oregon Department of Fish and Wildlife (ODF&W) and BLM. Within the Project area, the proposed Eagle, Hidden Valley, and North Kelly Field Mine Operation Areas, include greater sage-grouse core, low density, and non-core habitats and big game winter range. In cooperation with ODF&W and BLM, EPM will mitigate mine development at a rate of approximately 4.4 acres of mitigation per one acre disturbed by new mines. Mitigation will include western juniper control and medusahead rye control. 2,220 acres of applicable conifer control, including western juniper, was identified in the Cottonwood Creek Allotment Management Plan and analyzed in DOI-BLM-OR-B050-2010-0049-EA. The NEPA documentation for an updated integrated weed management plan for the entire Burns District is in preparation. EPM will conduct mitigation concurrent with mining up to 5,568 acres mitigated. Implementation of the Mitigation Plan is a condition of BLM's authorization of the Mine Plan. Annually before March 1 EPM will report mitigation actions and results to BLM.

Monitoring and Reporting

Unoxidized diatomite contains sulfides which when mixed with water can be acidic. The main purpose of the water quality monitoring is to test for low pH in surface and ground water or increased metal concentrations due to mobilization caused by acidic conditions, in other words acid drainage. The surface water monitoring also measures temperature and turbidity. EPM has monitored water quality since 2005 and contracted SRK to conduct a ground and surface water study (SRK 2010). This study constitutes the baseline for ongoing EPM monitoring of ground and surface water quality and quantity. The monitoring plan is in the FEIS (Appendix B) and SRK 2010 (Article 63). The surface water monitoring locations are Box Springs, Tubb Springs (BLM water developments), Hidden Valley pond (unmined area), Mill Gulch seeps (upstream and downstream from mining), and pit water. Temperature, pH, electrical conductivity, total dissolved solids (TDS), and flow rate are monitored in the field. In years when there is not enough water present to monitor all the parameters, only the parameters that are present are measured. If there is enough water, samples are collected for laboratory analysis. Water samples are tested for metals and the other parameters. As described in the FEIS (4.15) aluminum, arsenic, manganese, iron, and sulfates are constituents in samples from unmined areas and downstream from mined areas in similar concentrations. Ground water is monitored annually using 12 monitoring wells and one piezometer. TDS, pH, sulfates, and the four metals are monitored in ground water. Three additional piezometers are used to track depth to water. Two of the monitoring wells have always been dry. The sampling sites are located throughout the Project area (FEIS Fig 4.15.1). Additionally two or more new monitoring wells will be established up gradient of all proposed mining activities. One will be near the north edge of the North Kelly Field Mine Operations Area another north of the Eagle Mine within the Mine Plan area boundary. Before March 1 EPM will provide BLM with an annual water monitoring report. EPM's continued implementation of the water monitoring program and reporting is a condition of BLM's authorization of the Mine Plan.

Reclamation bonding is in place for the current operations on BLM lands. Oregon Department of Geology and Mineral Industries (DOGAMI) also holds reclamation bonds on the intermixed state and private land operations. The reclamation bonding for actions on BLM lands will be reviewed annually and adjusted to conform to 43 CFR 3809.500. Annually by December 1, EPM will provide BLM with GIS and/or AutoCad data acceptable to BLM that shows actions implemented the previous year and what is planned for the upcoming year. Bonding will be in place prior to development of new mines or facilities on BLM lands. As mines or facilities are successfully reclaimed, bonding will also be adjusted.

BLM recommends that EPM maintain volumetric records of materials sold or donated that were classified as waste, reject, or low grade in the Mine Plan.

RATIONALE FOR DECISION

As identified through internal and external scoping, comments to the DEIS, and working with cooperators, three main issues were identified during the NEPA process; potential of acid mine drainage, potential impacts to greater sage-grouse, and public access and wilderness characteristics. In conformance with the 1872 Mining Law, as amended, the selected action allows access to the mineral resources in an area open to mining (Three Rivers RMP, EM3) while preventing unnecessary and undue degradation (43 CFR 3809.5) of associated resources and values on public lands.

