

**U.S. Department of the Interior
Bureau of Land Management
June 2014**

**Environmental Assessment DOI-MT-B070-2013-0023-EA
Case File Number: MTM-106022**

**Golden Asset Mine
Road Right-Of-Way**

Location: Jefferson County

Principal Meridian Montana

T. 7 N., R. 3 W.,

Section 19: Lots 14, 15, 20, 21, and 22;

Section 20: N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Section 29: NE $\frac{1}{4}$ NW $\frac{1}{4}$;

Section 30: Lot 1, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and the NW $\frac{1}{4}$ NE $\frac{1}{4}$.

Applicant/Address:

Smith Contracting, Inc.
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CHAPTER 1

INTRODUCTION: PURPOSE AND NEED

INTRODUCTION

The Bureau of Land Management (BLM), Butte Field Office, is considering a right-of-way (ROW) application requesting an authorization to improve, use and maintain an existing BLM road to haul ore from the Golden Asset Mine on private claims located near Jefferson City, Montana. This Environmental Assessment (EA) has been prepared to disclose and analyze the environmental consequences of the proposed action. The road was built and/or improved to function as a haul road for the Golden Asset/Golconda Mine in the 1980s, and traverses approximately 14,900 feet (2.82 miles) of public lands managed by the Butte Field Office. See attached vicinity and project maps.

PURPOSE AND NEED FOR ACTION

Smith Contracting, Inc. has applied for an access road right-of-way to improve, use, and maintain an existing road across lands administered by the BLM. The applicant needs the access road right-of-way to haul unprocessed ore at an intensity, where the existing open road would require repair and maintenance. The ore would be generated under their State of Montana Small Miner Exclusion Statement (SMES) at the Golden Asset Mine. The Golden Asset Mine is located on private inholdings within BLM public lands. Therefore, the applicant would need authorization to haul ore from the mine across public land at greater than a casual use rate. The BLM's need for the action is established by the BLM's responsibility under the Federal Land Policy and Management Act of 1976 (FLPMA Title V, Section 501) to respond to requests for right-of-way grants and whether a ROW shall be approved as requested, approved with conditions, or denied.

CONFORMANCE WITH BLM LAND USE PLAN(S)

Issuing ROWs for access is in conformance with the Butte Resource Management Plan (RMP), approved April, 2009. This determination is based on RMP guidance as follows:

- Special Designations-Areas of Critical Environmental Concern (ACEC), Actions, Motorized Travel Management, page 54,
 - “7. Motorized travel will be “limited” to designated routes in order to protect wildlife and non-motorized recreation values.”
 - “8. No new permanent roads or motorized trails will be authorized for public use (road relocation will be allowed to protect resources, maintain access and/or protect human safety).”
 - “9. Existing road closures will be maintained and enforced per the 1995 Elkhorns travel plan. BLM will re-evaluate and/or monitor routes to determine if changes to existing plan are required.”

- Travel Management and Access, Management Actions, Allowable Uses, page 38,
 - “BLM will maintain current management of Travel Planning Areas (TPAs) with pre-existing travel plans...”
- Lands and Realty, Goals, LR2, page 67,
 - “LR2 – Provide land-use opportunities contributing to a sustained flow of economic benefits and meet local infrastructure needs while protecting or minimizing adverse impacts to resources and resource uses.”
- Lands and Realty, Management, Actions, page 67-68,
 - “2. Requests for land use authorizations will be analyzed and mitigation measures applied on a case-by-case basis in compliance with the NEPA process. ...In accordance with current policy, land use authorizations will not be issued for uses which would involve the disposal or storage of materials which could contaminate the land (hazardous waste disposal sites, landfills, rifle ranges, etc.).”
 - “7. Owners of non-federal land surrounded by public land managed under FLPMA will be allowed an appropriate degree of access across public land, which would provide for the reasonable use and enjoyment of the non-federal land.”
- Social and Economic Environment, Goals, page 80,
 - “SE1 – Provide opportunities for economic benefits while minimizing adverse impacts on resources and resource uses.”

RELATIONSHIPS TO STATUTES, REGULATIONS AND OTHER PLANS

Direction and authority for analyzing the proposal come from the National Environmental Policy Act (NEPA), the Federal Lands Policy and Management Act (FLPMA), and the Council on Environmental Quality (CEQ) regulations. The NEPA, FLPMA, and CEQ provide general land management and environmental analysis direction.

The ROW grant would be processed pursuant to Title V of the Federal Land Policy and Management Act (FLPMA) of 1976, as amended {43 U.S.C 1761} and would be subject to the terms and conditions set forth in 43 CFR 2800.

All treatments of invasive species in the proposed action would conform to all applicable guidance and standards set forth in the Vegetation Treatments Using Herbicides on BLM Lands in 17 Western States Programmatic EIS approved on September 29, 2007 and the Noxious Weed Control on Public Lands EA (MT-050-08-12), approved April 2008, to which this EA is tiered.

The Elkhorns Travel Management Plan, 1995, is an interagency plan that has been incorporated into the BLM RMP’s Boulder/Jefferson City Travel Plan Implementation Decision. Seasonal travel restrictions would be observed.

SCOPING, PUBLIC INVOLVEMENT, AND ISSUES

Agency scoping of the operator's proposed action uses an interdisciplinary approach to identify what issues need to be analyzed. Agency scoping defines potential issues, data needs, connected actions, and begins the cumulative effects analysis. During the scoping process, the size or scale of the proposed action and whether the proposal is routine or unique is also evaluated. Then public participation and external scoping is undertaken, based on the results of the internal scoping process.

The BLM scoping began on May 6, 2013. The BLM considered the proposed right-of-way action for the use of an open road with no legal public access and identified the following issues to be addressed in the EA.

- Wildlife
- Non-Native Invasive Species (Noxious Weeds)

Because the road would need work for trucks to haul ore, a cultural survey and review was conducted on the road prism.

The proposed road right-of-way authorization to haul ore on an existing road was announced to the public by posting the project on the field office NEPA log accessible on the BLM Montana/Dakotas external website and Butte Field Office website. The website NEPA log invites the public to provide comments/concerns or ask for more information on any of the proposed actions listed on the log.

During a site visit of adjacent landowners in the Aspen Valley Ranches subdivision, the landowners voiced their questions and concerns regarding the proposed action. Based on the amount of questions regarding several aspects of the proposed action from these landowners, the BLM organized an on-site meeting, August 13, 2013, to address the outstanding questions and concerns. The meeting was attended by interested landowners with land adjacent the project area, BLM representatives, the proponent (Smith Contracting), and MTDEQ's Environmental Management Bureau representative responsible for overseeing hardrock mining operations on private mine claims under a Small Miner's Exclusion Statement (SMES). All of the interested parties that had voiced concerns had a chance to hear what the proposed action would be and an opportunity to have any questions addressed.

There were no written comments submitted during scoping, but verbal concerns brought forward within the scope of this assessment were:

- Addressing the existing erosion issues and the water damaged road as well as the proposed action's further impacts to an already deteriorating road condition.
- Disrupting wildlife and leading to harassment.
- Displacing big game during hunting season.
- Roadkill mortality risk to big game.
- Increased use of the public road for a hauling operation detracts from enjoyment of the area.

Due to the public interest expressed, the BLM provided a comment period for the EA and unsigned FONSI. The BLM issued a press release on September 27, 2013 and initially accepted public comments until Oct. 15, 2013. Hard copies of the EA were placed in the Boulder library and Jefferson County Courthouse.

A Federal Government shutdown and employee furlough occurred during the comment period. The BLM Butte Field Office website was unexpectedly brought down in association with the government shutdown. Therefore, the public was unable to access the EA and FONSI on the BLM's website. After the shutdown was over, the BLM issued a press release on October 18, 2013, extending the public comment period on the EA and FONSI until November 1, 2013.

Articles appeared in the local newspapers about the proposed action, including: "Jeff City mining project leads to questions", Boulder Monitor, August 28, 2013; and "Neighbor has concerns about proposed mining project in Elkhorn Mountains", Helena Independent Record, October 12, 2013.

The Jefferson County Board of Commissioners sent a letter, dated November 8, 2013, in support of the original project and Dave Smith Contracting, the proponent.

Appendix 1 contains the substantive public comments received on the Golden Asset Mine Access Road Right-Of-Way Environmental Assessment (EA) and the BLM responses to those comments. The BLM considered and responded to all substantive comments in preparing this June 2014 EA, the Finding of No Significant Impact, and Decision Record.

DECISION TO BE MADE

Upon completion of the environmental analysis, the decision to be made by the authorized officer is whether or not to authorize the repair, use, and the maintenance of an existing BLM road to haul ore from a private mine operation, during the road's open season, May 16th to Dec 1st, for a term of 3 years.

CHAPTER 2 DESCRIPTION OF ALTERNATIVES

INTRODUCTION

This Environmental Assessment analyzes the Proposed Action alternative and the No Action alternative. The "No Action" alternative is considered and analyzed to provide a baseline for comparison of the impacts of the proposed action under the current conditions and management.

NO ACTION

The No Action Alternative would be to deny the application as proposed. However, the applicant could reapply addressing deficiencies in the original application. This alternative would leave the project area and the existing road in its current condition. The no action alternative provides the opportunity to analyze the environmental effects of not granting a road right-of-way and continuing with the current management and conditions.

PROPOSED ACTION

The BLM proposes to issue a 3 year road right-of-way grant to Smith Contracting, the applicant, authorizing them to repair, use, and maintain approximately 14,900 feet of existing BLM road to haul up to 25 loads per week of unprocessed hardrock ore. The dump trucks would be typical highway legal rear-dump and/or side-dump trucks with no more than a 28 ton capacity. The applicant would use the BLM road as part of their access route to haul unprocessed ore from private inholdings within BLM public lands. The proposed action on these public lands would be limited to the repair, use, and maintenance of the existing BLM road, while the road is open from May 16th to December 1st and road conditions permit. The ore would be either newly mined rock or previously mined waste rock that would assay high enough to warrant processing. All of the ore would likely be hauled to Philipsburg, Montana, for processing at the Contact Mining Company facility.

The proponent would operate at the Golden Asset Mine under a Small Miner Exclusion Statement (SMES) filed with the Montana Department of Environmental Quality (MTDEQ). Originally, the proponent was interested in re-mining the heap leach pad tailings left over from the old open pit mine, but MTDEQ decided against disturbing that material with a SMES. Therefore, the proponent would not be hauling any heap leach tailings. The SMES operations are held to less than 5 acres of total surface disturbance.

The applicant's operations would be relatively small with anywhere from 2 to 6 workers on site at any given time performing all aspects of the operation. Since the applicant would not be removing the leach pad tailings as originally proposed, the material to be hauled would be limited to any waste rock of economic value and ore mined by the proponent's operations. Quantities hauled would be dependent on how quickly the ore could be mined. Therefore, the estimated haul rate would vary from 0 to 25 loads per week.

As shown on the map exhibits, the proposed access route would include the existing BLM road segments of the route known as the Troy Creek Road, which adjoins the private mine claims containing the Golden Asset Mine. Within the BLM portion of the existing Troy Creek Road, the route crosses a small segment of private rangeland. The applicant has reported to have acquired written permission for this private segment and would have to maintain that permission throughout the proposed term of use.

Once the access route exits BLM land to the west, the route traverses private land before the route becomes a Jefferson County road. A BLM right-of-way authorization issued to the

applicant would only pertain to BLM lands and would not imply any legal justification to use the private road segments or obligate the landowners to authorize use. The applicant would be responsible for securing access across all private road segments involved. The proposed haul route continues out under the Interstate Highway 15 and intersects S. Main Street west of the highway. The haul trucks would take ore north on S. Main Street and get on the Interstate Highway at the Jefferson City access ramp.

The applicant proposes minimal road improvements, where the existing road requires repairs to damage caused by water runoff. On the BLM road, the applicant would grade, add gravel and install water bars/swales, where needed. Drainage improvements are needed to get the water off the road to prevent deterioration of their proposed road improvements. Before the project is completed, the applicant would repair any damage to the improvements. There would be no more than a 12 foot driving surface within the 24 foot wide right-of-way. No new ditches would be constructed in areas where they do not already exist, unless onsite monitoring by the BLM determines it's needed to improve water drainage. The applicant proposes to clean out only existing side ditches that would improve the drivability of the road. When ditches are cleaned, the material would be placed on the road and graded out smooth. Any organic material, not appropriate for the road bed, would be hauled up to the Golden Asset Mine and either stockpiled for later use in reclamation or spread in areas that would benefit from organic material. If the applicant adds gravel, it would be to minimal thickness necessary to improve the drivability of the road for the intended use. The gravel would be spread to the width of the driving surface and the thickness would be variable depending on need. The proponent would notify the BLM at least two days in advance of when any grading or improvements begin, so BLM can monitor the activity.

The current layout of the road would not change and no turnouts are added, but wide spots in the existing road would be graded and graveled to function as turnouts. Water bars/swales should be sufficient for most of the BLM road segments. In locations where these features are insufficient, a French drain and/or culvert may be installed. There is a road spot influenced by a seeping spring above the road, which may require a drain to collect and pass the water below the road.

The applicant would be responsible for weed control on the disturbed areas within the limits of the right-of-way for the term of the grant. All heavy equipment and off-road vehicles would be cleaned to remove weeds and weed seeds prior to starting construction and prior to using the access roads into public lands. The right-of-way would be treated with BLM approved herbicides and follow Jefferson County Weed Board acceptable weed control methods.

The applicant would also be responsible for dust abatement. Water trucks would spray water to minimize fugitive dust during dry high use periods of hauling or construction. Water application and frequency, thereof, would be dependent on conditions.

ALTERNATIVES CONSIDERED BUT ELIMINATED FROM FURTHER ANALYSIS

Other road access routes were considered as alternatives to the proposed route submitted in the right-of-way application, but were eliminated from further analysis.

Historically, the old Golconda Mine also used another route to the north that exited the Golconda Creek drainage. Apparently, the mine operators eventually improved the Troy Creek road for hauling in the 1980's, because the Golconda Creek would wash out the road and become inaccessible without extensive repairs. Since the Troy Creek Road was the last haul route for the old Golconda Mine, the existing road conditions are far better than the old unmaintained Golconda Creek haul road.

The Butte Resource Management Plan (RMP) adopted the 1995 Elkhorns Travel Management Plan. The RMP includes this area within the Elkhorn Mountains Area of Critical Environmental Concern (ACEC). The ACEC limits motorized travel to designated routes in order to protect wildlife and non-motorized recreation values and states that existing road closures will be maintained. Other routes considered were either closed or the open (restricted) segment does not extend all the way to the private mine parcels in the travel plan. The Troy Creek road described in the proposed action is the only route, which is open (restricted) and extends to the subject mine property.

