

**U.S. Department of the Interior
Bureau of Land Management**

**Decision Record
For the
Clarks Creek (Lacey) Plan of Operations (OR-66704)**

Environmental Assessment #DOI-BLM-OR-V050-2014-025-EA

**Baker Field Office
P.O. Box 947
Baker City, Oregon 97814
March 2015**

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

DECISION RECORD

Clarks Creek (Lacey) Mining Project
Environmental Assessment
#DOI-BLM-OR-V050-2014-025-EA

This decision record documents my decision to authorize the Clarks Creek (Lacey) Mining Project, which includes the PaulAda#2 and Snappy Ben unpatented placer mining claims, as presented under Alternative 2, including environmental protection measures as determined by the BLM to prevent undue and unnecessary degradation.

BACKGROUND

The Baker Field Office, BLM, received one Plan of Operation (Plan) from Art and A.J. Lacey to conduct placer mining over a period of 10-15 years on federally managed lands near Bridgeport, Oregon on Clarks Creek in Baker County. The legal description for the project area includes Section 27, T. 12 S., R.41E., W.M. on unpatented mining claims. The Clarks Creek (Lacey) Plan of Operations (OR-66704) was submitted by Art Lacey in 2011. This plan of operations would combine two existing mining notices under Art Lacey (OR65968) and his son A.J. Lacey (OR67556) into a single plan of operations. There has been extensive exploration done under these notices pursuant to 43 CFR 3809.301. Existing disturbance under these notices is approximately 4.5 acres.

Wildlife and botany surveys were conducted during the summer of 2014. The wildlife and botany surveys were done by BLM personnel and are included in Appendix C of the EA. No threatened or endangered wildlife or plant species were found.

In 2002, a previous plan of operations was submitted for this site. Prior to 2002 mineral exploration was conducted under a mining notice which is for exploration under five acres in size. Cultural surveys were conducted in the project area and the BLM determined that older mined areas proposed to be mined under the plan of operations were eligible for the National Register of Historic Places under Criterion A (associated with important events) and Criterion D (likely to yield information important in history). Based on the historic records and artifacts found at the site, the period of significance is from 1870-1910. These areas consist of placer tailings containing historic archaeological features indicative of Chinese and EuroAmerican occupation and a historic mining ditch. BLM determined that without mitigation measures, future mining operations in these areas would have an adverse effect on the historic property.

In April 2003, an agreement with the Oregon State Historic Preservation Office (SHPO), addressed future mining operations in these areas, whether continued under the existing notice or under the new plan of operations. To mitigate the effects of these future operations, SHPO recommended that data recovery be completed with an emphasis on recovering information about Chinese adaptations, occupation and use. With data recovery of this historic resource and photographic documentation of the site, the SHPO determined that there would be no adverse effect on the historic property.

Following the agreement with SHPO, the BLM is in the process of contracting Phase 2 and Phase 3 of the mitigation plan with a 3rd party contractor to complete the required mitigation in 2015 and prior to mining operations being allowed in these areas. Surveys under Phase 2 have been completed and Phase 3 has been initiated. The BLM anticipates that Phase 2 will be completed in the spring of 2015. Depending upon what is found during the last phase, Phase 3 is likely to be completed by the end of 2015.

The Clarks Creek (Lacey) Clarks Creek Mining Project Environmental Assessment (#DOI-BLM-OR-V050-2014-025-EA) was prepared to disclose and analyze the consequences of authorizing the action under a Plan of Operation to mine and extract gold from placer gravels on BLM administered public lands open to mineral entry.

INTER-GOVERNMENT, AGENCY, AND PUBLIC INVOLVEMENT

Scoping has occurred within the agency and in coordination with other agencies since the original plan of operations was received in 2002 and the current proposed plan was received in 2011. Consultation took place with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) and the Burns Paiute Tribe. The proponent has provided BLM with all permits regarding other state agencies such as the Oregon Water Resources Department (OWRD) and Oregon Department of Environmental Quality (ODEQ). Additionally, written permission of the private land owners to utilize pipelines that originate on the private lands has been provided. Current operations on the site are at a level that is exempt from needing a site-specific permit from the Oregon Department of Geology and Mineral Industries (DOGAMI). Operations under the plan of operations would require that the proponent receive this permit from DOGAMI.