The "Baseline Characterization Report for the Celatom Mine" (SRK 2010), including articles, studied surface and ground water and used extensively in "water quality" and "geology and minerals" sections of the FEIS found that while unoxidized diatomite and water from spring runoff did form acidic ponds in the bottom of the Kelly Field and Section 36 mines in some years, acidic drainage did not occur. This study showed that while the potential exists, acid mine drainage is not occurring at the Celatom Mine. The required water quality monitoring that is part of this decision will ensure that if these conditions change they will be detected and corrected. The required monitoring will help prevent unnecessary and undue degradation of water quality from the authorized mining.

The status and management direction for greater sage-grouse have been changing throughout the course of the EIS. One result was the sections about sage-grouse changed from the Draft EIS to the FEIS. In coordination and cooperation with ODF&W, EPM developed a mitigation plan for potential impacts to sage-grouse habitat and big game winter range resulting from the Mine Plan. State of Oregon regulations and policies ensure that mitigation actions are conducted near the location of the impacts to be mitigated in areas likely to benefit the target species. The formula for calculating mitigation acreage ensures that more land is mitigated than disturbed with the goal of achieving a net benefit to the target populations. The mitigation plan in addition to the Mine Plan's spring restrictions on exploration actions will prevent unnecessary and undue degradation of greater sage-grouse habitat, migratory bird habitat, and big game winter range.

More public comments were received pertaining to public access and wilderness characteristics than any other topic. The comments ranged from guarantee motorized access to the lands north

of the mines to protect wilderness characteristics on the lands between the Section 36 and Beede Desert mines. This decision does not change the boundary road status of BLM road 4662 which lies north of the Mine Plan area and partially bisects the Rocky Basin LWC. Repeating the route inventory on road 4662 provided another opportunity to assess impacts of existing mines and potential impacts of proposed mines on wilderness characteristics from this road. The Beede Desert mine is visible from one short stretch of road 4662. Since the Eagle mine will be in the same valley and screened from view by the same topography and vegetation it too will be visible from the same stretch of road 4662. The Kelly Field mine is not visible from Rocky Basin LWC until part way down the road into Mill Gulch. Since the proposed North Kelly Field mines are also in Mill Gulch, they too will be visible from approximately the same area. These facts lead to the determination that development of the proposed Eagle and North Kelly Field mine operation areas would not change the existing LWC conditions in the part of the Rocky Basin LWC that lies north of road 4662.

Alternatives to the Proposed Action

The No Action Alternative would mean EPM would not be authorized to expand mining operations on public land as proposed in the Mine Plan. Under this alternative, EPM could continue with their 1985 approved operations (FEIS 2 and 3.1) until completed. EPM could also modify their proposal and resubmit it to the BLM or exclude additional use of public land and avoid the need for BLM approval.

Alternative 3 is the proposed action with additional design elements. The main additional design elements were constructing enclosure fencing around all mines until post-mining reclamation has been completed, and movement of public access to locations that bypass the mines. Alternative 3 included separate reclamation seed mixes designed for soils with high and low concentrations of diatomite. The alternative 3 design elements addressed specific environmental concerns in a manner different than the proposed action. EPM has been keeping up with the changes in the requirements of mining on public land. Design features in the proposed action proactively addressed several environmental concerns. Their Mine Plan and water quality monitoring plan address potential water quality impacts, dust control, public safety and access, noxious weed control, erosion control and bare ground management. EPM's Mine Plan contained mitigation plans and background studies and information.

The Proposed Action Alternative and the described modifications better conforms to applicable laws, regulations, Three Rivers RMP, and BLM policies that guide mining decisions as well of the purpose and need for the FEIS than the other two alternatives. The Proposed Action provides reasonable access to the applicants mining claims which complies with the 30 U.S.C. §228, FLPMA Section 102, and Three Rivers RMP EM 3. The FEIS found that the Proposed Action prevents unnecessary and undue degradation of public lands (43 CFR 3809.420) by monitoring ground and surface water quality and quantity, implementing the Dust Control Plan, and implementing the Habitat Mitigation Plan. The FEIS analyzed and balanced resource uses and values and short term economic benefit and long term resource uses and values in compliance with FLPMA (Sec. 102 (7), (12), and Sec. 103 (c)). In particular the FEIS assessed the relationships among mining, public access, and wilderness characteristics and found that the

Proposed Action complies with the various laws and regulations and balances the uses and values better than the alternatives.