CHAPTER 3

AFFECTED ENVIRONMENT/ENVIRONMENTAL IMPACTS

INTRODUCTION AND GENERAL SETTING

The BLM lands and the Troy Creek drainage rest on the west side of the Elkhorn mountain range between the towns of Boulder and Clancy, Montana, in Jefferson County. The Elkhorn mountain range is an approximately 300,000 acre area cooperatively managed by private landowners, the BLM, the Forest Service and the Montana Department of Fish, Wildlife and Parks. About 70 percent of the Elkhorns is publicly owned. The management emphasis is on wildlife and dispersed recreation. One of the state's healthiest elk herds inhabits the Elkhorns. Many areas are open to motorized use, although selected areas, including big game winter range, are closed either year-round or seasonally to protect wildlife values.

This mountain range is an inactive volcanic mountain range with the highest peaks at 9,414 ft., Crow Peak, and 9,381 ft., Elkhorn Peak. The elevation of the BLM lands affected varies from 5,400 feet to 6,750 feet. The average minimum/maximum temperatures for nearby Jefferson City are 9°/29° Fahrenheit in January and 52°/83° Fahrenheit in July. The lands affected would be primarily composed of Douglas-fir/ponderosa pine forest types at the lower elevations transitioning into subalpine fir/lodgepole pine forest types at the highest elevations. Much of this Troy Creek area has been impacted by extensive forest mortality caused by pine beetles.

CRITICAL ELEMENTS

The critical elements have been considered, and impacts to each element as a result of the proposed project have been analyzed. Table 3.1 lists the critical elements and shows whether or not each element would be affected by the proposed action.

Determination*	Resource	Rationale for Determination
NI	Air Quality	Some dust particles associated with road maintenance and truck hauling can be expected, but any effects would be minimal, highly localized, and short-term. As soon as the activity is completed, air quality would quickly clear up. The proposed use of a water truck to wet the roads when needed during dry periods and construction would greatly reduce fugitive dust.
PI	Areas of Critical Environmental Concern	Existing road is in an ACEC, as determined by the RMP. Motorized travel would be "limited" to designated routes in order to protect wildlife and non-motorized recreation values. Existing road closures will be maintained and enforced per the 1995 Elkhorns travel plan.
NP	Cultural Resources	Class III inventory was performed July 16, 2013. No cultural resources or historic properties were recorded during that inventory.
NP	Environmental Justice	No alternative considered in the course of this analysis resulted in any identifiable effects or issues specific to any minority or low income population or community as defined in Executive Order 12898.
NP	Farmlands (Prime or Unique)	No Prime or Unique Farmlands are found in the project area.
NP	Floodplains	None.
PI	Invasive, Non-native Species	Spotted knapweed, thistles, and Dalmatian toadflax are noxious weeds growing in the project area. The applicant would be responsible for weed control on disturbed areas within the limits of the right-of-way. The right-of-way would be treated with BLM approved herbicides and follow Jefferson County Weed Board acceptable weed control methods.
NP	Native American Religious Concerns	A Class III cultural resources inventory was performed July 16, 2013. No features or artifacts that would indicate religious concerns were observed.

Table 3.1 CRITICAL ELEMENTS		
Determination*	Resource	Rationale for Determination
NP	Threatened, Endangered or Candidate Plant or Animal Species	No ESA-listed plant or animal species occupy the action area. Grizzly bears (Threatened), lynx (Threatened), or wolverine (Proposed) may occasionally migrate or disperse through the area but no individuals of these species permanently reside in the area.
NI	Wastes (hazardous or solid)	No hazardous materials or waste will be used, produced, transported or stored on or within the right-of-way or used in the construction, maintenance or termination of the right-of-way. Any sizeable oil and/or lubricant spills from equipment would be cleaned up by approved methods.
NP	Water Quality (drinking/ground)	MTDEQ took baseline water samples. Proposed mining on private land administered under Small Miner Exception Statement, where the action proposed in the “statement” would not impact creeks. Hardrock mining and resulting ore would not impact water sources. Water drainage improvements proposed for the existing road would reduce sediment movement that has been occurring on the existing road, consistent with goals in the Lake Helena Watershed Restoration Plan (http://deq.mt.gov/wqinfo/tmdl/finalreports.mcp)
NI	Wetlands/Riparian Zones	Proposed action is not expected to increase erosion or runoff from the existing road and reach Troy Creek riparian zone. Water drainage improvements proposed for the existing road would reduce existing negative impacts from the existing road condition.
NP	Wild and Scenic Rivers	None present as determined by RMP
NP	Wilderness	Not present in the area impacted by the proposed action. The Elkhorn Tack on wilderness study area (WSA) is in close proximity, but the subject, seasonally open road is outside the WSA.

*Possible determinations:

NP = not present in the area impacted by the proposed or alternative actions

NI = present, but not affected to a degree that detailed analysis is required

PI = present and may be impacted to some degree. Will be analyzed in affected environment and environmental impacts.

(NOTE: PI does not mean impacts are likely to be significant in any way).

WILDLIFE

Affected Environment

Wildlife in the project area is expected to be typical of forested areas in southwestern Montana. However, wildlife surveys specific to the project area have not been conducted, primarily due to

lack of access across adjacent private land. Basic life history and habitat requirement information on all species mentioned below can be found at <http://fieldguide.mt.gov/> and numerous other sources.

Mammals The project vicinity provides year-round habitat for elk and mule deer, and summer habitat for moose. Big game security habitat is not present in the proposed action area. Predators likely to occur include black bear, mountain lion, and coyote. Many other small mammal species are associated with forested habitat including American marten, northern flying squirrel, redback vole, porcupine, snowshoe hare, red squirrel, deer mouse, dusky and vagrant shrews, and golden-mantled ground squirrel.

Birds Many species of migratory and nonmigratory birds are expected to inhabit the project area. Some examples of species that could occur in the immediate area of the proposed route include golden-crowned kinglet, brown creeper, boreal owl, hermit thrush, yellow-rumped warbler, mountain chickadee, red-breasted nuthatch, gray jay, pine siskin, red crossbill and ruby-crowned kinglet.

Fish Troy Creek runs near the proposed route for slightly over 100 yards on BLM land in Section 30. There is no data on fish populations in this creek (Montana Fisheries Information System 2012). Two other ephemeral reaches occur on BLM land that cross or are adjacent to the route in this section. These reaches do not support fish.

Reptiles and amphibians Reptiles that could occur in the project area include the eastern racer, rubber boa, gopher snake, terrestrial and common garter snakes, and prairie rattlesnake. Amphibians that could occur in the project area are Columbia spotted frog and western toad. Other reptiles and amphibians are unlikely to occupy the area.

Special Status species No species listed under the Endangered Species Act (ESA) are permanent residents of the project area, although it is possible that a grizzly bear, lynx, or wolverine may occasionally migrate or disperse through the site.

Species designated as BLM Sensitive in Montana that could occur within the proposed route vicinity are listed in table 3.2 below:

Table 3.2		
Species	Habitat Notes	Likelihood of Occurrence in Project Area
Gray wolf	Habitat generalist, may occur anywhere native ungulates occur. Range is expanding.	Likely that individuals occasionally use the area but no resident packs are known in the vicinity. One pack is known to occur in the central portion of the Elkhorn Mountains with an estimated size of six individuals (Bradley et al. 2013).
Long-eared myotis	May be present yearlong in MT but the majority of this species likely migrate south in fall. Typically found	May occur; however, forest stands adjacent to the proposed route do not have old-growth characteristics.

Table 3.2		
	alone or in small groups. Associated with forested stands with old-growth characteristics. Will roost in caves, mines, trees, rock outcrops. Uses caves and mines for maternity colonies.	
Long-legged myotis	May be present yearlong in MT but many individuals of this species likely migrate south in fall. Uses tree bark and caves for summer roost sites. Winter hibernacula are in more protected caves and mine tunnels.	May occur; bat surveys have not been conducted in the area.
Bald eagle	Prefers forested habitat near rivers and lakes in summer. Winter habitat may include more upland sites.	May fly over the area and hunt in the vicinity in winter. However, preferred habitat near rivers or lakes is not present.
Flammulated owl	Prefers dry, mature, open forest stands. Nests in cavities.	Could occur in the area. However, the forest along the route is not mature; trees are mid-size. Existing tree cavities along the route were not observed during a field visit.
Golden eagle	Nest on cliffs and in large trees. Mostly hunts over open habitat.	May use the area occasionally but open habitat for hunting is present in only very limited spots.
Great gray owl	Uses lodgepole pine/Douglas fir forests in Montana. Makes or uses existing stick nests.	Could occur in the project area. Surveys have not been conducted.
Northern goshawk	Prefers forested stands with large trees, dense canopy, and open understory.	Could occur in the project area but preferred habitat is not present; habitat present is more favorable to smaller accipiters.
Three-toed woodpecker	Uses coniferous forest habitat. Nests in cavities.	Could occur in the project area. Surveys have not been conducted.
Western toad	Habitat includes beaver ponds, streams, wet meadows.	Could occur along the lower end of the route in section 30. Habitat is not present above this section.

Impacts of No Action

Disturbance to wildlife from haul traffic would not occur. Sedimentation to Troy Creek and ephemeral reaches resulting from condition of the road would continue. No effects are anticipated to species listed as Threatened or Endangered under the ESA.

Impacts of Action

Effects of roads on vertebrate wildlife populations act along three lines: direct effects such as habitat loss and fragmentation; road use effects, such as traffic causing vertebrate avoidance or road kill; and additional facilitation effects, such as overhunting or overtrapping, which can increase with road access (Gucinski et al. 2001). The proposed action would not result in habitat loss and fragmentation, since the road already exists. Facilitation effects such as overhunting would not occur since access to the BLM segments of the haul route are not available to the general public where it crosses private property.

The proposed route is a low-speed route. The limitations of typical ore hauling truck would make it difficult to exceed much more than 15 MPH on this off highway route. Speed of traffic is directly related to the rate of roadkill mortality, and direct mortality on low-speed forest roads is not usually an important consideration for big game. Forest carnivores can be more vulnerable, because they have large home ranges that often include road crossings. Low-speed roads in forests pose a greater hazard to small, slowly moving, migratory animals such as amphibians (Gucinski et al. 2001, citing Lyon 1985, Baker and Knight 2000, Langton 1989). Due to the low speed nature of the route and focus required of drivers hauling full loads, roadkill of wildlife would likely be limited to the possibility of western toads in the lower portion of the route in Section 30, or other small animals.

The primary negative effect of the proposed action on wildlife would be avoidance of the area near the route due to increased traffic and noise. Much research has been conducted on road effects on elk. Elk are known to avoid areas near open roads. This response varies in relation to traffic rates, extent of forest cover adjacent to roads, topography, and type of road. Bull elk tend to have a stronger avoidance of areas close to roads than do cow elk (Rowland et al. 2005). Songbirds can be sensitive to very low noise levels (Forman and Alexander 1998), and nesting birds could avoid the area near the road during hauling. The results of this aspect of the proposed action would likely be a displacement of wildlife away from the road during hauling operations, temporarily reducing the amount of effective habitat. Individual energy expenditure would increase in avoiding the route, and some increased competition for resources away from the road could occur. The exact amount of displacement cannot be determined at this time, but would likely be minimized by forest cover along the route, low speeds, and topography.

No significant effects are anticipated to species listed as Threatened or Endangered under the ESA. In January 2014, BLM prepared a biological assessment for possible effects of the proposed action on lynx and wolverine for the purpose of informal consultation with the USFWS under Section 7 of the ESA. On February 4, 2014, BLM received a letter of concurrence from USFWS that the proposed action would not likely adversely affect lynx, and not likely jeopardize the continued existence of wolverine. See Appendix 2.

One positive effect of the proposed action would be road maintenance which would occur, and the associated reduction of runoff and sedimentation into Troy Creek and the ephemeral reaches. This would be consistent with goals of the Lake Helena Total Maximum Daily Loads, and Watershed Restoration Plan (<http://deq.mt.gov/wqinfo/tmdl/finalreports.mcp>), developed by the

Montana Department of Environmental Quality. The reduction of sedimentation would benefit amphibians, fish, and aquatic invertebrates present.

NOXIOUS WEEDS

Affected Environment

Noxious weeds, designated by state law and county weed boards, are non-native species that invade areas of native vegetation and replace native species. They are aggressive invaders, especially of disturbed soils, and decrease habitat value for wildlife, reduce range productivity for livestock, and increase costs for other land management activities.

A substantial number of these infestations occur adjacent to roads, power lines, streams, ditches, and canals indicating vehicles and water are primary carriers of weed seed. Noxious weeds and non-native, invasive species are spreading rapidly in much of Western Montana.

Noxious weed infestations are causing adverse impacts on native plant communities, hydrological cycles, wildlife habitat, soil and watershed resources, recreation, and aesthetic values. Dalmatian toadflax and Spotted Knapweed are the primary noxious weeds that can thrive on these disturbed sites.

Impacts of No Action

Under the no action alternative, the BLM public road would not be repaired, maintained, or used for ore hauling at a large scale. The proponent would not be responsible for weed management on the route. The access to the existing BLM road would continue to be limited by the private parcels providing no administrative access. Therefore, noxious weed management would remain restricted. The existing road has ongoing disturbance along some segments caused by water damage, which provides potential seedbed for noxious weed spread. This public road remains open, but can only be used by the private landowners and their authorized wood cutters, hunters, and other users. The existing use and conditions would continue to be an avenue for noxious weed spread. The opportunity to increase weed treatment, along the road, would be foregone.

Impacts of Action

Reconstructing the subject road would disturb the soil in this area and create a seedbed that would encourage additional weed and nonnative invasive plant growth. However, the ROW holder would be responsible for noxious weed management in the right-of-way corridor, which would limit the potential spread. The proposed water drainage features added during reconstruction would provide long term stability for the road and thereby improve long term resistance to disturbance and seedbed.

CONNECTED ACTION EFFECTS

Smith Contracting's mining operation at the Golden Asset Mine would be located on non-federal land. The private parcels are completely surrounded by BLM administered public lands; therefore, the scale and nature of the proposed mining operation on the private land would be influenced by the degree of authorized access across public lands. Since the BLM road accessing the claims is open seasonally, the landowners and their authorized contractors have casual use motorized access across public land, as defined in 43 CFR 2801.5, while the road is open. Once the demands of the mining operation require more than casual use of the public road, the scale of mining operation is influenced by the BLM issuing a road right-of-way authorization. In consequence, the limits of the mining operation could be considered a connected non-Federal action.

As stated above, the proponent does not need a right-of-way grant to use the public section of the Troy Creek road, when it is open for "casual use", as defined in 43 CFR 2801.5. Vehicle travel is allowed as long as there is no appreciable disturbance or damage to the road. The regulations specifically state casual use would ordinarily result in no or negligible disturbance of the public road. The mine operators could haul ore on the road "as is" on a casual basis, but could not maintain or repair the road.