After the EA was prepared, it was available for review both online and printed by request, for a formal 30-day public comment period. A legal notice was placed in the newspaper of record, the Baker City Herald, on October 1, 2014, requesting comments on the EA. A Notice of Availability was sent to the proponent, the grazing permit holder in the area, CTUIR, Burns Paiute Tribe, Baker County Road Department, ODFW, USFWS, ODEQ, DOGAMI, Army Corps of Engineers, Oregon Department of State Lands, Oregon SHPO, OWRD, Whitman Ranger District-U.S. Forest Service, Baker County Commissioners, Oregon Wild, Western Watersheds, Senator Ron Wyden's local representative, Congressman Greg Walden's local representative, Burnt River Irrigation District, Hells Canyon Preservation Council, and other miners or interested parties in the area.

The BLM received comments on the EA from two interested parties. One letter focused on wildlife and resource concerns and one letter was regarding the agreement with SHPO on mitigation of cultural resources at the site. The full response to comments may be found in Addendum A attached to this decision.

Issues raised through the comment period included:

- The potential impacts to wildlife from processing ponds.
- Reclamation of settling ponds during reclamation.
- Use of native seed mix during reclamation.

- Concern over use of stream crossings during mining activity.
- Concern that recreation vehicles used on site be self-contained.
- Concern that proponent have necessary water permits to prevent or limit water pollution.
- Insuring the reclamation bond adequate for post-mining reclamation.
- Avoiding the spread of noxious weeds.
- Adequacy of proposed riparian buffer along Towne Gulch.
- Validity of mining claims.
- Whether mining is best use of public lands at this location.
- The impact of mining, post reclamation to vegetative and other resource uses.
- Whether impacts to cultural resources would be mitigated.
- That all areas of operations have been culturally surveyed.

As a result of the comments received, minor clarifications and editorial changes were made to the EA. The changes include clarifications for settling pond use and reclamation, the buffer zone along Towne Gulch, native seed use and noxious weed control. I believe that the additional analysis does not change the Finding of No Significant Impact for the project; therefore, another public comment period is not necessary.

DECISION

My decision is to select Alternative 2 in its entirety, with the additional environmental protection measures and is based upon the interdisciplinary analysis contained in the EA (DOI-BLM-V050-2014-025-EA) and the comments received. Alternative 2 allows development of approximately five acres of historic tailings that were identified in 2003 as eligible to the National Register of Historic Places once the agreement with SHPO is completed. The agreement with SHPO addressed future mining operations in areas proposed for mining, specifically the historic tailings area, and identified three phases for mitigation of the site:

- 1) Mapping, photo documentation, and data recovery of certain areas if exploration continued under the mining notice. Since the plan of operations was not approved (*prior plan of operations*), exploration has continued under a mining notice, and the BLM has completed these items.
- 2) Mapping, photo documentation, and data recovery of other areas prior to an approved plan of operations expanding into these areas.
- 3) Mapping, photo documentation, and data recovery of certain areas if exploration continued under the mining notice. Since the plan of operations was not approved (*prior plan of operations*), exploration has continued under a mining notice, and the BLM has completed these items.

With data recovery of this historic resource and photographic documentation of the site, the SHPO determined that there would be no adverse effect on the historic property. To protect cultural resources and to comply with the agreement with SHPO the following stipulations will be added to the plan of operations authorization:

- The five acres of historic tailings identified in 2003 shall not be disturbed by mining activities, until data recovery and reporting of all phases of the 2003 agreement are complete.
- The existing 2,660 linear feet access road shall not be widened or maintained with heavy equipment until the Section 106 process and consultation is complete.
- Expansion of mining activity under the mining plan of operation onto the Snappy Ben claim shall not occur until consultation on the 2014 survey of the Snappy Ben claim is complete.
- Any new sites identified in the 2014 survey, that are not identified in the 2003 agreement, will not be covered by the data recovery agreement and will require a separate SHPO consultation process (Section 106 process) and agreement on how to handle potential effects.

This decision will allow placer gold mining and processing on 35 acres of public lands with past mineral development. The project involves use of heavy machinery, road improvements for hauling, large areas of cleared land for processing sites, use of pipelines to transport water, and temporary occupancy during operations. The mining operation would last up to 15 years with an estimated additional three years for monitoring of vegetation reestablishment.