Alternatives Considered but Eliminated from Detailed Analysis

Several alternatives were considered but not analyzed in detail. They fall into three groups, project scope, sequencing operations, and access routes. Changes in project scope were not analyzed in detail, because the 1872 Mining Law, as amended, ensures the claimant reasonable access to obtain and develop mineral resources not withdrawn from mineral entry. The Three Rivers RMP (EM 3, p. 2-162) says, "Provide maximum opportunity on Federal mineral estate in areas identified as open to operation of mining laws for the exploration and location of locatable minerals." The Celatom mining area is open to mineral entry. The Celatom mine was the only mining area specifically named in the RMP FEIS. Some of these alternatives are similar to alternatives which were analyzed in detail. Three scope alternatives were operational; mine green ore at Beede Desert, have one central ore stock pile for Kelly Field and Section 36 mines, and reroute Mill Gulch. The impacts of these alternatives are essentially the same as the actions approved in the 1985 decision. None of them have economic or practical benefits over the current actions. Three scope alternatives involve the size of the Project area; eliminate the parts of the Project area outside the mine operation areas, south of Puma Claims, or in the Rocky Basin Lands with Wilderness Characteristics area. When potential impacts to a resource could impact lands within the Project area but outside of mine operation areas these situations were identified for the specific resource. The reasons for analyzing the entire Mine Plan area were some mitigation and monitoring will occur outside of mine plan areas, and EPM proposes to conduct exploration work throughout the entire area. The Alternative 2 analysis area is the 1985 MPO area which did not include the area south of Puma Claim or the Rocky Basin LWC area, so these alternatives were not analyzed separately.

Sequencing operations is a mitigation identified in 43 CFR 3809.420(a)(2). This alternative was not analyzed in detail, because EPM does not have the capacity to open the three new mine operation areas and continue mining at Kelly Field and Section 36 simultaneously, so mining and mine development will be sequential, based on the diatomite market, not BLM decision. If BLM issued an operation sequence decision and there was market demand for the diatomite in the last mine in the sequence, BLM's decision would not be in conformance with "reasonable access" to EPM's mining claims. When the mine opens is much less of an impact than the life span of the mine. For these reasons this alternative was not analyzed further.

There were three access route alternatives. Two were raised by BLM with the goal of providing access to public lands north of the mines that bypassed the mines. These were called the Box Springs Extension and Short Rocky Basin Road. Neither was analyzed in detail, because they would require new road construction with its attendant potential impacts. To date public access on the Mill Gulch road through the Section 36 and Kelly Field Mine Operation Areas has proven workable for the public and EPM. This road is already present and the area is already disturbed by mining. The EIS process found there was neither need for nor benefits of alternate new access roads. The other route alternative was developed as a result of comments to the Draft EIS. The comment was to move or eliminate the proposed connector road between Section 36 and the proposed Hidden Valley Mine. The area south of the proposed connector road was

assessed for alternative routes. To summarize all alternate routes would have greater potential soil erosion and noxious weed impacts than the proposed route. Elimination of the connector road would require tracked mining equipment to operate on the blacktopped county road. This would cause more damage to this road. The benefit of moving the connector road south or eliminating it was maintenance of wilderness characteristics. During the field visits looking for alternate routes it was found that mines and support facilities were apparent from the ridge and every high point in the area inspected. Much of one narrow valley was visually shielded from views of existing mines, but the mine camp could be seen from the north end of this valley. The area from the proposed location of the connector road and south were already primarily impacted by the presence of man in the form of mines and support facilities. For these reasons this alternative was not analyzed in detail.