Once the scale of the mining operation requires a BLM road right-of-way to meet objectives, the effects from the mining operation, a non-federal action, are properly considered indirect effects of the BLM action. Smith Contracting, the applicant, would mine hardrock minerals under a Small Miner's Exclusion Statement (SMES). Under Montana Code Annotated 2013 (MCA), 82-4-305, the SMES provides an "exclusion" from obtaining an operating (full-scale mining) permit for relatively small mining operations in Montana. The SMES consists of a signed and notarized affidavit stating the operator would stay within the requirements or conditions of the exclusion. Those conditions are:

- A. The operator will conduct an operation resulting in not more than 5 acres of surface disturbance including roads (unless the operator bonds for the roads).
- B. The operator cannot pollute or contaminate any stream.
- C. The operator provides MTDEQ with an appropriate map of his/her operation, and files a renewal annually that describes what has been done in the past year, and what is proposed for the coming year.
- D. The operator must comply with the Noxious Weed Management Act.

Indirect effects attributable to scale of operation to the surrounding lands would concentrate on the noise generated by the mining operation. Initially, the noise may affect wildlife movement patterns and the amount of effective habitat, but effects would moderate over the 3 year term as most species become accustomed to the noise. Individual energy expenditure would increase in avoiding the immediate area, and some increased competition for resources away from the mine could occur. Public recreation values would also be affected by the noise, thereby temporarily

decreasing the enjoyment and/or use by some recreationists (hiking, hunting, wildlife viewing, etc.).

CUMULATIVE EFFECTS

Cumulative impacts are those impacts resulting from the incremental impact of an action when added to other past, present, or reasonably foreseeable actions regardless of what agency or person undertakes such other actions.

The analysis area has seen a variety of activities over the past century, including a history of mining, ranching, and logging. A number of roads were built in support of these activities that have since fallen into disrepair. The subject road was improved in the 1980's as an alternate haul road for the mining operation up at the Golden Asset claims. Eventually, the Golconda Creek route was washed out by the creek and the Troy Creek route became the only access route until the old Golconda Mine closed down.

This area of the Elkhorn Mountains has a strong mining history and high mineral potential. Minerals exploration and development are allowed, and there are a number of existing unpatented mining claims in the area. Exploration or mining activities on BLM lands would require a Plan of Operations, because this area is in an ACEC, but unpatented claim owners have a right to access and work their claims under the federal mining laws. It is foreseeable that there will be additional mineral activities on public and/or private lands in the future by unpatented claim holders. Maintained access roads would still be needed on public and private lands for much of the mining activities and hauling ore would be anticipated as claim development potential increases if precious metal values increase.

A more recent trend is the considerable increase in private land development and subdivision for homes and recreation properties surrounding the subject public lands. Access to public lands will be further complicated by the development of adjacent lands. There will be an increase of use by resident landowners and their authorized users, but it is reasonable to see less access by the general public except for those entities with valid existing rights/easements established before the subdivisions were created.

Livestock grazing in the area is expected to continue as private ranch lands are interspersed with public lands in the area. There are mineral claims accessed using the seasonally open BLM routes, but there are no larger mining proposals in the reasonably foreseeable future. There are no known timber or salvage sales proposed for the area as well. The BLM doesn't have legal access. There are no reasonably foreseeable opportunities to gain access for timber harvesting, should forest management aspirations arise.

Aspen Valley Ranches is a subdivision of 20 acre plus parcels adjacent the Troy Creek drainage. Nearly 25 parcels are within a mile and well over 50 parcels are within a few miles of the subject access road. There is limited development at this time, but it's reasonable to expect future development of this subdivision as residential properties and seasonal homes. This is a trend that continues to occur throughout western Montana.

With the on-going development of nearby and adjacent private lands, this area has become increasingly important to wildlife. The residential growth will continue to increase demand and pressure on the public roads open to motorized vehicles.

Approval of this 3 year right-of-way would result in increased traffic and increased use of these public lands during the operational season (May 16 - Dec. 1). Initially, the increased road traffic and human influence would cause short term effects on wildlife movement patterns. Some negative habitat impacts would be temporary in nature (equipment noise, ground disturbance, some dust). Other impacts would be longer-lasting and beneficial, such as road repairs, water drainage features, and economic benefits for state and local communities.

The surrounding public lands reside in an Areas of Critical Environmental Concern (ACEC) for motorized travel management purposes. Motorized travel is “limited” to designated routes in order to protect wildlife and non-motorized recreation values. No new permanent roads will be authorized for public use and existing road closures will be enforced per the 1995 Elkhorns travel plan.

The cumulative impacts from the proposed action would be an incremental increase in use of the existing Troy Creek road and the associated impacts. The reduction in sediment movement and erosion from the existing road would be anticipated with the proposed road maintenance and basic drainage improvements on the existing road.

As shown in attached maps, due to the topography and existing route, riparian zones are present in the area, but the proposed action would have little effect on these zones individually or cumulatively. The riparian zone associated with Troy Creek nears the existing road as it approaches the subdivision parcels on the west end, but the road does not enter the stream’s riparian margins characterized by hydrophilic plants. The proposed action is not expected to increase erosion or runoff from the existing Troy Creek road and influence the Troy Creek riparian zone. Water drainage improvements proposed for the existing road would reduce sedimentation occurring from the existing road condition.

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CHAPTER 4 PERSONS, GROUPS, AND AGENCIES CONSULTED

During preparation of the EA, the public was notified of the proposed action through a posting on the Butte Field Office NEPA log on May 31, 2013. Contacts established in response to the notice are shown below. Data collecting site visits were conducted in combination with external scoping. Interest, questions, and concerns came from adjacent landowners in the Aspen Valley Ranches subdivision.

The EA and unsigned FONSI were made available for public review and comment in October 2013. The EA has been modified in response to these comments. Detailed responses to substantive comments can be found in Appendix 1 of the Decision Record.

Table 4.1. List of Persons, Agencies and Organizations Consulted

Name/Agency	Purpose & Authorities for Consultation or Coordination	Findings & Conclusions
Gary Ogilvie	<i>Adjacent landowner</i>	<i>Access road goes through his property. Existing road has erosion issues. Proposed action includes measures to repair road and provide water drainage features to minimize the degradation of the road and sediment entering Troy Creek.</i>
William R Dubrul	<i>Interested landowner</i>	<i>Provided a public comment period before decision.</i>
Robert Cronholm, State of Montana, Department of Environmental Quality	<i>Consult with MTDEQ as the state agency with authority over the mining on private land.</i>	<i>Clarified the limits of the proposed mining operation, which refined the proposed action. Mining restricted to Small Miner's hard rock open pit mining. Chapters 2 and Chapter 3.</i>
United States Fish and Wildlife Service (USFWS)	<i>BLM prepared a biological assessment for possible effects of the proposed action on lynx and wolverine for the purpose of informal consultation with the USFWS under Section 7 of the ESA</i>	<i>On February 4, 2014, BLM received a letter of concurrence from USFWS that the proposed action would not likely adversely affect lynx, and not likely jeopardize the continued existence of wolverine.</i>

List of Preparers

Table 4.2. List of Preparers

Name (and agency, if other than BLM)	Title	Responsible for the Following Section(s) of this Document
Michael Wyatt	Realty Specialist	Project Leader, Coordination, Quality Control, Chapter 1 input, Chapter 2 input, etc.
Scot Franklin	Wildlife Biologist	Impact analysis for wildlife management.
Carolyn Kiely	Archeologist	Cultural Resources/Native American Religious Concerns; Class III cultural survey

Joan Gabelman	Geologist	Minerals and Review
Bradley Rixford	Recreation Planner	WSA Review
Lacey Decker	Weed Specialist	Chapter 3 Review
Brad Colin	Recreation Planner	ACEC and Travel Management Review
Eric Broeder	Rangeland Management Specialist	Riparian/Wetlands and Review
Roger Olsen	Rangeland Management Specialist	Sensitive Plants Review
Corey Meier	Assistant Field Manager Non-Renewable Resources	Soils, Hazmat, Review

Appendix 1 Comments and Responses

This appendix contains the substantive public comments received on the Golden Asset Mine Access Road Right-Of-Way Environmental Assessment (EA) of September 2013, and the BLM responses to those comments. The BLM considered and responded to all substantive comments in preparing the complete June 2014 EA, Finding of No Significant Impact, and Decision Record. A substantive comment requests clarification or more discussion on a relevant topic, gives new information affecting the analysis, questions analytical techniques, or suggests new alternatives. BLM did not prepare responses to comments that simply expressed a preference for a particular alternative or action, but we did consider those comments when completing the analysis and preparing the Decision Record.

The responses to substantive comments are presented below and may also be reflected by changes made to the initial environmental assessment. Comments have been grouped together by similar subject matter, edited for brevity or clarity, and combined with other similar comments; therefore comment statements may not be exact quotes of any one person or organization.

The following index is a list of commenters and their corresponding comment letter designation. This number is shown at the end of the comment statement in parenthesis to identify the individual(s) or group(s) who made the comment.

Table 1.1 – Log of Comment Letters

Letter No.	Name
1	Karl Siderits
2	Will Dubrul
3	Joan Eckley Rada
4	James R. Kralic
5	Valerie D. Wilson
6	Robert L. Pickett Jr.
7	Loren W. Davis, President, Davis Business Machines, Inc.
8	William W. Pickett P.E.
9	Kristen Rada
10	Mike Miller
11	Eric Pickett, Tri-County Mechanical & Electrical
12	Terry Leftgoff
13	William R. Dubrul
14	Michael Garrity, Executive Director, for Alliance for the Wild Rockies, Native Ecosystems Council, & Montana Ecosystems Defense Council
15	Doug Rotarius

16	Jeff Kangas
17	Dan Ledbetter
18	Matthew Tomaszewski
19	William R. Dubrul
20	Clare M. Miller
21	Daniel A. Horgan
22	Cynthia Kruse
23	James W. Brown
24	William W. Pickett P.E.
25	Ted Antonioli
26	Ed Amberg
27	Dave Hohenthal

Air Quality

1. **Comment:** The applications states that air quality will not be affected because this is unpopulated area. It is populated and in addition there is significant wildlife that could be affected. You do not address this properly in the EA. Air quality will be affected. How can the application conclude there will be no degradation of air quality even if this is unpopulated, which it is not? (19)

Response: The Environmental Assessment (EA) does not discuss a relationship between population and air quality. The EA discloses that Air Quality could be affected by the proposed action from fugitive dust being raised during construction and hauling activities; however the effects would be minimal, highly localized, and short-term. Use of water trucks, to wet the road when needed during these operations would greatly reduce fugitive dust.

2. **Comment:** Will the road be watered? When and how often? You mention dust abatement. Please provide this analysis to the public before allowing this ROW. (19)

Response: As stated in the EA, water trucks would spray water to minimize fugitive dust during dry high use periods of hauling or construction. Water application and frequency thereof, is dependent on conditions. The proposed application of gravel to the road surface should also help reduce dust.

Alternatives

3. **Comment:** Has there been an evaluation of hauling the tailings material south from the Troy Creek Road where it intersects South Main, to Boulder, on roads less traveled and reduced miles? The document is focused on one alternative. (1)

Response: The proponent looked into the option of heading south from intersection with South Main, but private subdivision roads will not allow truck hauling traffic. The EA has added an “alternatives considered but eliminated from further analysis” to disclose what other alternatives were considered and why they were not analyzed in detail.

4. **Comment:** Being familiar with the access to this area, the alternate route being discussed to access the Golden Asset/Golconda Mine is an inferior route. The Contractor would need to construct new haul routes to improve the grade percentages for the haulage equipment as just one example of dismissing this as an option. (4)

Response: Researching Golconda Creek route as an alternate route, the location of the old road in the creek drainage was reason for concern. Apparently, the miners reconstructed the Troy Creek road for hauling, because the other road kept washing out and was often in need of repair. The EA has added an “alternatives considered but eliminated from further analysis” to disclose what other alternatives were considered and why they were not analyzed in detail.

5. **Comment:** Further that application states this is the only route to the mine. This is incorrect. Historically the route to the mine has been along Golconda Creek. This historical route from the Golden Asset Mine to the closest maintained road is approximately 2.5 miles, but BLM did not even consider this as an alternative. How can that be when the route you are looking at is almost 5 miles? This is not fair and NEPA requires alternatives to be explored. Further this alternative Golconda Creek route goes through mostly BLM as opposed to private land in your EA! Please provide this analysis to the public before allowing this ROW. You need to provide any cumulative effects in this regard as well.

There is access from the north and other sides to this area. Access is NOT limited to the road as you tell the public in the EA. Therefore your premise is wrong. (13, 19, 20, 22)

Response: After reviewing the ROW application, the BLM limited the EA analysis to the proposed access route and the no action alternative. The EA has added an “alternatives considered but eliminated from further analysis” to disclose what other alternatives were considered and why they were not analyzed in detail.

Environmental Justice

6. **Comment:** ...you are required by the Environmental Justice Executive Order 12898, to provide an analysis of any federal project which occurs on or influences the public of the environmental effects, including human health, economic and social effects of the proposed action. What was your analysis to say there were no effects? Residents of Jefferson City where the proposal for 20 truckloads or 560 tons per day are to pass through, for 4 to 6 days a week, for 3 seasons, have not been informed. Actually it will

be 40 trucks per day travelling though Jefferson City. Most of the people directly affected meet the category of Executive Order 12898. Health and safety issues and other potential effects of your action on them will have a serious impact on our community. (1)

Response: Executive Order 12898 states “To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States...” A private mine operator hauling ore to the local Interstate highway access point, which happens to be in Jefferson City, would not be a disproportionately high and adverse effect. The proposed action would not be directed away from another community in favor of Jefferson City. According to the 2010 U.S. Census data, Jefferson City would not be considered a minority community with a white population over 96% and based on U.S. Census Bureau’s American Community Survey (ACS) 2008-2012 data, Jefferson City is ranked 190th in Montana Per Capita Income out of 356 communities surveyed. Census data indicates Jefferson City and the surrounding area are growing in population, median income, and housing values.

Cultural

7. **Comment:** Please provide to the public, the ‘Class II Cultural Resource Inventory that was completed as you state in the EA...Please provide your analysis of no Native American artifacts that was completed July 16, 2013. Who did this analysis? (19)

Response: The BLM employs a staff archeologist to visually inspect the project area and make the determination regarding the presence or absence, and the significance of historic properties. This inventory was conducted by Butte Field Office archeologist Carrie Kiely on July 16th. No cultural resources were observed. All cultural resource reports and their information (other than negative results) are excluded from public documents, and are exempt from Freedom of Information Act requests. This is to safeguard the integrity of sites and protect them from vandalism. Reports are available only to those archeologists who have a permit with the BLM.