The activities approved by this decision include:

- Mining excavation and processing of up to 35 acres in ½ acre parcels, up to 2 to 3 acres annually for up to 15 years with no more than 7 acres open at one time.
- Use of the existing 2,660 feet of existing access road. No widening of this road, including up to 18 feet if necessary to meet Mine Safety and Health Administration (MSHA) requirements, or maintenance with heavy equipment can occur until the Section 106 process is completed.
- Equipment used will be limited to the list included in the EA and in the plan of operation
- Utilization of up to 100 gallons fuel storage within a service truck with smaller amounts of other petroleum products being brought in on the service vehicle. Absorbent matting will be used in areas where temporary petroleum storage is utilized for containment. All hazardous materials are addressed in Appendix A of the Environmental Assessment under the Spill and Contingency Plan.
- One (1) processing site, with settling ponds, sediment drying areas, wash plant, stockpiles, and compacted soils.
- Freshwater pond (existing) for storage of water supplied by two pipelines originating on private lands from which the proponent has received permission.
- Possible temporary fencing around areas which have been reclaimed and seeded with a state certified weed free native seed mix.

The decision is based on the interdisciplinary analysis contained in the Environmental Assessment #DOI-BLM-OR-V050-2014-025-EA, BLM staff field review, public comments, tribal government consultation, state permitting, and SHPO review.

The environmental protection measures of the project, reclamation measures, stipulations, and monitoring are part of the decision. The Plan will be updated with the information evaluated in the EA and will incorporate all the stipulations listed below. The stipulations and protection

measures below would be in effect for the duration of the project to minimize negative impacts to public land resource values:

- The operator shall mine, process, and remove gold from the Paul Ada#2 and Snappy Ben mining claims in strict conformity with the updated Plan of Operation (Plan) which will be approved by this Decision.
- No chemicals will be used for the gold extraction process. Only hazardous materials that are listed in the Plan are allowed on the site and are to be handled according to the Spill and Containment Plan provided in the Plan and pursuant to Federal and state laws and regulations. The Spill and Containment Plan is located in Appendix A of the Environmental Assessment.
- Petroleum products used in this operation consist of diesel fuel, gasoline, petroleum based oil, hydraulic oil, and grease. The diesel fuel (100 gallons) will be brought onto the site in a tank contained within a service truck. Small quantities of other petroleum products will be stored in smaller (5 gallon containers). Absorbent matting will be used under petroleum storage areas to catch any spills or leaks. No petroleum products would be stored on site during winter shutdown.
- All contaminated soil from spills or leaks of petroleum products will be handled as addressed in the Spill and Contingency Plan. All used oil, batteries, tires, and other waste items will be removed periodically off the mine site and disposed of properly. Spill kits will be on site for larger spills and prevention of leaks into soil.
- Any garbage or scrap material will be removed to keep the area clean. No disposal of waste or scrap will occur on site, all waste or scrap will be removed from public lands.
- The duration of the mining is planned to be 15 years with an additional 3 years after mining is completed for final reclamation and monitoring for revegetation success.
- Use and occupancy of public land, as proposed in the plan of operation, will be reasonably incident to the planned mining operation, and will be limited to use of the equipment listed in the plan of operation, which will be focused on the mining areas in T. 12S., R.41E., sec. 27.
- Erosion control measures will be used during mining operations which include, but are not limited to: waterbarring of roads, placing of woody material, seeding, and covering of topsoil while stockpiled.
- Dust will be kept down by using water trucks to abate dust on roads and the water used in processing. There is no crushing of material being proposed or allowed.
- During operation the proponent will ensure that all equipment and vehicles are cleaned of all vegetation (stem, leaves, seeds and other vegetative parts) prior to entering public

lands in an effort to minimize the transport and spread of noxious weeds. All equipment will be washed and cleared of vegetative material again before leaving public lands.