SELECTED ALTERNATIVE

The Proposed Action, FEIS section 3.2 and the Mine Plan and appendices, with the addition of the Wildlife Habitat Mitigation Plan and authorization of three seed mixes with road development as described above is the Environmentally Preferred Alternative, best meets the Purpose and Need of the project, complies with the 1872 Mining Law, as amended, 43 CFR 3809, and the Three Rivers RMP. The proposed action allows the claimant reasonable access to explore and develop mineral resources on BLM lands in compliance with the 1872 Mining Law, as amended, and the Three Rivers RMP.

Exploratory drilling and bulk sampling are used to locate and test ore bodies prior to mining avoiding unnecessary and undue degradation that would result from other approaches to finding and classifying ore. Water monitoring tracks the main potential environmental hazard, acid generation or movement and metal mobilization or movement. While this monitoring will continue, neither low pH nor metal concentrations different than those in unmined areas have been found outside of spring runoff in the bottom of the Kelly Field and Section 36 mines following wet winters. When this happened the acidic water was buffered in the pit and pumped into a sediment basin. Water quality monitoring helps prevent unnecessary and undue degradation. The three seed mixes were designed for interim and reclamation revegetation and revegetation of soils high in diatomite. The goals are to maintain plant cover to the extent possible reducing wind and water erosion and after mining establish permanent vegetation cover on all mine and service areas that reflects the diversity and structure of the native plant communities. Since there are different situations at the mine, different seed mixes are needed. The Dust Control Plan (Mine Plan Appendix 32) also helps control wind erosion and other sources of dust. Controlling erosion and dust and minimizing the amount of bare ground helps prevent unnecessary and undue degradation due to the authorized mining.

As described in the FEIS publication of the Draft EIS and FEIS fell on either side of publication of the most recent version of the Oregon greater sage-grouse strategy. It in turn accounts, in part, for the 2010 US Fish and Wildlife Service finding that greater sage-grouse were warranted but precluded for listing under the Endangered Species Act, by identifying the primary threats to sage-grouse on the Burns District as juniper encroachment and noxious weeds. As described in the FEIS while the lands immediately west of the project area have sage-grouse leks and appear to provide year round habitat, the Project area is the west edge of an area extending about 15

miles to the east where no sage-grouse leks have been found. In cooperation with BLM and ODF&W, EPM developed a sage-grouse habitat and big game winter range mitigation plan (FEIS Appendix C). The area of mitigation will be 5,568 acres, approximately 440% of the area disturbed by the new mines. The mitigation actions will be western juniper control and medusahead rye control. The locations of juniper control will be north, west and south of the Project area. Medusahead control mitigation will be in the Project area and north, west, and south of the Project area. Mitigation is focused outside and adjacent to the Project area to avoid the potential of implementing mitigation and then disturbing the same site with mining activities. Mitigation is also focused on areas occupied by greater sage-grouse and near occupied areas. Mitigation will occur concurrent with development of new mines. Even though the Project area is not high quality sage grouse habitat, implementation of the mitigation plan prevents unnecessary and undue degradation due to mining. EPM will report mitigation actions to BLM annual before March 1.

Environmentally Preferred Alternative

The No Action Alternative has resulted in 465 acres of land disturbance, and much of the authorized area is being mined or used for support services. EPM is currently implementing the spill prevention and containment plan (Mine Plan, Appendix 31), Dust Control Plan (Mine Plan, Appendix 32), and monitoring water quality. The Proposed Action would result in 1,394.5 acres of land disturbance. From an acreage perspective less land would be affected by the No Action Alternative than the Proposed Action.

The Selected Alternative includes the Habitat Mitigation Plan (FEIS, Appendix C), Sampling and Analytical Plan (water quality and quantity monitoring plan) (FEIS, Appendix B and SRK 2010, Article 63), reclamation seed mixes designed for the various kinds of soils, and minimizes new road construction and fence building. The spill prevention and containment plan and Dust Control Plan will continue to be used under the Proposed Action. Under the 1872 Mining Law, as amended, BLM can work with the miner on how mining is conducted, but cannot deny the miner access to their claims. In light of the requirements of the 1872 Mining Law, as amended, the Selected Alternative as described in the FEIS and Celatom Mine Plan of Operations better mitigates and manages mine impacts than the No Action Alternative and as a result is the Environmentally Preferred Alternative.