Cumulative Effects

8. **Comment:** Are there any other projects such as logging, mineral exploration, grazing and development, etc. ongoing or reasonably foreseeable in the allotment area which would cause cumulative impacts to resources in the allotment areas? Don’t forget the impacts of motorized off-road travel on these resources. Include the impacts of activities on lands of all ownership. (14)

Response: The EA addresses cumulative effects. There is ongoing grazing in the area as well as some mineral claim activity, but there are no reasonably foreseeable logging or improvement projects proposed in the drainage. The BLM doesn't have any legal access and no anticipation of obtaining private access in the reasonably foreseeable future. The EA addresses conformance with other BLM land use plans for the area. It addresses the proposed action's conformance with the Areas of Critical Environmental Concern (ACEC) and the 1995 Elkhorns Travel Plan adopted in the Butte Field Office RMP. Motorized travel is "limited" to designated routes in order to protect wildlife and non-motorized recreation values. The motorized use by the public is further restricted by the surrounding private lands in this drainage.

Forest and Wildland Fuels

9. **Comment:** Forest fire mitigation of the proposed action is another issue which has not been identified in your document. The areas to be evaluated are at the loading site with the heavy equipment being use, along the Troy Creek haul road and then along South Main. What types of firefighting equipment will be staged and available to take initial action from fire caused by overheated heavy equipment, sparks from loaders operating on rocks or from exhaust pipes and overheated truck brakes coming down the steep South Main street causing fire in the grass right of ways? All of these situations mentioned have resulted in grass and forest fires in the past recent years within the local fire district. (1)

Response: Under the standard terms and conditions of the right-of-way grant, the BLM would reserve the right to shut down hauling operations on BLM, when fire danger warrants. The operator is also required to maintain heavy equipment used on public lands with spark arrestors and to carry fire suppression equipment such as shovels and water bags.

Hazardous Materials

10. **Comment:** The application goes on to state no hazardous material will be hauled. How is this possible since this old mine is known to contain hazardous material. In fact will the trucks be covered to prevent hazardous waste escaping during transport? They should be unless you can prove that there will be no hazardous dust coming from the ore and reclamation that they state in the application. How can you prove this when there is hazardous waste at the site? And that the mine was closed the last time it operated because of hazardous waste spills that you communicated to us at the August 13 meeting? Please provide this analysis to the public before allowing this ROW. (13, 19, 20, 22)

Response: The old Golconda mine used to process ore on-site using a mining process known as heap leaching to extract the precious metals. The crushed ore was heaped on a leach pad, where it was irrigated with a cyanide leach solution to dissolve the valuable

metals. Although the proponent originally intended to salvage the leach pad ore material, the proposed action has changed. The EA's proposed action asserts only ore the proponent has mined and any waste rock of value will be hauled. The existing leach pad tailings from the past open pit mining would not be hauled as originally proposed. As stated in the EA, activity at the mine site, located on private land, is administered by the Montana Department of Environmental Quality (MTDEQ), not the BLM, under a Small Miners Exclusion Statement (SMES).

Hydrology

11. **Comment:** You state that 'run-off will be reduced and beneficial'. How do you reduce run-off? Please explain. Please provide this analysis to the public before allowing this ROW. You contradict yourself when you say 'water drainage will be improved' because you fail to show this in your analysis. Water will continue to flow down the mountain to Troy Creek. You will not change any of this. (19)

Response: The EA states that the proposed action would not increase erosion or runoff, not that runoff would be reduced. The proposed action is to improve the condition of the road and drainage controls through maintenance and use of BMPs to prevent erosion and sedimentation, not to change the drainage pattern of the mountain.

Noxious Weeds/Vegetation

12. **Comment:** Does the RMP contain any legally enforceable standards/thresholds for prevention of new infestations, i.e. if a project area has no weeds and the mine hauling introduces a weed infestation, is that permissible under the Noxious Weeds Plan? If there is no such legally enforceable standard, please explain why such a standard is not necessary. (14, 19)

Response: Noxious weeds are present in the project area already spread by a history of human influence, wildlife, livestock, fire, etc. The applicant would be responsible for weed control on disturbed areas within the limits of the right-of-way or the grant could be terminated and the holder would still be responsible for the cost incurred by the authorized officer to treat outstanding weeds associated with the holder's use. The right-of-way would be treated with BLM approved herbicides and follow Jefferson County Weed Board acceptable weed control methods.

13. **Comment:** Please discuss the threat to biodiversity from noxious weeds. What is the quantified cumulative risk (i.e. what is likely rate of spread and percentage of increase in acres infested) of noxious weed spread as a result of this Project, the grazing allotments in the project area and other commercial logging/road-building projects on the Western Montana District of the BLM? (14)

Response: Noxious weeds are already present in the area from a history of mining, livestock grazing, logging, hunting, recreation, etc. and the proposed action would not appreciably impact the current condition with the proposed weed management requirements.

14. **Comment:** Why does the BLM assume that ever-increasing noxious weed infestations will not adversely affect the long-term productivity of the land? What is the best available science, published, peer-reviewed science on this issue? (14)

Response: The EA did not make any such assumptions and to the contrary, noxious weeds are considered an issue to be addressed through treatment.

15. **Comment:** You mention that if “No Action” occurs, weeds will be bad. Are the proponents going to decrease the existing status of weed problems as you mention? Please clarify. (19)

Response: As explained in Chapter 3 of the EA, the no action alternative would continue with existing management and conditions that are not absent of noxious weeds. The BLM’s restricted access and the lack of general public motorized access restrict the amount of time and resources that can be applied to weed management in the area. The proposed action would use the existing road along with repair and maintenance. In either case, noxious weeds can spread, but the proponent would have a requirement to treat the disturbance area, which should minimize noxious weed spread and potentially reduce existing infestation concentrations.

16. **Comment:** What is the significance of the impacts from past mining and other management actions on the diversity of plant species in the analysis area? (14)

Response: A study on the impacts of past actions on the diversity of plant species across the analysis area is outside the scope of the analysis needed for considering the impact of the proposed action. The proposed action to use an existing road and employ the required weed controls would not change the diversity of plant species in the area.

17. **Comment:** There are sensitive plants known to this area. Why is there no mention of the sensitive plants known to be in this area? (20, 22)

Response: The proposed action would be to repair, use, and maintain an existing open road, where sensitive plants are not present.

Proposed Action

18. **Comment:** In light of the significant threat to biodiversity from new and expanding noxious weed infestations, the BLM's decision to build 6 miles of new roads that will undoubtedly lead to new weed infestations is arbitrary and violates FLPMA's mandate to protect native plant diversity. (14)

Response: The proposed action would use an existing open road to haul ore and would not build any new road. The proposed ROW length is approximately 2.82 miles.

19. **Comment:** It seems unnecessary to grant a three year approval for 90 days work. They've also stated that depending on what they find the mine could be open for longer than three years. (15, 19)

Response: The proponent has modified what would be hauled in the proposed action. The Proposed Action in the EA has been depicted accordingly. The proponent would not haul any heap leach pad material. The proponent would haul ore they mine and possibly some of the existing waste rock. Therefore, the proponent is limited by the Small Miner Exemption Statement and value of the unprocessed ore. The hauling is limited to what the mining operation can produce in ore. If the proponent wants to mine longer than three years, they would have to go through the right-of-way grant renewal process, including supplemental NEPA analysis.

20. **Comment:** I would really like to know how a statement can be made indicating there would be no hazardous material hauled when it seems apparent that hazardous materials are known to have been present at the old mine site. Can you or someone else absolutely verify that no hazardous materials exist at the site to be extracted? I know from firsthand experience that hazardous materials and mining sites go hand in hand. (16)

Response: The proponent has modified what would be hauled in the proposed action. The proponent would not haul any heap leach pad material. The proponent would haul ore they mine and possibly some of the existing unprocessed waste rock. Any digging up of the leach pad material would be against what has currently been authorized with the Montana DEQ.

21. **Comment:** In your EA you say adverse impacts will be temporary. However, when you met with the public in August at the site, BLM told us that this mining may go on forever. But the BLM *application* from Smith Contracting that was filed March 15, 2013, which requires that the contractor meet with BLM prior to the application being filed so that a thorough understanding of the project exists between the contractor and BLM. Your EA does not state this. (19, 20, 22)

Response: Adverse impacts would be temporary, considering only a three year authorization compared to a ten to thirty year use authorization on an existing open road. The BLM does not require, but encourages the proponent/applicant to schedule a pre-application meeting with the representative responsible for processing the application. Regardless, an application's proposed action for one reason or another may need to be modified during the application review process. The amended version of the proposed action then carried through the environmental analysis and the decision process. At the on-site public meeting, the proponent's representative made us all aware they would do some new mining as well. The proponent's representative, not the BLM, suggested a potential need for long term access, depending on what they discover mining. It was agreed to pursue the three year grant, because of the unknowns and the short term access agreement across private land.

22. **Comment:** When the public met with you in August (some 5 months after you met with the contractors and the application was submitted), you told us the ore would be hauled to Golden Sunlight Mine in Whitehall via a route through Jefferson City and Boulder. But your EA states that the ore will be hauled to Phillipsburg, Contract Mining Company. Which is correct? (19)

Response: The proponent's proposed action at the private mine evolved as they acquired further input from MTDEQ and economic viability data. The proponent's mining operation would haul the unprocessed ore to the Contact Mining Company in Phillipsburg, Montana, for processing. The original application focused on hauling heap leach pad material to Golden Sunlight Mine for further processing. The proponents no longer propose to haul any leach pad material. The BLM does not have the discretion to determine where the ore is hauled and only presented the destination to facilitate a comprehensive understanding of the overall project.

23. **Comment:** Your EA states that there are no future actions, but you told the public this may continue forever. Please provide this analysis to the public before allowing this ROW. You need to provide any cumulative effects in this regard as well, since BLM told the public in August, 2013 that this mining may occur forever. (19)

Response: The EA states the proposed action would be a three year grant and does not state there are no future actions. Based on the comments, the proposed action was adjusted to capture the modified hauling rate as it relates to the change in mining operations. The daily and weekly haul rate has been considerably reduced, but hauling would be more evenly distributed over the three year term of the grant. Cumulative Effects has been updated to address the nature of the haul rate intensity and duration. Any use of the ROW beyond the 3 year term would require an amendment and supplemental NEPA analysis.

24. **Comment:** The application you have provided to the public states that the mining will end in the fall of 2014. But your EA states it will end after three years... What are we to believe? (19)

Response: A public request to see the initial application just provides background information. The proposed action carried forward in the EA is the action to be analyzed and the basis for the decision to be made. The proposed action has been modified in several ways from the initial application's proposed action, including the term of operation, which would be limited to 3 years.

25. **Comment:** During the August 2013 meeting with the public, miners and MTDEQ you told the public that you needed proof from the 'purchasers' of the ore that indeed they would purchase the ore. Further you said that you have received this proof, via a letter of commitment. However, the letter you provide to the public is from the Golden Sunlight Mine in Whitehall, but in your EA you state the ore will be purchased by Contract Mining in Phillipsburg, MT. Which is correct? If it is the Phillipsburg company, where is that commitment? (19)

Response: The discussion point was centered on the heap leach pad material that the proponent originally proposed to haul off the site. The proposed action no longer includes hauling this leach pad material.

26. **Comment:** How are you minimizing impact if you want to grant a ROW for 576 days for a project that takes 90 days? You are proposing that you give 640% MORE DAMAGE TO THE ENVIRONMENT than what is required. You state in the EA that 20 truckloads carrying 560 tons per day (4-6 days per week) will be done over three seasons. If you follow what you state in your EA, three seasons provide in excess of 320,000 tons of ore, not 50,000 tons as proposed. (19, 23)

Response: The proponent asked for the flexibility to haul at the maximum rate stated in the proposed action. The length of the right-of-way grant term was to provide flexibility to implement road improvements and hauling operations, when the road is dry and open on BLM. The proposed action no longer includes hauling the leach pad material, which could be accomplished at a high rate. The term of the grant remains at three years, because the nature of the proposed mining operation would be more prolonged. The load limit and the time limit still apply.

27. **Comment:** You state that new ditches will be constructed. The Jefferson Valley Conservation District requires permitting for such activity and engineering drawings may be submitted. You provide no such engineering drawings and neglect to mention laws in this regard. Certainly these are not based solely on a forester's recommendation? Further you state in your EA that culverts and French drains may be installed. Where are the geotechnical drawings for such excavation as this? (19)

Response: Road standards on BLM land are at the discretion of the agency. The road improvements would be used to improve drainage from the existing condition, using best management practices to control runoff and sedimentation. Engineering designs are not necessary, because this is not a heavily traveled road open to general public use.

28. **Comment:** In your EA entitled CRITICAL ELEMENTS, you mention water trucks will be used only during construction, but elsewhere you mention it will be done during all aspects. (19)

Response: The corrected Air Quality Critical Elements table says, “Proposed use of a water truck to wet the roads when needed during dry periods and construction would greatly reduce fugitive dust.”

29. **Comment:** You discuss in the EA also that ‘sizeable’ spills will be cleaned up with appropriate methods. Please provide this analysis to the public before allowing this ROW. (19)

Response: Potential leaks or spills of vehicle fluids during travel on existing roads have been a commonly known aspect and risk of vehicle travel. There is a potential risk of such from any vehicle using the subject open road. In regard to the ore to be hauled, the unprocessed ore would not be a hazardous material, even if spilled. The proponent is required to report any substantial spill to the appropriate authorities and is responsible for cleanup.

30. **Comment:** You don’t even have the pollution control plans of both contractors. These were asked for and you told the public BLM did not have any. (19)

Response: The BLM does not require a “pollution control plan” for right-of-way grants. BLM has terms, conditions, standard stipulations, and any special stipulations generated during the environmental review process.

31. **Comment:** The current degraded condition of the roadway limits usage to the lightest of motorized vehicles, which are in synch with the most common public activities in the area. To prepare and repair the roadway for such heavy commercial traffic, as proposed, would essentially constitute the construction of a new road. (21)

Response: The road was in good shape, overall, on BLM lands. As stated in the EA, improvements would focus on improving water drainage by getting any water off the road more frequently and repairing where water damaged already had occurred.

32. **Comment:** Large truck traffic at this frequency of use can't help but disrupt any activity in the area. Noise, vehicle intimidation and dust are all factors that will alter behavior patterns (human as well as wildlife). (21)

Response: The proposed hauling rate has been reduced to 25 or less trucks per week. The EA has been modified accordingly and the impact assessment updated to account for the revised hauling rate.

33. **Comment:** Dust control is only minimally discussed. No details relating to dust control or mitigation are given. Will BLM instruct the company as to how often dust suppression will be applied to the roadbed or will the agency leave it to the discretion of the mine operators? (21)

Response: The substantial reduction in the rate of hauling proposed, as well as the limited level of construction and maintenance on this existing road, does not warrant an ongoing concern for dust. The proponent proposes to use a water truck to wet the roads when needed during dry periods and construction. If a right-of-way grant is issued, it would have terms and conditions allowing the authorized officer to enforce the dust control measures.

34. **Comment:** If my understanding is correct and the Golden Asset Mine is reopening the shuttered Golconda Mine, has consideration been given to the possibility of contaminated mine waste being transported in the ore loads and blowing off the backs of the trucks? (21)

Response: The processed material on the Golconda Mine's heap leach pads would not be hauled on the right-of-way. The proponent would only mine and haul unprocessed ore and waste rock. The MTDEQ has informed the proponent they can't haul the leach pad material away for processing.