- The operator will maintain roadsides, tailings, dried sediment from settling ponds, and disturbed areas in a weed free state. Traveling through weed patches with equipment and personnel will be avoided when possible, especially when plants are seeding to prevent the spread of weed species. When traveling in known weed infestations equipment will be cleaned, with an emphasis on the undercarriage and moving parts, before moving into other areas to work. Equipment wash-up areas will be monitored and treated for emerging weeds. Processing of mined materials will take place at the closest processing site to avoid introducing weeds to new areas. All mining equipment would be cleaned using power or high pressure cleaning to remove mud, dirt, and plant parts prior to entering or leaving the site.
- The operator will work with the BLM to implement a weed treatment and control program. Chemical treatments will be performed by a licensed applicator. A BLM approved, a state certified noxious weed free seed mix will be supplied to the operator by the BLM botanist at the time of reclamation.
- Any new discoveries of cultural or paleontological resources will require ceasing operations in the area immediately and the operator will notify the BLM Field Manager and the archeologist. Operations in the location of the find will not resume until the BLM archeologist has had the chance to evaluate the discovery and the Field Manager has given written notice to proceed.
- Pursuant to 43 CFR 3809.420 (b)(8)(i) operators shall not knowingly disturb, alter, injure, or destroy any scientifically important paleontological remains or any historical/archeological site, structure, building, or other object on Federal lands.
- Temporary fences as determined necessary by BLM for exclusion of livestock and wildlife may be required to be installed around all reclaimed areas for 3-5 years or until vegetation has regrown to BLM standards (BLM RMP, 1989).
- The operator will obtain all required Federal, state, and county permits and approvals prior to beginning operations. The permits will be kept current throughout the duration of the project. Copies of all permits will be provided to BLM once issued.
- A financial guarantee, as defined in 43 CFR 3809.500 and 3809.552, must be submitted and adjudicated by the BLM before starting operations. The financial guarantee will include the cost for reclamation and revegetation of 35 acres of placer mining disturbance, the miscellaneous clean up and removal of equipment, and post-closure monitoring. Although a financial guarantee is required by regulations prior to commencing operations, this stipulation insures that sufficient funds are available for site reclamation should the property be abandoned.

- Only equipment needed for onsite mining operations, as identified in the Plan, is authorized to be onsite for longer than 14 days. Any equipment changes must be authorized in writing by BLM. All equipment not included in the Plan must be removed during seasonal shut-downs or removed within 14 days of bringing on to the site unless the posted financial guarantee includes removal costs. As per 43 CFR 3809.431, “You must modify your plan of operations when any of the following apply: (a) before making any changes to the operations described in your approved plan of operations...” The intent of this stipulation is to insure that equipment changes that could fundamentally expand or alter the scope or volume of the operation are approved by the BLM. Also, this stipulation is to insure that equipment mobilized on to public lands are included in the Plan and removal costs will be included in the approved financial guarantee as per 43 CFR 3809.552.
- Hand tools suitable for fighting fire shall be required at the work site, and the operator must be prepared to suppress any wildfires resulting from operations. The operator is responsible for remaining informed and in compliance with fire safety requirements such as any Emergency Fire Prevention Orders and the Industrial Fire Precaution Level (IFPL). Some of these levels may require fire waivers for certain activities and additional preventative measures.
- Seeding of all disturbed areas will be done between September 15 and December 15 to take advantage of winter moisture. Seeding will be done each year with a state certified noxious weed free seed mix which will be provided by the botanist each season to account for seed availability. Seed tags from each mix will be provided to the BLM within 30 days of the completion of seeding. If mulch is used to minimize erosion on seed areas, it shall be certified weed free straw or hay.
- Seeding will be monitored for three years to determine if it is well established. Well established plant communities will consist of vigorous, deep-rooted, native species capable of providing competition to noxious weeds and providing organic material over the long term. The authorized officer shall use evidence of these late seral species on site after three (3) growing seasons to determine that seedling establishment is adequate to achieve longer term reclamation objectives. If after three years, the revegetation is not well established, then the operator will seed the areas of disturbance again with a seed mix provided by the botanist with an additional 3 growing season monitoring period.

Alternatives Considered

In order to address concerns that were raised in public and agency scoping, while fulfilling BLM’s stated purpose and need for the project (EA page 2), BLM explored the following alternatives:

- Proposed action – This alternative would authorize the Plan of Operation as entered by the proponent, Art Lacey, to mine and extract gold, by processing placer gravels using heavy equipment excluding the 5 acres identified as the historic tailings area. Access would be the existing access road from the Clarks Creek Road which crosses several hundred feet of private lands before entering public lands. The proposed action would mine 30 acres of the 40 acres covered by the two mining claims.