Management Considerations

In making my decision to approve the Proposed Action, as modified, I have carefully considered the following factors.

The Proposed Action, as modified, is the alternative that best fulfills the agency's statutory mission and responsibilities, considering environmental, technical, economic, and other factors.

The Decision conforms to the Three Rivers Resource Management Plan's objective EM 3 for minerals. "Provide maximum opportunity on Federal mineral estate in areas identified as open to operation of mining laws for the exploration and location of locatable minerals."

Implementation of this Decision will not cause unnecessary or undue degradation of the public lands and resources and is consistent with other legal requirements.

The Decision allows for expansion of mining and the attendant employment of mine and mill employees and contractors in a currently depressed economy.

The Proposed Action, as modified, encompasses all mining actions including; exploration, access, mine development, mining, service facilities, reclamation, environmental protection, environmental monitoring, wildlife habitat mitigation, and public access and safety.

EPM will continue managing noxious weeds. EPM will take appropriate measures such as spraying with BLM approved chemicals, surfactants and utilizing licensed applicators to prevent spread of noxious weeds and invasive non-native species. EPM will report weed management actions to BLM annually each December.

To prevent the spread of non-native invasive species and noxious weeds, vehicles and equipment constructing roads and opening new mine areas will be power washed prior to leaving the mine area. Vehicles will be cleaned in an unvegetated disturbed area to make monitoring and possible control of invasive species and noxious weeds easier. This can be done at the service area in Section 36.

EPM's "Habitat Mitigation Plan" conforms to ODF&W's "Greater sage-grouse conservation assessment and strategy for Oregon" (Hagan 2011a), "Implementing habitat mitigation for greater sage-grouse under the core area approach" (Hagen 2011b), and "Fish and Wildlife Habitat Mitigation Policy" (Oregon Administrative Rules, Division 415). The plan was developed in cooperation with ODF&W.

The Proposed Action will impact lands with wilderness characteristics. Lands with wilderness characteristics (LWC or WC) were an issue in the Draft EIS and FEIS. WC and public access generated more public comments than any other issue. In compliance with WO IM-2011-154 the existing setting was described. The potential impacts of the Alternatives on LWC were analyzed. Public comments resulted in the reinventory of a "road" north of the Project area and the search for an alternative to the proposed connector road. In balancing the current guidance for managing LWC, the 1872 Mining Law, as amended, 43 CFR 3809, the Three Rivers RMP, and the actual setting in the Project area, I have determined that authorizing the Proposed Action on the 4,338 acres in the southern part of the Rocky Basin LWC best complies with the 1872 Mining Law, as amended, 43 CFR 3809, the Three Rivers RMP, and the Purpose and Need for the Proposed Action. My decision also conforms to the guidance in WO IM-2011-154 by analyzing the impacts to LWC in the NEPA document. In conformance with WO IM-2011-154, and the more recently released BLM Manual Section 6310 - *Conducting Wilderness Characteristics Inventory on BLM Lands*, my decision is to manage the BLM lands in the Project area in a manner that does not protect or maintain the wilderness characteristics that were found in this part of the Project area. In effect this decision changes the southern boundary of the Rocky Basin LWC to match the north boundary of the Project area. Also as analyzed in the FEIS the remaining Rocky Basin LWC still has wilderness characteristics. It will be 7,022 acres in area. It has naturalness, because Rocky Basin, the main geographic feature of the unit, and

adjacent areas are topographically separated from and screened from the Project Area by vegetation. While this is not a requirement of wilderness character, the noise study (FEIS 4.6) found that in the Project area noises resulting from mining, mine construction, and operations dissipate to background levels in 0.4 mile. This means that mining noise will not be intrusive in the LWC area.

PUBLIC INVOLVEMENT

EPM submitted the "Celatom Mine Plan of Operations" for BLM review in 2008. Public scoping was initiated in September 2008 following the BLM's decision to prepare an environmental impact statement. BLM published a Notice of Intent to prepare an EIS in the Federal Register on September 15, 2008. BLM also contacted the tribal governments with interests in the Project area, and notified the public, and interested parties of the 60 day scoping period on September 15, 2008. Public meetings were held in Vale, OR on October 29, 2008 and in Burns, OR on October 30, 2008. Four and three people attended, respectively. The Harney County Court, Oregon Department of Geology and Mineral Industries, and U.S. Fish and Wildlife Service were cooperating agencies.