Process

35. **Comment:** The documents referenced above are significantly lacking in: public involvement requirements of the National Environmental Policy Act; public safety and health analysis required in the Environmental Justice Executive Order 12898; fire control analysis and an analysis of the South Main Street road condition, maintenance and signage.

Jefferson City is an unincorporated community where I am a homeowner for the past 4 years. Our community has a US Post Office, a community center, a county recognized volunteer fire department, several businesses, and 350 households.

First, the vast majority of residents in our community have not been informed of the proposed action. I believe it is less than 1% of the affected people, about 3 to 10 of our residents. Information has not been placed at: our post office; refuse transfer site; fire hall nor at our community center nor at the community center bulletin boards at the stop sign at the entrance to our community. NEPA requirements to inform affected people of the proposed action have not been met. The Boulder MONITOR and other local news sources, i.e., our local radio station for Jefferson City on FM 100, have not been informed of this proposal. In talking with several community members, they have not been informed of this proposal. Most do not have internet to access your only source of these BLM documents. In an email note of 9/27/13, from you to a resident who lives just off the Troy Creek proposed haul road, you go on to state that the proposed action is on the BLM NEPA log which allows the public to see what is under consideration by the BLM. The public would be able to review and comment on the EA which was posted to your website. Actually most of the people directly affected have no idea or internet access of the proposal. You are required by the Council on Environmental Quality (CEQ) make "diligent efforts to involve the public in preparing and implementing your NEPA actions. Although you request public comment, none of the sources mentioned, which are the primary information approaches in our community, have been utilized.

The BLM presented a very narrow analysis approach, evaluating only the potential improved dirt road for access and egress across this public land. Within the federal law, there is direction to the federal agency that they must consult with cooperating agencies (other state and federal) and especially the people potentially affected-in this case the people of Jefferson City. Have you consulted with the county? We have not heard anything, nor been informed of this proposal regarding the Troy Creek Haul Road nor the involvement of its citizens in Jefferson City.

Engage the people of our community through face to face discussions, signs at our post office and the community center bulletin board, at the transfer site and most basic-meeting with the people who live and work in Jefferson City. Information gained through these sources will assist you in your decision. Federal agencies are required to ensure the American people and their communities are always an integral part of the process in the decisions they make. Federal law, NEPA 43 CFR Part 46, requires public participation and community involvement through proper notification. There is more work to do on this proposal regarding public involvement and alternatives. (1, 12, 16, 19, 22)

Response: The Troy Creek Road is a seasonally open road and the proponent would maintain and use this existing road. The general public has not been allowed to use the Troy Creek Road for years, because there are locked gates on the road segment crossing private property before it enters public domain land.

Therefore, it was anticipated the road use would have little to no impacts with the general public. The BLM used the NEPA log on the local website as a way to inform the public of the action.

During a site visit for field survey work, the landowners, who volunteered to let the BLM professionals through their locked gate, voiced concerns about existing road damage, potential increased damage from the proposed action, and requested reassurance the road would be repaired and maintained. There were a few more site visits with the adjacent landowners to address questions and concerns about the proposed action. This input generated a site tour, which included the proponents and the MTDEQ. Since the proposed action had generated more interest than originally anticipated, the EA and the draft Finding of No Significant Impact were released for a public comment period. Please refer to the Public Involvement section of Chapter 1 in the EA for a more involved discussion of the public involvement efforts.

36. **Comment:** COMPLIANCE DEFICIENCIES. The BLM appears to be out of compliance with public notice, comment and circulation mandates as required by the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ). NEPA and CEQ requirements include: mandated public notice of the project, minimum terms of the public comment period, circulation of the Environmental Assessment (EA) to the public, and availability of the EA during the entire comment period. (12, 13, 14, 19)

Response: No public comment period is required for EAs under NEPA. The BLM took the extra step due to the public interest expressed. There were multiple press releases on the availability of the EA and follow up media coverage on the proposed ROW.

37. **Comment:** AVAILABILITY OF ENVIRONMENTAL ASSESSMENT. It is my understanding the Environmental Assessment (EA) document was published exclusively on the BLM website for public review. The government shutdown has made the website and the document unavailable to the public for review. Indeed, I as a member of the public was unable to find or review the EA. Clearly, the BLM has not complied with circulation requirements since the EA is unavailable for public review. As of the writing of this comment letter, it is unknown when the federal shutdown will end, BLM offices and website will reopen, and the EA will again be available. Due to these deficiencies, I request public notice be republished, the EA be recirculated and the comment period be extended. (1, 12, 13, 14, 16, 17, 19, 20)

Response: The BLM issued a press release on September 27, 2013 and initially accepted public comments on the proposal and EA until Oct. 15, 2013. A Federal Government shutdown and employee furlough occurred during the comment period. An unexpected shutdown of the BLM website attributed to the government shutdown also occurred. Therefore, the public was unable to access the EA and draft FONSI on the BLM's website. After the shutdown was over, the BLM issued a press release on October 18, 2013, extending the public comment period on the EA and draft FONSI until November 1, 2013.

38. **Comment:** Additionally, given the demographic nature of the affected community, I request the BLM distribute printed versions of the EA to locations including local schools, libraries, government, civic and/or community centers, and areas affected by Troy Creek. This will ensure public awareness and participation. (12, 16, 19, 20)

Response: Hard copies of the EA were placed in the Boulder library and Jefferson County Courthouse. There were also multiple press releases on the availability of the EA and follow up media coverage on the proposed ROW.

39. **Comment:** In Jefferson County, where this proposed ROW is located, the 2010 population is around eleven thousand, 30% of the population where you live. Of these residents, approximately 13% fall into the poverty level up approximately 60% since 2009 and of those about 80% of the entire population is aged 18-64 years and less than a third with a college degree. Citizens of lower income tend to use the country-side more for hiking, exploring, hunting, etc. merely because it doesn't cost anything to do it.

For you to say that these citizens go to your website and for BLM to rely on these citizens to go to your website to have learned about issues such as this is unbelievable. It will never happen. You write that the public was involved in the August 13 meeting due to their learning about this on your website is just not true. Not one of the citizens that attended that meeting learned of your endeavors via your website. Not one! (13, 19, 20)

Response: According to the U.S. Census Bureau's American Community Survey (ACS) 2008-2012 data, Jefferson City is ranked 190th in Montana Per Capita Income out of 356 communities surveyed. Census data indicates Jefferson City and the surrounding area are growing in population and median income. Regardless of the demographics figures, the general public has been blocked for many years from using the Troy Creek area for hiking, exploring, hunting, etc., and the use of the BLM public road by locked gates at the private adjacent lands.

Multiple press releases on the availability of the EA for review were issued by the BLM. Copies were available upon request from the local office, except during the government shutdown, which was why the comment period was extended. Hard copies were placed in the county public library and courthouse. There was also media coverage on the proposed action. An adjacent private landowner also sent out post cards to local residents in regard to the proposed action to further solicit interest and public comment.

40. **Comment:** The Code of Federal Regulations of the United States of America requires in numerous places that "For an EA, the 30-day comment period begins on the first day after publication of legal notice in the newspaper..." and "Agencies should make the Finding of No Significant Impact (FONSI) and EA available for 30 days of public comment before taking action..." (13, 14, 19)

Response: No public comment period is required for EAs under NEPA, but the BLM made the EA available for comment due to the public interest expressed. The comment period began upon press release and was extended with a press release after access was limited during the government shutdown period.

41. **Comment:** Does the project conform with the RMP? (14)

Response: Yes. Please refer to the “CONFORMANCE WITH BLM LAND USE PLAN(S)” section of Chapter 1 in the EA.

42. **Comment:** ...even if the agency (erroneously) continues to review the Project under the Mining Law as noted in the scoping notice, the agency’s self-imposed limitation on its authority to deny or significantly restrict access and use is also wrong. In a recent decision affirming the BLM’s authority to restrict and deny access routes to mining claims on public lands, the Ninth Circuit held that: “[T]he Secretary of Agriculture has long had the authority to restrict motorized access to specified areas of national forests, including to mining claims. See Clouser [v. Espy], 42 F.3d 1522, 1530 (9th Cir. 1994).” Public Lands for the People v. U.S. Dept. of Agriculture, 697, F.3d 1192, 1198 (9th Cir. 2012). Thus, even if the Mining Law applies to access to private land (which it does not), the agency must reconsider the Project under the correct view of its authority. (14)

Response: The proposed action is being reviewed and assessed under the Title V Right-of-Way authority in the Federal Land Policy and Management Act of 1976. This proposed action is not being processed under the regulations at 43 CFR 3809 as an activity authorized under the Mining Law.

43. **Comment:** I understand that there has been a finding of “no significant impact”. Frankly, this is shocking as this is a pristine area where many plants and animals cannot avoid being impacted by these major mining activities. (17)

Response: The FONSI published as a draft and unsigned at time of public review. The Affected Environment and Cumulative Effects sections in Chapter 3 of the EA further explain that the project area has a history of mining, livestock grazing in the lower slopes, as well as some logging. The proponent wants to renew mining operations on the existing Golden Asset Mine located on private patented claims. The activity is considered small scale mining under state regulations.

44. **Comment:** The Project Manager, Mr. Michael Wyatt, had continued to be out of the office more than a week after the shutdown and calls and emails to him went unanswered. This means that even during your small extension of time, the BLM Project

Manager was absent for questions. How can you justify such a short extension time with this occurring? (19)

Response: The project lead was out of the office for a few days on pre-planned leave before the government shutdown. The comment period was extended to account for the government shutdown delays. If the public had questions during the few days the project lead was absent, they could contact the project lead's manager or the office manager.

45. **Comment:** How can you possibly do an environmental assessment when you don't even go the mine itself? Or even traverse the entire road on BLM? Please provide this analysis to the public before allowing this ROW. (19)

Response: The comment refers to one site visit where the wildlife biologist didn't extend his visit on through to the private mine property. Professionally, it was decided the survey was sufficient for analysis purposes. The adjacent private mining claims have had a long history of mining and on site ore processing. Effects on wildlife from mining are familiar. The mine was visited by other resource professionals and the commenter was present on site with the BLM project lead on multiple occasions.

46. **Comment:** You state in the EA that 'you' don't think this will be controversial to the public. Please tell the public exactly how many calls and emails have you received in this regard to this proposal and how you came to this erroneous conclusion. (19, 20, 22)

Response: The FONSI addresses "if the effects on the human environment" are likely to be highly controversial by professionals, specialists, and scientists and is not the same as public interest and objections. During BLM's interactions with these same adjacent landowners, enough questions and concerns were expressed to suggest more public participation would be beneficial. A public comment period was included on the EA and draft FONSI. The written commenters are listed in this appendix of the EA.

47. **Comment:** Why have you not done baseline analysis for other issues in your EA where you state 'no surveys were done'? (19)

Response: Not all issues require extensive baseline surveys to address. Issues carried forward are determined through the scoping process. Please see the "SCOPING, PUBLIC INVOLVEMENT, AND ISSUES" section of the EA for more discussion on issue identification.

48. **Comment:** After having read the BLM prepared Environmental Assessment, I am concerned and dismayed that the result was a Finding of No Significant Impact by your agency. It appears the assessment's authors have overly weighted their decision toward

"individual impacts" which can be made as insignificant as necessary, ensuring that cumulative effects will not have to be considered or evaluated. (21)

Response: The FONSI was a draft and not a final at time of public review. The Cumulative Effects section of the EA in Chapter 3 has been edited to more clearly explain those effects and what other activities are likely in the foreseeable future. The revised proposed action, which reduces the maximum dump truck loads per week to twenty-five (25), would contribute much less impact to all resources including the proposed action's overall cumulative effect.

49. **Comment:** The behavior of this commercial operation has led many in our community to believe that it was a foregone conclusion that the Golden Asset Mine would be granted right-of-way privileges along this public roadway and that the BLM's EA process and review was just a procedural formality, a rubber stamp. The failure of the government to address the issues in a public forum in front of the affected community contributes to this belief. (21)

Response: The BLM expanded the public involvement as outlined in Chapter 1 of the EA's Scoping and Public Involvement section in response to public interest. The proponent acknowledged the unanticipated public interest by refining the proposed action. However, it is important to note the decision to grant or deny a ROW application is based upon the applicant meeting the ROW requirements in the regulations and the land use plan, not on the amount of public support or opposition generated.

50. **Comment:** Show the public that the personal gain of a few individuals does not outweigh the interests of the community. I urge you to publicly present an objective case for permitting this private commercial use of public lands to the Jefferson City community. (21)

Response: The BLM lands are under a multiple use policy and the proposed action is consistent with the Butte Field Office Resource Management Plan goals and objectives. Private land inholding uses, such as road right-of-way requests, must be considered unless otherwise legally prohibited. The proposed action has been further refined in an attempt reduce concerns of the public.

51. **Comment:** The mine currently is surrounded by public land and, therefore, has no way to move ore from its mining operation. Granting this access not only has significant impact on the area surrounding the road but it allows a destructive open pit mining operation to be run in the midst of our public lands. (22)

Response: Technically, the proponent would not need a right-of-way grant to use the open road across BLM in its existing condition for vehicle travel that wouldn't cause

appreciable disturbance or damage to the road as defined under “casual use.” Therefore, the owner of the mine can move ore as long as the frequency was of a casual nature.

52. **Comment:** On the week of October 15-21, 2013, a *group* called “Concerned Citizens of Jefferson County” an anonymous unregistered entity sent post cards to all US P.O. Boxes in Jefferson City. The post card misrepresented the proposal as a mining proposal not a proposal to improving a haul route, stating that the proposal is significant and urging the P.O. Box holders to contact Scott Haight at the BLM and “Help prevent this from happening.”...Based upon the foregoing, I am concerned that public comments, at least those encouraged through the above communications, will be directed at the *proposal as defined by [name removed] and “Concerned Citizens”* when trying to raise public support to stop this action from happening rather than the actual proposal. (24)

Response: The BLM does not have control over citizen initiatives. Hopefully, those contacted took the opportunity to review the EA before making comments.