- No Action – This alternative would not approve the proposed Plan, but would allow the 10 acres of exploration under two current Notices to proceed until they expire or exploration is completed. These Notices have been bonded and are for exploration only, greatly limiting the activities allowed to take place within the project area.

Decision Rationale and Authority

After reviewing the EA developed for this project and the comments received on the potential impacts, Alternative 2 with the environmental protection measures has been selected. The implementation of Alternative 2 best meets the purpose and need described in the PaulAda #2/Snappy Ben Mining EA, as well as environmental concerns. As required, the BLM considered a reasonable range of alternatives including a No Action alternative in the analysis. The selection of Alternative 2 minimizes the impacts on cultural resources, providing additional mitigation for cultural resources, while still allowing the commercial mining operation to proceed with minimal impacts to the human environment. This alternative meets the purpose and need by addressing the process for Plan of Operation laid out in 43 CFR 3809 and all other applicable mining laws.

This alternative is in conformance with the goals for mineral resources of the Baker Resource Management Plan (RMP) and Record of Decision (BLM, 1989). This alternative has been reviewed to determine if it conforms with the Baker RMP/ROD, terms and conditions as required 43 CFR 1610.5. This alternative has been found consistent with all applicable terms, conditions, standards and guidelines specified in the Baker RMP/ROD. This exploration and development would be consistent with the “unnecessary or undue degradation” standard set forth in Surface Management Regulations (43 C.F.R. 3809) and the Federal Land and Policy Management Act of 1976 (FLPMA). Resource values are protected through the observation and implementation of the environmental protection measures addressed in the EA.

The plan of operations was submitted and considered complete under the 43 C.F.R. 3809 requirements. The Mining Law of 1872, as amended, allows public lands owned by the United States to be open to mineral exploration as public domain lands, which does not include withdrawn areas or acquired lands. All applicable claims have been filed according to the FLPMA and are on lands determined to be open to mineral entry.

The activities described in the action alternatives are authorized under the surface management program administered by BLM which includes mineral exploration, mining and reclamation activities on public lands administered by BLM. All operations of any nature that disturb the surface of the mining claim or site require authorization through the proper BLM field office.

The 43 CFR 3809 Surface Management regulations are clear on what actions require a Plan of Operation, which includes; an operator extracting minerals for commercial use or sale, creating over five (5) acres of disturbance or removing 1,000 tons of proposed ore, and the use of mechanized earthmoving equipment. Once these thresholds have been met, a Plan must be submitted and evaluated under the National Environmental Policy Act (NEPA) at the appropriate level and have an adequate bond in place before implementing such mining operations.

This decision is in compliance with the National Historic Preservation Act (NHPA) as described in section 3.1(b) of the EA under Existing Environment: Cultural and Historical Resources. Alternative 2 will have no effect to any property listed on or potentially eligible for listing on the National Register of Historic Places (NRHP) because these resources will be mitigated following the agreement with SHPO. Additionally, any cultural and/or paleontological resource (historic or prehistoric site or object, including fossils) discovered by anyone working on this project on public lands will be immediately reported to the authorized officer. The authorized officer will determine avoidance, treatment and mitigation measures that are necessary after consulting with the operator and under Section 106 of the NHPA.

This decision is in compliance with the Endangered Species Act because no federally listed threatened or endangered plant, animal or aquatic species currently reside in or around the project area. Alternative 2 will not significantly adversely affect any candidate species or their habitat.

The decision is in compliance with the Clean Air Act and the Clean Water Act. Alternative 2 will not significantly affect air quality because no chemicals are being used and dust is being kept to a minimum through watering the roads during operations and avoiding crushing of material. Alternative 2 will not significantly affect water quality because of the limited activity in and around the Town Gulch channel, use of approved water rights, and compliance with state issued water quality permits.

The project area is not in any National Wild and Scenic River Systems, Area of Critical Environmental Concern, National Wilderness Preservation System lands, National Monuments, National Conservation Areas, or prime farmlands.

CONCLUSION

The BLM recognizes that public lands are an important source of mineral resources. The decision supports multiple use management of public lands in accordance with the FLPMA and recognizes that mineral resource development can occur concurrently with other resource uses. The project has been analyzed, the public has been involved, and appropriate environmental protection measures will be added to the Plan to prevent unnecessary and undue degradation of the surface resources, to reduce the effects to the environment and to respond to public concerns.