The Notice of Availability of the Draft EIS was published in the Federal Register on April 8, 2011. The NOA and letters to the cooperating agencies, tribes, public, and interested publics also announced the 45 day comment period for the Draft EIS. One public meeting was held in Juntura, OR on April 26, 2011. Three ranchers who use the Project area for livestock grazing attended. BLM received six letters commenting on the Draft EIS. On July 8, 2011 Oregon Natural Desert Association (interested public), EPM, and BLM visited the existing and proposed mine areas. The main issue discussed was wilderness characteristics. On August 10 and 23, 2011, ODF&W and BLM visited existing and proposed mine areas. The main issue discussed was the relationship of existing and proposed developments to sage-grouse habitat use, status, and condition. The comments, site visits, and other input resulted in substantial changes to the portions of the EIS addressing greater sage-grouse. Comments also lead the Burns BLM to make the "Celatom Mine Plan of Operations" and "Baseline Characterization Report for the Celatom Mine" by SRK available for public review on our website during the FEIS review period. The Notice of Availability of the FEIS was published in the Federal Register on May 4, 2012. The NOA and letters to the cooperating agencies, tribes, public, and interested publics also announced the 30 day review period for the FEIS. BLM received one substantive review letter on June 12, 2012. The topic was greater sage-grouse. BLM conferred with ODF&W and confirmed that the mitigation plan complied with ODF&W's sage-grouse information and habitat mitigation guidance and policies.

APPEAL

If you do not agree and are adversely affected by this decision, you may request that the Oregon BLM State Director review this decision. If you request a State Director Review, the request must be received in the Oregon BLM State Office at 333 S.W. 1st Ave., Portland, OR, 97204, no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless a Stay is

granted by the State Director. If you request a Stay, you have the burden of proof to demonstrate that a Stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Oregon BLM State Office to determine when BLM received the request for State Director Review. You have 30 days from the end of the 21day period in which to file your Notice of Appeal with this office at 28910 Hwy 20 West, Hines, OR, 97738, which we will forward to IBLA.

If you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.801(a)(1). Your Notice of Appeal must be filed in this office at 28910 Hwy 20 West, Hines, OR, 97738, 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.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your Notice of Appeal. Copies of the Notice of Appeal and petition for a stay must also be submitted to each party named in the decision and to the Office of the Solicitor, U.S. Department of the Interior, 805 SW Broadway, Suite 600, Portland, OR 97205, 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 based on the standards listed below.

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.

MANAGER'S RECOMMENDATION

Having considered the applicant's proposal, the alternatives and their effects, the Habitat Mitigation Plan and its effects, and public and agency input, I recommend adoption and implementation of the Proposed Action Alternative with modifications as described in this document.

Richard Roy
Three Rivers Field Manager

6/13/12
Date

DISTRICT MANAGER APPROVAL

I approve the Celatom Mine Expansion Project Record of Decision as recommended. This document meets the requirements for a Record of Decision as provided in 40 CFR Part 1505.2.

Brendan Cain

Brendan Cain
Burns District Manager

6-13-12
Date

REFERENCES

Hagen, C.A. 2011a. *Greater Sage-Grouse Conservation Assessment and Strategy for Oregon: a Plan to Maintain and Enhance Populations and Habitat*. Oregon Department of Fish and Wildlife. Salem, Oregon. June 2011.
(ODF&W sage gourse web page. http://www.dfw.state.or.us/wildlife/sagegrouse/)

Hagen, C.A. 2011b. *Implementing Habitat Mitigation for Greater Sage-grouse Under the Core Area Approach.* Oregon Deptartment of Fish and Wildlife. Salem, Oregon. August 2011.

SRK Consulting (U.S.), Inc. 2010. *Baseline Characterization Report for the Celatom Mine Drewesy, Oregon*. March 2010.
(http://www.blm.gov/or/districts/burns/plans/celatom/index.php)