Public Safety

53. **Comment:** ...regarding public safety, the speed of vehicles in Jefferson City on South Main Street is about 15 mph, not the usual 45 mph or more of frontage roads. It is a very narrow and congested main street. We have children who live along South Main who need to be assured of their safety walking to the school bus pickup area. Will there be “pilot cars” escorting these trucks who will be travelling day and night, on potentially slippery ice and snow packed roads with their heavy loads insuring that the local residents will be safe? We also are on a designated school bus route for busses that stop at the volunteer fire department grounds to transport students to Clancy Elementary School and Jefferson High School in Boulder. The two intersections at Jefferson Street and Spring Street with South Main Street, your proposed haul road, was grossly missing from the Health and Safety evaluation of the NEPA document. The intersection at Jefferson Street is a blind intersection. One cannot see the proposed truck traffic coming down the hill from the mining operation. How will this be mitigated? Will the school bus company be informed? Will traffic signs be provided? Will adjacent property owners be informed? Will the Montana Department of Transportation (MDOT) provide increased snowplowing and sanding on this section of road where safety of our residents is an issue? Will the sheriff’s department be informed on this major change in traffic? Although you say the project is to end each November 1, we have received snow in Jefferson City in August, September, October and early November. Fog in the Jefferson City area is a major weather issue in September. How will the trucking company provide for this safety issue? Will the contractor provide plowing and sanding on the state road, South Main? Have discussions been held with MDOT? These issues or mitigation are not in the NEPA document. (1)

Response: The proponent and their operators are responsible to comply with all applicable local, county, and state traffic and haul requirements outside BLM lands. The BLM has not been made aware by any state or local authority that this proposed action would violate those requirements. In regard to their road segments, Jefferson County and the Montana Department of Transportation (MDOT) would need to address any specific requirements, maintenance and cost recovery with the proponent and/or the mine owner.

Riparian

54. **Comment:** Please clarify how you conclude that this project will reduce negative impacts on riparian zones when there are springs located in the middle of the trail you wish to allow 40 trucks per day to travel upon? If you conclude this, you must have consulted Geological engineers and prepared engineering drawings as required by law. Please clarify and provide this analysis. (13, 19)

Response: Improving the drainage frequency off the road would reduce sediment movement. Excessive sediment movement impacts riparian zones. There is an adjacent spring that keeps a small segment of road wet for an extended time into the open season. This location is the candidate for the French drain, where the seeping spring water would be collected into the drain and directed across the road. The BLM low grade natural surface road does not require engineering.

55. **Comment:** The EA fails to adequately disclose the cumulative impacts of private land and Forest Service and BLM activities, mining, roads, livestock grazing, off-road vehicle use, and other human activities on riparian conditions and aquatic habitat. Please map the riparian conditions within the project area. (14, 19)

Response: As shown in the maps attached to the EA, the riparian zone associated with Troy Creek are in the area of the existing road as it approaches the subdivision parcels, but the road does not enter the stream's riparian margins characterized by hydrophilic plants. Sediment movement from the existing road has been discussed in the EA and repairing/installing any drainage features on the existing road can only benefit aquatic habitat in Troy Creek. The Cumulative Effects section of the EA addresses sedimentation.

Recreation

56. **Comment:** The improvement and use of the Troy Gulch Road as a haul road would have no impact on hiking, wildlife viewing and hunting because the landowner in Lot 2 of Aspen Valley Ranches put up gate in 1992-93, locked that gate and has been allowed

to keep a generation of Montanans from accessing the public land beyond his 20 acre parcel. (3)

Response: BLM acknowledges there is limited access for the public.

57. **Comment:** *Increased use of the road would detract from public's enjoyment of the area:* I have personal knowledge that this road was open to the public from at least 1967 to the mid 1990's. However, a portion of the Kyler Ranch was subdivided into Aspen Valley Ranches and in the mid 1990's, the owner of Lot 2, Aspen Valley Ranches locked the gate with the purpose of keeping the public from accessing the public land. Thus, neither Smith Contracting's proposal to improve the road, nor its plan to haul tailings from the Golden Asset mine will impact the public's enjoyment of the area. (5)

Response: BLM acknowledges there is limited access for the public.

58. **Comment:** I Lease 160 acres on Lower Golconda Creek and I approve of this action on the Old Golden Asset Mine. I have been shut out of the Troy Creek road ever since [names deleted] and others purchased ground on Boulder Hill. They even placed a locked gate on the entrance through Nursery Creek. They have cut off access to the State ground on Nursery Creek and I have reported it to your BLM Butte Field Office several times. The Land owners on Boulder Hill have shut off Thousands of Acres of public ground to the Tax payers of this State. (7)

Response: BLM acknowledges there is limited access for the public.

59. **Comment:** In Section 7 the FONSI states that "Public recreation values would also be affected by noise, thereby temporarily decreasing the enjoyment and/or use by some recreationists (hiking, hunting, wildlife viewing, etc.)." However, Section 2 of the FONSI states "The adjacent Landowners still require enforcement of their gate closure during proposed hauling periods." I would like to note that these landowners are locking these gates and have posted no trespassing signs. This has essentially locked the "public" from these public lands. As such, the public recreation activities that are impacted are for a very small number of people that have access through the locked gates. I would recommend that Section 7 be revised to reflect that the recreation value impacts are behind lock gates and only impact very few members of the "public". (8)

Response: The text was in reference to the limited members of the public able to access the project area through permission or by non-motorized means from other areas. It was not intended to mean the public at large, since as you noted, not everyone has access to the area.

60. **Comment:** Will this project result in the excluding, i.e. totally eliminating any of the principal uses of this land for two or more years? (14)

Response: No, this proposed action would not totally eliminate or exclude other uses. All other uses such as grazing, mining, hiking, hunting, etcetera would be allowed to continue. The ROW, if granted, is non-exclusive.

61. **Comment:** Please disclose the road density in the Project area and in each of the five watersheds during Project implementation. (14)

Response: The 1995 Elkhorns Travel Plan adopted in the Butte Field Office RMP has closed many of the roads on public land in the area. The road density would not change, because the proposed action uses an open road.

62. **Comment:** Further you say motorized vehicles will be limited to road use on the ACEC is not critical. (19)

Response: Motorized travel will be “limited” to designated open routes in order to protect wildlife and non-motorized recreation values, which is consistent with the current travel plan for the area.

63. **Comment:** ... the proposed frequency of commercial travel on the roadway (20 loads per day constituting four truck trips to and from the mine site *per hour*) will preclude any public use of the road during the proposed period of operation. (21)

Response: The proponent has modified the intensity of the hauling in the proposed action to reflect what their operation would be able to accomplish and the Proposed Action in the EA has been revised accordingly. The proponent would only haul ore they mine and possibly some of the existing waste rock. Therefore, hauling a maximum of 25 loads per week would reduce the interaction with the limited number of road users.

64. **Comment:** It conveniently includes all of Montana's hunting season in an area that now has very limited motorized access. (23)

Response: The general public does not have access to the BLM open route. Therefore, no special mitigation was proposed and the BLM has no grounds to recommend any mitigation for hunting conflicts.

Road Conditions

65. **Comment:** South Main Street has received minimal maintenance up to and beyond the Troy Creek Road southward from Jefferson City due to its very light residential use and probably limited maintenance funding of the MDOT. The continuous heavy truck traffic, for 3 years and 20 loads per day could be disastrous as to the condition of the road. Who would evaluate the road condition, on what basis and what funds are available. Who would pay for the improvements? (1)

Response: The BLM has proposed the issuance of a right-of-way grant, because the Troy Creek road needs maintenance for ore hauling. The proposed action has scaled back hauling to 25 loads per week. In regard to road maintenance, Jefferson County and the Montana Department of Transportation (MDOT) would be responsible for determining any specific requirements for maintenance cost recovery with the proponent and/or the mine owner.

Scope

66. **Comment:** Will this Project address all Project area BMP needs, i.e. will the BMP road maintenance backlog and needs from this Project all be met by this Project? (14)

Response: No, this project is in response to a specific ROW application and is not intended to address area or regional road maintenance needs.

67. **Comment:** Please provide all data and maps that describe where, when and how field examinations related to landscape health assessments occurred. Please include tabulated results of write-ups that summarize the conditions and include the members and list the qualifications of the interdisciplinary team and which completed the assessment. Which data sets were used to characterize the project area and prioritize land health assessments? What process was used to prioritize the project area and determine if an area should be assessed or not? Were "walk-through" examinations completed across the project area to identify and characterize sites and current condition as well as disturbance- provide supporting records that prove this activity occurred on all assessments. If walk-throughs were not done please explain as why?

Were walk through examinations completed across all or large areas of uplands to identify and characterize sites and current conditions and disturbances and if not please explain why?

Please provide descriptions of reference areas or reference sites that were used to make comparisons to the project area that were examined in the field.

Please include all copies of photos taken for land health assessments, proper function and condition of riparian areas and all other riparian assessments, e.g. green line

surveys. Please provide copies of riparian monitoring data, associated photos and trend data. (14)

Response: Questions regarding Landscape health assessments are outside the scope of this proposed action. The proposed action would utilize an existing open road to haul ore and is in response to a specific ROW application unrelated to land health assessments.

68. **Comment:** Are the watersheds in the project area functioning at risk, functioning at unacceptable risk, or in a properly functioning condition? The USFWS guidelines call for road densities in properly functioning condition of, 1 mile/mile squared and no valley bottom roads. Are the watersheds meeting this standard? If not please close or move roads as part of this project to comply with the Clean Water Act. (14)

Response: Troy Creek was last rated as functioning at risk, trend not apparent, and other stream in the area is Golconda Creek, which is in properly functioning condition. The 1995 Elkhorn travel plan for the area reduced the open road densities. Requested changes to these travel plans are outside the scope of this proposed action, which is to use the existing open road.

69. **Comment:** Cumulative effects from actions that affect hydrologic functioning must be assessed on a watershed basis, yet the EA fails to disclose the cumulative area of soils that are compacted or otherwise hydrologically dysfunctional due to roads, skid trails, recreational trails, livestock grazing, mining, and fire effects such as hydrophobic soil conditions, erosion, etc. on a watershed by watershed basis (within the watershed boundaries that would be affected by the proposed burning activities). (14)

Response: Hauling ore up to 25 times a week in 28 ton dump trucks would not measurably affect hydrologic functioning on a watershed basis. Please see the Cumulative Effects section of the EA.

70. **Comment:** Why aren't you doing more to protect and not harm habitat for westslope cutthroat trout? (14)

Response: Adding some drainage features in the process to improve the road conditions and reduce sediment movement during storm runoff events would benefit streams in the area.

71. **Comment:** What has been the impact on predators because of mining? How many predators have been killed by the BLM, permitted, or Animal Damage Control? What has the expense been for predator control, and what are the potential costs to the taxpayer of doing further Animal Damage Control activities in the allotment? Please

disclose the agreements the Western Montana District of the BLM has with Animal Damage Control which would pertain to the allotment areas. Please disclose the cumulative impacts of Animal Damage Control activities on all resources in the area. (14)

Response: This comment is outside the scope of the analysis for authorizing a right-of-way on an existing open road.

72. **Comment:** What are the potential costs to the taxpayers of doing control actions on wild animals in the area? (14)

Response: This is not a livestock grazing proposal, so this comment is outside the scope.

73. **Comment:** The economic analysis should contain all costs and adequately discuss all current, in place benefits—the costs of past and proposed specific improvements should be fully disclosed. The analysis should include ongoing and future impacts to recreation, and all costs related to the project including costs of preparing the analysis, all specialist support and consultation, costs associated with travel management and administration, road maintenance, weed control, costs of doing fencing, water, and other related improvements.

The BLM insists that the economic system as it presently exists be a part of the equation for performing “ecosystem management.” Although we disagree the way this is interpreted to mean that grazing permittees must be served first, the BLM should follow thorough and tell the full economic story of just what the impacts would be to all taxpayers, not just to the mine owners and the “taxpayers in Montana. We request an economic analysis that compares the expense of restoring these damaged areas, on a continuing basis, with a no action alternative. (14)

Response: This comment is outside the scope of the analysis for authorizing a right-of-way on an existing open road.

74. **Comment:** Because of the increasing scarcity of roadless land in the Northern Rockies, the best science states that a major focus of analyses such as this should be to find ways to connect and buffer adjacent or nearby roadless areas with other undeveloped land to assure species viability and ecosystem functioning is perpetuated. The analysis should recognize and acknowledge the importance of the land in the project area in terms of the Conservation Biology concepts of core habitat, buffer zones, and connecting corridors at a landscape level. (14)

Response: This comment is outside the scope of the analysis for authorizing a right-of-way on an existing open road in the RMP.

75. **Comment:** The extensive reconstruction and use of the existing roadway would seem to be clearly in contradiction to the quoted aspects of the Butte Area Resource Management Plan. (21)

Response: The action does not propose to do extensive reconstruction of the existing road. Installing waterbars/swales and possibly a French drain and/or culvert is consistent with the RMP. Also, the proposed action is consistent with the RMP decision to provide access to private landowners surrounded by BLM managed lands.

Socioeconomic

76. **Comment:** You have proceeded to this point, of the EA and the FONSI without considering the most important item, the people who would be impacted, i.e., the people of Jefferson City. Have you considered the people of Boulder? There is a grade school, a high school and businesses in Boulder. How will they be affected by additional heavy truck traffic which will include noise and tailings dust coming off of these haul trucks? (1)

Response: The BLM did not identify substantial impacts to the state and federal highways or to Jefferson City. Once haul traffic reaches these public roads, it is subject to state and federal department of transportation regulations. Nor would the amount or type of traffic be substantially more over baseline traffic conditions. The proposed action does not include hauling tailings and thereby no tailings dust.

77. **Comment:** The economic analysis seems to have not included all of the costs. Please give a full accounting of this project. Due to the distaste the general public has towards government subsidies in this era of reducing government waste, all road costs should include having the mine operator rather than the taxpayers pay for any road improvements. (14)

Response: BLM's proposed authorization of a road right-of-way would be at the proponent's expense: road reconstruction, gravel, maintenance, weeds treatment, monitoring expenses, right-of-way rents, and any other associated costs. Rents are standardized on a per acre basis.

78. **Comment:** An issue arises that the direction provided for in the RMP (i.e., that mine ore hauling is appropriate) may not be correct in terms of allowing sustainable ecosystem functioning. (14)

Response: The RMP decision allows owners of non-federal land surrounded by BLM land an appropriate degree of access across public land for reasonable use and enjoyment of their property, while protecting public resources.

79. **Comment:** With 100's of citizens (birdwatchers, wildlife viewers, hikers, hunters, horseback riders, cattle people, etc.) using this federal land, how can you conclude there will be no safety issue? These individuals enter through areas (other than the proposed route, Which you ignore) that are north of the local gates so signs will be useless to them when 40 or so tandem trucks will be using the roads every day. Please provide this analysis to the public before allowing this ROW. (19)

Response: The revised proposed action limits the traffic on the road to a maximum of 25 dump truck loads a week. The general public has little motorized access due to locked private gates and/or closed roads making the potential for conflict low. Only adjacent landowners and their authorized users have motorized access on the open BLM road and they would be aware of hauling operation.

80. **Comment:** You state the longer term impacts will be beneficial. i.e. road repair. Is there any documentation of complaints that road is in disrepair. (19)

Response: Yes. The BLM received complaints from the landowners providing access for the initial site visits. The adjacent landowners complained about the sediment ending up in their pond with the existing road condition in relation to concerns over increased use of the road for hauling. These landowners also pointed out the worsening conditions, especially after 2013 spring storm events, on the Troy Creek road as it enters the subdivision lands. Landowners displayed as a trouble spot, where water collects and causes travel difficulty in the early season by the few Troy Creek road users composed of the landowners and parties granted permission by the landowners.