APPEAL RIGHTS

This decision is issued in accordance with 43 CFR 3809.800 and is effective immediately.

A party adversely affected by this decision under may ask the Oregon State Director at the BLM State Office to review the decision or an adversely affected party may bypass State Director review and directly appeal this decision to the Office of Hearings and Appeals (OHA) under 43 CFR Part 4.

If you intend to appeal this decision, use the following table to see when you must file a notice of appeal with OHA:

If—	And—	Then if you intend to appeal, you must file a notice of appeal with OHA—
(1) You do not request State Director review		Within 30 calendar days after the date you receive the original decision.
(2) You request State Director review	The State Director does not accept your request for review	On the original decision within 30 calendar days of the date you receive the State Director's decision not to review.
(3) You request State Director review	The State Director has accepted your request for review, but has not made a decision on the merits of the appeal	On the original decision before the State Director issues a decision.
(4) You request State Director review	The State Director makes a decision on the merits of the appeal	On the State Director's decision within 30 calendar days of the date you receive, or are notified of, the State Director's decision.

In order for OHA to consider your appeal of this decision, you must file a notice of appeal in writing with the Field Manager, Baker Field Office, 3100 H Street, Baker City, Oregon, 97814, where the decision was made.

Please contact the Baker Field Office at 541-523-1256 for any further questions.



Lori Wood
Field Manager
Baker Resource Area, Vale District BLM



Date

Addendum A

Oregon Wild, 10/27/2014, Doug Heiken, representative for Oregon Wild:

Comment 1: Oregon Wild questions whether this 30 acre placer gold mining project is the highest and best use of public lands.

Response: The Mining Law of 1872 governs mining claims and sites located on Federal lands. It declared that public lands that are open to mineral-entry and are available for development and extraction of metallic and nonmetallic locatable minerals by United States citizens. The law also encourages mining companies to initiate exploration and development of such minerals. The 1989 Baker RMP EIS:

“Encourage and facilitate the development of public land mineral resource by private industry in a manner that satisfies national and local needs; and provides for economically and environmentally sound exploration, extraction, and reclamation practices. Mineral exploration and development can occur concurrently or sequentially with other resource uses.” (EA Chapter 1 Section 1.6)

Comment 2: The EA does not disclose how BLM determined that these mining claims are valid and whether there is enough gold there to justify these significant and long-lasting impacts on the environment.

Response: The U.S. Supreme Court ruled in *Union Oil Company of California v. Smith*, 249 US (1919) that although the mining law viewed discovery of a valuable mineral deposit as a precursor to locating a mining claim, in fact a claimant may peacefully and in good faith locate and occupy a mining claim for the purpose of discovering a valuable mineral. That basic ruling has not changed over nearly a century of mining law. As long as the search is conducted diligently and in good faith with actual physical possession of the claim, the claimant can exclusively hold the land against all others having no better right. Consequently, location can (and usually does) precede discovery.

The right of access, occupancy, and possession of a mining claim for purposes reasonably incident to discovering a valuable mineral deposit means that a claimant will likely propose a plan of operations for mining activity at some point in time. As long as the mining claim is on lands open to operations under the 1872 Mining Law, and absent a compelling public need, the BLM has no basis to try to deprive a claimant of those rights simply because a plan of operations has been submitted.

Through the procedure used to process a proposed plan of operations, the BLM recognizes the claimant’s right to enter, prospect and mine on public lands but develops mitigation and reclamation measures to ensure that all operations are conducted so as, where feasible, to minimize adverse impacts to surface resources. (EA Chapter 1 Section 1.6)

Comment 3: The area proposed for mining appears to include undisturbed rangelands, mining disturbance will cause irreversible impacts, even after reclamation.

Response: The proposed mining area contains both highly disturbed, previously mined areas and areas undisturbed by mining activity. It is likely that during operations and at the beginning of reclamation, vegetative cover and production would be reduced, but long-term vegetation re-establishment would return the site to near pre-mining condition. Areas of historic mining, including large cobble pile areas devoid of soil that currently have little or no vegetation, might actually be improved by mining activity under the plan of operations, when growth medium (tails or overburden) is placed in these areas during reclamation and seeded. (EA Chapter 4 Section 4.2f)

Comment 4: Make sure that that the reclamation plan achieves a high degree of restoration.