81. **Comment:** Economic benefits to local communities. You don't tell the public if the ore is going to Whitehall or Phillipsburg, neither of which affect the local economy of Jefferson City anyway. And if your latest statement is correct, that Phillipsburg, that is hardly local at all. What are the exact benefits to the local economies? Please numerate and clarify. You don't even know where the ore is going. Phillipsburg or Whitehall. How can you determine local economic benefits? (19)

Response: A socioeconomic goal of Butte RMP is to provide opportunities for economic benefits, while minimizing adverse impacts on other resources and resource uses. The proponent would use the Contact Mine in Philipsburg as stated in the proposed action. The cost/benefit analysis will be left to the proponent, the surrounding communities, the county, and/or the state of Montana. The BLM goal is to provide opportunities through such authorizations.

82. **Comment:** The impact of this commercial heavy vehicle traffic on the infrastructure of the immediate community of Jefferson City seems to be of no consideration at all in the assessment. It is easy for BLM to say that the agency is only responsible for the land and resources that are within their boundaries, and legally that may be true, but I urge you to think more globally. Your action taken independently of consideration of the broader community impacts may be significantly detrimental. What, for instance, will the effect of thousands of truckloads of ore have on the roadways leading through Jefferson City? Has consideration has been given to the impact on Jefferson City and County's emergency services should an accident occur on this BLM roadway while transporting the ore down the mountain? (21)

Response: The proponent and their operators are responsible to comply with all applicable local, county, and state traffic and haul requirements. BLM has not been made aware by any state or local authority that this action would violate those requirements. If the action does violate such requirements the grant holder would be required to resolve those violations before proceeding with or continuing their activity under the terms and conditions of the right-of-way grant.

Soils

83. **Comment:** We are concerned that detrimental soil thresholds may already have been exceeded in the project areas. The EIS should include disclosures of the amount of detrimental soil conditions due to past activities. How you will meet soil conservation standards under the RMP? (14)

Response: The RMP does not include soil conservation standards. The RMP includes soil erosion, compaction, and health goals and objectives. As stated in the EA, the BMPs and road maintenance improvements would reduce existing erosion and sediment transport, which is consistent with the RMP.

Visual

84. **Comment:** Additionally, in your EA, you state that there will be no visual impact because it is remote? How can this be true? There are literally hundreds of citizens that use this land throughout the year. (19, 20, 22)

Response: The EA did not address visual impacts, because it was not identified as an issue. The Butte RMP classifies the proposed action area as a Class III visual resource management (VRM) area. The objective of this class is to partially retain the existing character of the landscape. The level of change to the characteristic landscape should be moderate. Management activities may attract attention but should not dominate the view of the casual observer. Changes should repeat the basic elements found in the

predominant natural features of the characteristic landscape. While the operation will be visually noticeable, these impacts would be short term in duration.

Water Quality/Watershed

85. **Comment:** *Erosion and damage to the existing road:* The purpose of the proposed action is to improve the road. If the agency selected the no action alternative, storm water events would continue to cause release of sedimentation and continue to erode the road. The proposed action would improve the road and implement best management practices that would control releases. As a matter of observation, the worst sections of the road are the portions that cross Lots 1 & 2 of Aspen Valley Ranches. (3, 4, 5, 6)

Response: As described in the Purpose and Need section of the EA, the purpose of the proposed action would be to use the existing road to haul ore. Improving the road condition and drainage to serve this purpose would create some positive benefits.

86. **Comment:** Section 1 states the “beneficial impacts include the water drainage improvements on the existing road and economic benefits in the local communities.” The U.S. EPA’s Water Quality Restoration Plan for the Lake Helena Watershed (USEPA 2006) provided a conceptual restoration strategy for the entire Lake Helena watershed and included Golconda Gulch explicitly (Section 3.1). It provided a general conceptual plan to attain and maintain the necessary water quality improvements. It did not, however, provide in depth details about how the plan will be implemented. According to EPA 2006, dirt roads are the number 1 source category for sediment in the Lake Helena Watershed and the number 3 source category for metals in Golconda Gulch. Abandoned mines are the number 4 source category for sediment in the Lake Helena Watershed, and the number 1 source category for metals (USEPA 2006, Appendix A). Table 4-2 in USEPA 2006 states that implementation of Best Management Practices (BMPs) on unpaved roads result in an average sediment and corresponding metals load reduction of 60%. I would argue that Section 1 of the FONSI be expanded to indicated that this road improvement not only improves the road, but is consistent with EPA 2006 and may result in a 60% sediment and metals source reduction from this road by implementation of best management practices. The Lake Helena Watershed is being further protected by this action and this protection will be realized without the expense of public funds. (8, 14)

Response: Language was added to the EA noting that the proposed action is consistent with goals outlined in the Lake Helena Water Quality Restoration Plan (<http://www.deq.mt.gov/wqinfo/TMDL/finalReports.mcp>).

87. **Comment:** ...you mention MTDEQ took water samples, what did they reveal and what will be done with these results? What will be done with these test data? Will water tests

be done periodically and will that data be provided to the public during this authorization? What change in water quality is needed before something is done? Why were these samples taken? Are they being used as a baseline for a continued monitoring? (13, 19)

Response: The water samples were taken by the MTDEQ as part of their administration of the SMES, and are available from that agency. The BLM does not have the sample results or related assessments. Therefore, questions about the samples should be forwarded to MTDEQ. Water quality sampling is not normally conducted by BLM as part of ROW use monitoring.

88. **Comment:** Are the watersheds in the project area functioning at risk, functioning at unacceptable risk, or in a properly functioning condition? (14)

Response: The following stream reaches are located on BLM managed lands within the immediate project area. Included are the BLM's most recent Proper Functioning Condition (PFC) assessment ratings.

PEAR-32, (Troy Cr.) – FAR, trend not apparent
PEAR-33, (Troy Cr. Tributary) – FAR, trend not apparent
PEAR-34, (Billy Williams Gulch) – PFC
PEAR-35, (Golconda Cr.) – PFC
PEAR-36, (Golconda Cr.) – PFC
PEAR-37, (Golconda Cr.) – PFC
PEAR-38, (W.F. Golconda Cr.) – FAR, upward trend
FAR = Functioning at Risk, PFC = Proper Functioning Condition

89. **Comment:** How will the project improve watershed health? (14)

Response: As described in the EA, the proposed action is to provide access to the Golden Asset Mine in response to the ROW application. Commensurate with that activity would be measures that improve the condition of the road and drainage controls through maintenance and use of BMPs to prevent erosion and sedimentation. One result is that the existing erosion and sediment transport would be reduced.

90. **Comment:** The EA says there are WQLS streams in the project area. Have all TDMLs been completed? TMDLs must be completed before a decision is signed as required by the Clean Water Act. (14)

Response: The BLM does not administer TMDLs. Water quality is regulated by the MTDEQ, which is responsible for TMDLs. TMDL information, and associated restoration plans can be obtained from the MTDEQ via the Clean Water Information Center (CWIC) <http://www.deq.mt.gov/wqinfo/TMDL/finalReports.mcp> .

91. **Comment:** The EA ignores the issue of bedload sediment. Bedload sediment is the coarse particles, as opposed to fine, suspended sediment. CE only mentions the latter, greatly obfuscating the issue. Elevated levels of coarse sediment degrade streambeds and destroy fish habitat features such as spawning and over wintering pools. It is highly correlated with excessive water yields caused by roads, logging, and fire. (14)

Response: Stream work is not proposed. As stated in the EA, one result of the proposed action is reduced sediment to streams.

92. **Comment:** What is the condition of all watersheds and other riparian areas in the analysis area, especially in regards to past management activities including mining and livestock grazing? The EIS or EA should disclose the results of up-to-date monitoring and surveys of fish habitat and watershed conditions. (14)

Response: Stream and watershed information can be obtained directly from the MTDEQ from the CWIC. The proposed action is to authorize a ROW which includes measures that would be anticipated to reduce erosion and sedimentation consistent with the Watershed Plan.

93. **Comment:** What are the impacts on water quality, temperature, stream channel morphology alone, and cumulatively with roads, natural and prescribed fire, logging, mining, and other management projects? How have stream flow quantities changes—do you have baseline information on this? The EIS or EA if you insist on continue with one should show that the proposed alternatives would comply with the Clean Water Act and all state water quality laws and regulations. This includes stating the beneficial uses of the streams and how these beneficial uses have been impacted or degraded by past management actions, and how these beneficial uses would be impacted by the various alternatives. (14)

Response: As described in the EA, the proposed action would reduce erosion from an existing road. No new construction or stream channel alteration is proposed.

94. **Comment:** It also said no hazardous material will be hauled yet a stated purpose of the project is to clean up toxic mine waste leeching into the creek. (15)

Response: It has not been determined by BLM that there are any toxic mine wastes leaching into the creek in the project area. Although the proponent's initial application action was to salvage the leach pad material, the proposed action had changed as articulated in the EA. The existing leach pad material from the past open pit mining would not be removed.

95. **Comment:** In a story on this topic in the Helena Independent Record, the hauler, Mr. Dave Smith indicates that the removal of the tailings will be environmentally beneficial because the tailings are currently leaching into the creek. If the tailings are not hazardous, why the concern over having the tailings leach in the creek? I'm not a scientist, but something seems conflicting here. (16)

Response: The existing leach pad tailings from the past open pit mining would not be hauled as originally proposed. Montana Department of Environmental Quality (MTDEQ) has decided it would not be appropriate under a SMES, which meant the BLM would not be analyzing the effects of hauling leach pad material.

96. **Comment:** You state in your EA that no laws are threatened, but you fail to even mention the Montana Stream Protection Act. How can you fail to mention such an important Montana law when there are 'springs' located in the middle of the trail you are giving ROW to and they lead to Troy Creek which empties finally into Prickly Pear Creek? How can you do this? (19)

Response: Stream channel alteration is not proposed, therefore the proposed action is consistent with the Montana Stream Protection Act. Please refer to the Montana DNRC "A Guide to Stream Permitting in Montana" found online at: <http://dnrc.mt.gov/Permits/StreamPermitting/Default.asp>

Wildlife

97. **Comment:** Why have wildlife surveys not been conducted in the project area? (13, 14, 19)

Response: BLM does not conduct wildlife surveys on every acre of BLM land, or conduct surveys specifically related to every project proposal. We use information from sources such as the Montana Natural Heritage Program, the University of Montana Avian Science Center, species range maps and GIS coverage provided by the Montana Fish, Wildlife, and Parks Department, and numerous other sources. No known recent wildlife surveys have been conducted in the immediate vicinity of the route. The Helena National Forest conducted lynx surveys in 2002-2004 in the Elkhorn Mountains, and ongoing lynx surveys were reinitiated in 2012. To date, no lynx have been found in the Elkhorns through these survey efforts.

98. **Comment:** Why haven't you consulted with USFWS on the project? You say that no threatened, endangered, or Candidate Species are known to inhabit the project area but you do admit that they may occasionally migrate or disperse through the area. You are using the incorrect standard for consultation with USFWS. (14)

Response: The BLM conducted informal ESA Section 7 consultation with USFWS. , On February 4, 2014, they concurred with our determination that the proposed action is not likely to adversely affect lynx, and not likely to jeopardize the continued existence of wolverine (proposed for listing).

99. **Comment:** Please provide a full BA or BO for the project. (14)

Response: The BA and concurrence letter from the USFWS is included in EA Appendix 2.

100. **Comment:** You have not considered sensitive plants or whitebark pine, a candidate for listing under ESA. (19)

Response: Whitebark pine does not occur near the travel route; the elevation is too low for this species and it has not been mapped in Jefferson County. No other sensitive plant species have been mapped in the vicinity, and none occur in the proposed ROW.

101. **Comment:** Which sensitive species and ecosystem processes, if any, does this proposal benefit? (14)

Response: The BLM is a multiple-use agency and not all projects are required to benefit species or ecosystem processes. However, as stated in the EA, *one positive effect of the proposed action would be road maintenance which would occur, and the associated reduction of runoff and sedimentation into Troy Creek and the ephemeral reaches. The reduction of sedimentation would benefit any amphibians, fish, and aquatic invertebrates present.*

102. **Comment:** How much disturbance will there be to wildlife? What formulas exist that can quantify those answers? (14, 16, 19)

Response: There are no formulas that can quantify exactly how much disturbance there will be to wildlife from any human activity. There are simply too many variables, too many species, too much individual animal variation to quantify exactly how all wildlife will react to human activities. For example, a haul truck could cause one deer to move away from the road and another deer to not have any significant reaction.

103. **Comment:** Is the project in Critical Habitat for lynx? The project area is historic lynx habitat which means it is suitable habitat. (14)

Response: No, the project area is not critical habitat for lynx. Historic habitat for any species is not necessarily suitable habitat now due to human-caused alterations of the landscape.

104. **Comment:** How will the project affect elk security and thermal cover? (14)

Response: Security cover is typically defined as a nonlinear block of hiding cover ≥ 250 acres in size and $\geq \frac{1}{2}$ mile from any open road. Hiding cover is typically defined as vegetation capable of hiding 90% of a standing adult elk at a distance of 200 feet or less. Thermal cover is provided by density of vegetation. The nearest mapped security cover to the route is approximately 0.8 miles to the east of the proposed ROW, and would not be affected. Hiding and thermal cover would not be affected since there would be no removal of vegetation.

105. **Comment:** What effects does mining have on wildlife? (14)

Response: It depends on the scale and location of mining activity. In this instance, mining activity would disturb less than five acres on private mining claims with a history of mining activity. No off-site impacts are anticipated. Many wildlife species in the area would likely avoid the vicinity during mining operations.

106. **Comment:** Will wildlife movement corridors be affected? (14)

Response: Movement of individual animals across the road could be temporarily inhibited by haul trucks. However, species movement corridors are not anticipated to be affected.

107. **Comment:** What would be the duration of disturbance? The proposed action creates 3 years of wildlife disruption and uncontrolled human access to the area. (15, 16, 20, 22, 23)

Response: The applicant would plan to haul up to 25 loads per week. Mining rates, weather interruptions, and the seasonal road closure, warrants an authorization for 3 seasons to complete the hauling.

The route was designated in the 1995 Elkhorns Travel Plan Decision Notice and Finding of No Significant Impact as open to motorized use from 5/16-12/1 and closed from 12/2-5/15 each year. However, private landowners have blocked access on this road to the public, and this functions as the primary control of human access. Total use of the road under the proposed action would still be far less than would occur if public access were not blocked. And just because the road is being used for mine-related hauling does not

mean other non-mine related users would be able to cross the private lands to use the road.

108. **Comment:** The EA fails to provide adequate maps of LAUs and habitat components along with areas of human activity as the LCAS requires, making it impossible for the public and decision maker to understand the impacts of motorized travel, as well as to understand impacts on habitat and connectivity of habitat. (14)

Response: Consultation with USFWS as to effects on lynx has been completed. Please see EA Appendix 2.