Response: Reclamation under the plan of operations would achieve a high degree of restoration of the site. Since reclamation would include concurrent reclamation of the site there would not be a large open pit area left open during operations or after reclamation. Because of historic mining activity at the site, it is not likely that the original contour of the site could be achieved by reclamation. An effort would be made to return the site to original contour, but the current bench area would likely remain as a level area to some extent except on the edges where it might be pushed down slope or upslope somewhat. The current 200 linear feet of almost vertical pit face would be sloped at less than 2:1 slope during reclamation which in some areas might be slightly greater than the existing slope. As discussed above, areas with rock piles with no current vegetation, could be improved if even some growth medium is placed in these areas during mining activity. Concurrent reclamation by the miner should ensure that reclamation and revegetation of a large proportion of the mining site should have already been completed prior to the initiation of final reclamation. (EA Chapter 2 Section 2.1k)

Comment 5: The settling ponds should be designed so they are safe for wildlife, including the bottom contours, exit ramps, and water quality conditions.

Response: The settling ponds have already been installed under the existing mining notice for exploration activity at this site. They are shallow and unlined with gentle sloped sides that have not proven a hazard to wildlife during past operations at the site. Even under the plan of operations, activity at the site would not be continuous, so standing water held within the settling ponds would not be constant since it would evaporate and/or sink into the soil within the impoundment area. (Chapter 2 Section 2.1f)

Comment 6: The EA indicates that the miner proposes to leave the settling ponds for wildlife. This makes little sense because there will not be a water supply after mining and removal of the pipelines. Also, the ponds are not natural; they have non-natural geometric shape; and their water quality may not be fit for wildlife.

Response: The miner would leave the settling ponds for wildlife only if the BLM approves them not being reclaimed. As the comment states, since these ponds would not have a water source after mining operations, they would likely not contain water, and the miner would be required to backfill, recontour, and revegetate depending on BLM's level of reclamation identified. The freshwater storage pond, within Towne Gulch, would likely contain some water after mining operations, even if only after spring snow-melt. It is likely that this pond would be left in place for wildlife at the conclusion of reclamation because of its age (predating the current mining activity on the site), its ability to retain water, and the surrounding riparian vegetation. (EA Chapter 4 Section 4.2d)

Comment 7: Reclamation should require a native seed mix.

Response: BLM will require that a native seed mix be used for both interim and final reclamation. Under BLM Manual 1745 – Introduction, Transport, Augmentation, and Reestablishment of Fish, Wildlife, Plants – Section 06A “Native species shall be used, unless through the NEPA process it is determined that:

- (1) Suitable native species are not available;
- (2) The natural biological diversity of the proposed management area will not be diminished;
- (3) Exotic and naturalized species can be confined within the management area;
- (4) Analysis of ecological site inventory information indicates that a site will not support reestablishment of a species that historically was part of the natural environment;
- (5) Resource management objectives cannot be met with native species.” (EA Chapter 2 Section 2.1k)

Comment 8: We urge BLM to prohibit mining vehicles or equipment from crossing any streams when they are flowing or wet.

Response: Under Alternative #1, the existing access across Clarks Creek is on private lands and the BLM would not have authority to mitigate access at that crossing. Under Alternative #2, the proposed access across Clarks Creek is along an existing route that has been armored at the crossing to reduce sedimentation and stream damage. Given the intermittent nature of activity under this plan of operations, vehicle travel is not expected to increase dramatically over the current exploration notice. Heavy equipment is left on the site year-round and would not travel these routes on a regular or frequent basis. (EA Chapter 2 Sections 2.1a and 2.2b)

Comment 9: The miners RVs should have approved waste systems and assurance that all waste will be disposed of appropriately.

Response: Although operations are intermittent, RV units would be required to have approved waste systems to dispose of human waste (black water) and to meet other applicable state regulations. (EA Chapter 2 Section 2.1c)

Comment 10: BLM should make sure that the miners have valid permits from DEQ and OWRD for using and polluting the public's water.

Response: The miner is currently, and will continue to operate under, a General Water Pollution Control Permit issued by Oregon DEQ. The general permit is for operations that process less than 10,000 cubic yards of material per year. The miner also has water rights for use of water from both Towne Gulch and Clarks Creek for use in mining operations. (EA Chapter 1 Sections 1.3 and 1.6, Chapter 3 Section 3.1e)

Comment 11: We support the review and increase in the current bond.

Response: Depending upon the alternative chosen, the reclamation bond would be recalculated to reflect the increase of disturbance from operations going from the current notice to the plan of operations. This estimate will be based on BLM needing to hire a 3rd party contractor to complete reclamation if the miner is unable to as required under 43 CFR 3809.552. The miner would also be conducting concurrent reclamation during operations, primarily backfilling pit areas before moving on to the next mining area. This would reduce the amount of bond increase required. The miner would be required to post the increased bond amount prior to initiating operations under the plan of operations. (EA Chapter 2 Section 2.1)

Comment 12: Avoiding the spread of weeds during and after mining should be a priority.

Response: During mining operations, the operator would be required to keep the area of operations weed free, with special emphasis on those weeds listed as noxious. Failure to control noxious weeds during operations or during reclamation would be considered undue or unnecessary degradation of public lands as defined in 43CFR3809. Treatment would be required to meet BLM standards, including the use of licensed pesticide applicators if necessary. All mining equipment would be cleaned using power or high pressure cleaning to remove mud, dirt, and plant parts prior to entering or leaving the site.

Reclaimed areas would be monitored for three years following the seeding. Monitoring would include invasive species identification, and percentage of desirable revegetation coverage in seeded areas. Noxious weeds would be treated and invasive plants would be evaluated and treated if their presence is interfering with successful revegetation of desirable species. If reseeded does not meet BLM revegetation standards, the operator would be notified and the area would be seeded again. (EA Chapter 2 Sections 2.1k and 2.1l)

Comment 13: The EA claims there would be beneficial impacts to wildlife after reclamation, but does not describe these effects or the trade-offs. Certainly not all effects are beneficial.

Response: Existing disturbance at the site is estimated at approximately 10 acres (5 acres historic/5 acres under exploration notice). A short-term loss of forage and cover is expected during mining operations in undisturbed areas, but reclamation of existing

disturbances, especially of historic mining areas, should eventually restore vegetation or in some cases may improve vegetation beyond pre-plan of operations levels. Reclamation would facilitate native grasses in an area that is currently dominated by non-native invasive and noxious weed species. Native grasses instead of non-native or invasive vegetation would enhance habitat for the wildlife using this area. (EA Chapter 4 Section 4.2f)

Comment 14: We urge BLM to require a larger buffer along Towne Gulch, and prohibit any excavation below the level of the stream bed within the project area.

Response: The buffer that was proposed along Towne Gulch (20 feet on either side) was determined to be adequate based on information provided by the miner and field inspections conducted by the BLM. The operator does not want to mine in areas where groundwater or larger riparian vegetation (trees) would interfere with his mining operations that would increase operational costs and substantially increase reclamation costs. The riparian area along Towne Gulch is very narrow, poorly defined, and lacks continuity because of past mining activity in the area including up and down channel. (EA Chapter 2 Section 2.1h)

Oregon State Historic Preservation Office (OSHPO), 10/8/2014, Matt Diederich, representative for OSHPO:

Comment 1: OSHPO states that it appears that there have been no previous archaeological surveys completed within the proposed expanded project area of the Snappy Ben Claim, and the adjacent claim.

Response: This entire project area has been surveyed for archaeological resources, within the Snappy Ben Claim and the adjacent Nanny Mine claims. BLM has provided SHPO with two reports encompassing the area containing the historic mining site. These reports were sent to SHPO in 2003 and 2008. Additional, survey was completed during the fall of 2014, for all project areas not previously surveyed, and will be sent to OSHPO during the winter of 2015.

Comment 2: OSHPO states that the Environmental Assessment's assertion that through mitigation the project would have a no adverse effect on any previously unknown sites is incorrect.

Response: BLM agrees that any previously unknown sites identified during the 2014 survey would be subject to the Section 106 process, where the level of effect would be determined, and if an effect is adverse then a memorandum of agreement would be utilized to mitigate those adverse effects. For the known site, BLM plans to continue to follow the phased treatment plan agreed upon between OSHPO and BLM, in 2003, which is in its 3rd phase, to resolve adverse effects to 35BA1095, a historic mining site.