109. **Comment:** Eagles are seen by residents in the area fairly often and lakes are nearby. How would the proposed action affect eagles? (13, 19)

Response: The nearest lake mentioned in the comment to the proposed route is just over five miles away. Haul trucks on the road would not affect any eagle use of the lakes.

Appendix 2

Biological Assessment and Letter of Concurrence from USFWS

**ESA Section 7 Biological Assessment
for
Golden Asset Mine
Road Right-Of-Way
DOI-MT-B070-2013-0023-EA**

**Butte Field Office
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January 2, 2014.**



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SUMMARY

The BLM Butte Field Office proposes to issue a right-of-way for the purpose of hauling hardrock ore from a mine on a private inholding within BLM land across approximately three miles of BLM road for processing. This Biological Assessment determines that implementation of the proposed action MAY AFFECT BUT IS NOT LIKELY TO ADVERSELY AFFECT lynx. The action is NOT LIKELY TO RESULT IN JEOPARDY OF A PROPOSED SPECIES AND/OR DESTROY OR ADVERSELY MODIFY PROPOSED CRITICAL HABITAT for wolverine. The action would have NO EFFECT on designated Critical Habitat for lynx because none is present. The action would have NO EFFECT on any other listed species. We request concurrence from the U.S. Fish and Wildlife Service on these determinations.

INTRODUCTION

This Biological Assessment (BA) has been prepared for Endangered Species Act Section 7 consultation with the U.S. Fish and Wildlife Service (Service) on the proposed right-of-way (ROW) grant to Smith Contracting to haul hardrock ore from private land across a BLM road for processing. The road is located in Jefferson County, Montana, approximately eight miles northeast of Boulder. The legal location of the proposed ROW is T. 7 N., R. 3W., portions of sections 19, 20, 29, and 31.

Species that will be evaluated in this analysis are lynx (*Lynx Canadensis*) – Threatened under the Endangered Species Act (ESA); and wolverine (*Gulo gulo luscus*) – Proposed under the ESA.

PROPOSED ACTION

The BLM proposes to issue a 3 year road right-of-way grant to Smith Contracting, the applicant, which would authorize them to repair, use, and maintain approximately 16,250 feet of existing BLM road as part of their access route to haul hardrock ore from the existing Golden Asset Mine located on private inholdings within BLM public lands. The proposed action would be to haul an estimated 50,000 tons of ore from the applicant's small-scale open pit mine operated under an approved Small Miner Exclusion Statement (SMES) with the Montana Department of Environmental Quality-Hard Rock Program (DEQ). The hauling would be done when the BLM road is open from May 16th to December 1st and weather permitting, for up to 3 seasons. All ore coming from the mine at the Golden Asset Mine would be hauled to a private staging area owned by RS Giulio Contractor and located near Boulder, Montana. Larger capacity trucks would be used to haul the ore from the staging area to, primarily, the Contact Mining Company, Phillipsburg, MT, for mineral processing.

As shown on the map exhibit, the route traverses private parcels east of Interstate Highway 15 before the route becomes known as the Troy Creek Road on BLM land. The mine owner has a recorded easement on the private road segment before the route enters BLM and has acquired written permission to use the other private road after the route enters BLM lands.

The applicant estimates they would plan to haul up to 20 loads or 560 tons per day for 4 to 6 days per week. At this rate, they estimate as little as 15 weeks to haul the estimated 50,000 tons,

but mining rates, weather interruptions, and the seasonal road closure, warrants an authorization for 3 seasons to complete their hauling.

The applicant proposes to minimize road improvements, but the existing road requires repairs to damage caused by water runoff. On the BLM road, the applicant would grade, add gravel and install water bars/swales, where needed. Drainage improvements are needed to get the water off the road to prevent deterioration of their proposed road improvements. Before the project is completed, the applicant would repair any damage to the improvements. There would be no more than a 12 foot driving surface within the 24 foot wide right-of-way. No new ditches would be constructed in areas, where they do not already exist, unless requested by the BLM authorized officer to improve water drainage. The applicant proposes to clean out only existing side ditches that would improve the drivability of the road. When ditches are cleaned, the material would be placed on the road and graded out smooth. Any organic material, not appropriate for the road bed, would be hauled up to the Golden Asset Mine and either stockpiled for later use or spread in areas that would benefit from organic material. If the applicant adds gravel, it will be to minimal thickness necessary to improve the drivability of the road for the intended use. The gravel would be spread to the width of the driving surface and the thickness will be variable depending on need. The proponent would notify the BLM office at least two days in advance of when any grading or improvements begin.

The current layout of the road would not change and no turnouts added, but wide spots in the existing road would be graded and graveled to function as turnouts. Water bars/swales should be sufficient for the BLM road segments. In the event there is a location where these features are insufficient, a French drain and/or culvert may be installed.

The applicant would be responsible for weed control on the disturbed areas within the limits of the right-of-way for the term of the grant. All heavy equipment and off-road vehicles would be cleaned to remove weed and weed seeds prior to starting construction and prior to using the access roads into public lands. The right-of-way would be treated with BLM approved herbicides and follow Jefferson County Weed Board acceptable weed control methods.

The applicant would also be responsible for dust abatement. Water trucks would spray water to minimize fugitive dust during dry or high use periods of hauling and construction.

ACTION AREA DESCRIPTION

The BLM lands and the Troy Creek drainage involved in this proposed action rest on the west side of the Elkhorn mountain range between the towns of Boulder and Clancy, Montana, in Jefferson County. The Elkhorn mountain range is an approximately 300,000 acre area cooperatively managed by private landowners, the BLM, the Forest Service (USFS) and the Montana Department of Fish, Wildlife and Parks (FWP). About 70 percent of the Elkhorns is publicly owned. A Memorandum of Understanding (MOU) between BLM, USFS, and FWP places management emphasis is on wildlife and dispersed recreation in the designated Elkhorns Cooperative Management Area (ECMA). The ECMA includes all land between Interstate-15 on the west, U.S. Highway 287 on the east, and Lone Mountain Road on the south. Many areas are

open to motorized use, although selected areas, including big game winter range, are closed either year-round or seasonally to protect wildlife values.

This mountain range is an inactive volcanic mountain range with the highest peaks at 9,414 ft., Crow Peak, and 9,381 ft., Elkhorn Peak. The elevation of the BLM lands affected varies from 5,400 feet to 6,750 feet. The average minimum/maximum temperatures for nearby Jefferson City are 9°/29° Fahrenheit in January and 52°/83° Fahrenheit in July. The lands affected would be primarily composed of Douglas-fir/ponderosa pine forest types at the lower elevations transitioning into subalpine fir/lodgepole pine forest types at the highest elevations. Much of this Troy Creek area has been impacted by extensive mortality caused by pine beetles.

The route proposed for use by Smith Contracting was designated as closed from December 2 through May 15 each year under the *Elkhorns Travel Management Plan Decision Notice and Finding of No Significant Impact* (1995). However, private residents on the west side of BLM land have closed access to the road yearlong unless permission to go through the private portion is obtained from them. Under the Elkhorns Travel Plan and the Butte RMP (2009), if a BLM route is closed by adjacent landowner(s), then that route is closed to everyone, including the landowner(s). However, some illegal use of this route and connected routes is known to occur.

SPECIES EVALUATED

Canada Lynx General Species information

Habitat Requirements. Lynx habitat can generally be described as moist boreal forests that have cold, snowy winters and a high-density snowshoe hare prey base. The predominant vegetation of boreal forest is conifer trees, primarily species of spruce and fir. In the contiguous United States, the boreal forest type transitions to deciduous temperate forest in the Northeast and Great Lakes, and to subalpine forest in the west. In mountainous areas, the boreal forests that lynx use are characterized by scattered moist forest types with high hare densities in a matrix of other habitats (e.g., hardwoods, dry forest, non-forest) with low hare densities. In these areas, lynx incorporate the matrix habitat (non-boreal forest habitat elements) into their home ranges and use it for traveling between patches of boreal forest that support high hare densities where most foraging occurs (USDI-FWS 2013).

Food Habits. Snowshoe hares are the primary prey of lynx, comprising the bulk of the lynx diet throughout its range. Without high densities of snowshoe hares, lynx are unable to sustain populations despite utilizing a multitude of other prey when snowshoe hare numbers are low. Other prey species include red squirrel, flying squirrel, ground squirrel, porcupine, beaver, mice, voles, shrews, and fish. Ungulate carrion may also be consumed (USDI-FWS 2013).

Movement / Home Range. Individual lynx maintain large home ranges generally between 12 to 83 square miles. The size of lynx home ranges varies depending on abundance of prey, the animal's gender and age, season, and the density of lynx populations. When densities of snowshoe hares decline, for example, lynx enlarge their home ranges to obtain sufficient amounts of food to survive and reproduce. Lynx also make long distance exploratory movements outside their home ranges. Preliminary research supports the hypothesis that lynx

home ranges at the southern extent of the species' range are generally large compared to those in the core of the range in Canada, indicating a relative reduction of food resources in these areas (USDI-FWS 2013).

Reproductive Strategy. Breeding occurs through March and April in the north. Kittens are born in May to June in south-central Yukon. The male lynx does not help with rearing young. Yearling females may give birth during periods when hares are abundant. During periods of hare abundance in the northern taiga, litter size of adult females averages four to five kittens. Litter sizes are typically smaller in lynx populations in the contiguous United States (USDI-FWS 2013).

Other. In all regions within the range of the lynx in the contiguous United States, timber harvest, recreation, and their related activities are the predominant land uses affecting lynx habitat. The primary factor that caused the lynx to be listed was the lack of guidance for the conservation of lynx and snowshoe hare habitat in plans for federally managed lands. Landscape connectivity between lynx populations and habitats in Canada and the contiguous United States must be maintained. Lynx movements may be negatively affected by high traffic volume on roads that bisect suitable lynx habitat, such as in the Southern Rockies, and in some areas, mortalities due to road kill are high (USDI-FWS 2013).

More detailed sources of information on lynx include: *Canada Lynx Conservation Assessment and Strategy* (Reudiger et al. 2000), and *Ecology and Conservation of Lynx in the United States* (Ruggiero et al. 1999).

Canada Lynx Status in the Proposed Action Area

The proposed action area is within a lynx “secondary area” as defined by the Lynx Recovery Outline (USDI-FWS 2005). Areas classified as “secondary areas” are those with historical records of lynx presence with no record of reproduction; or areas with historical records and no recent surveys to document the presence of lynx and/or reproduction.

Critical Habitat has been designated for lynx but does not include the action area. A 2013 proposal by the Service to revise Critical Habitat for this species also does not include the action area (78 FR 59429).

Montana Natural Heritage Program (MTNHP) data has documented ten lynx occurrences in Jefferson County from 1979 to present (MTNHP 2013). Only two of these are in the Elkhorns: one in either 1979 or 1980 (data unclear) approximately 11 miles northwest of the proposed ROW; and the other in 1994 approximately 14 miles northwest of the proposed ROW.

The Helena National Forest (HNF) has conducted surveys for lynx in the ECMA in 2002-2004, 2012 and 2013. The most recent surveys are ongoing at this time. To date, no lynx have been found (Pengeroth, pers. comm.).

Wolverine General Species information

Habitat Requirements. Wolverines do not appear to specialize on specific vegetation or geological habitat aspects, but instead select areas that are cold and receive enough winter precipitation to reliably maintain deep persistent snow late into the warm season. The requirement of cold, snowy conditions means that, in the southern portion of the species' range where ambient temperatures are warmest, wolverine distribution is restricted to high elevations, while at more northerly latitudes, wolverines are present at lower elevations and even at sea level in the far north. Deep, persistent, and reliable spring snow cover (April 15 to May 14) is the best overall predictor of wolverine occurrence in the contiguous United States (USDI-FWS 2013, citing others).

Food Habits. Wolverines are opportunistic feeders, consuming a variety of foods depending on availability. They primarily scavenge carrion, but also prey on small animals and birds and eat fruits, berries, and insects. Wolverines have an excellent sense of smell, enabling them to find food beneath deep snow (USDI-FWS 2013, citing others).

Movement / Home Range. Wolverines have large spatial requirements; the availability and distribution of food is likely the primary factor in determining wolverine movements and home range. Wolverines can travel long distances over rough terrain and deep snow, with adult males generally covering greater distances than females. Home ranges of wolverines are generally extremely large, but vary greatly depending on availability of food, gender, age, and differences in habitat. Home ranges of adult wolverines range from less than 100 square kilometers (km²) to over 900 km² (38.5 square miles (mi²) to 348 mi²). Home range sizes are large relative to the body size of wolverines, and may indicate that wolverines occupy a relatively unproductive niche in which they must forage over large areas to consume the amount of calories needed to meet their life-history requirements (USDI-FWS 2013, citing others).

Reproductive Strategy. Breeding generally occurs from late spring to early fall. Females undergo delayed implantation until the following winter to spring, when active gestation lasts from 30 to 40 days. Litters are born between February and April, containing one to five kits, with two to three kits being the most common number. Female wolverines use natal (birthing) dens that are excavated in snow. Persistent, stable snow greater than 1.5 meters (m) (5 feet (ft)) deep appears to be a requirement for natal denning, because it provides security for offspring and buffers cold winter. Female wolverines go to great lengths to find secure den sites, suggesting that predation is a concern. Natal dens consist of tunnels that contain well-used runways and bed sites and may naturally incorporate shrubs, rocks, and downed logs as part of their structure. Occupation of natal dens is variable, ranging from approximately 9 to 65 (USDI-FWS 2013, citing others).

Other. The primary threat to the North American wolverine is from habitat and range loss due to climate warming. Wolverines inhabit habitats with near-arctic conditions wherever they occur. In the contiguous United States, wolverine habitat is restricted to high-elevation areas in the West. Wolverines are dependent on deep persistent snow cover for successful denning, and they concentrate their year-round activities in areas that maintain deep snow into spring and cool temperatures throughout summer. Wolverines in the contiguous United States exist as small and

semi-isolated subpopulations in a larger metapopulation that requires regular dispersal of wolverines between habitat patches to maintain itself. These dispersers achieve both genetic enrichment and demographic support of recipient populations. Climate changes are predicted to reduce wolverine habitat and range by 23 percent over the next 30 years and 63 percent over the next 75 years, rendering remaining wolverine habitat significantly smaller and more fragmented. By 2045, maintenance of the contiguous U.S. wolverine population in the currently occupied area will likely require human intervention to facilitate genetic exchange and possibly also facilitate metapopulation dynamics by moving individuals between habitat patches that are no longer accessed regularly by dispersers. Other threats are minor in comparison to the driving primary threat of climate change; however, they could become significant when working in concert with climate change if they further suppress an already stressed population. These secondary threats include harvest, i.e., trapping; inadequate regulatory mechanisms to protect against human recreational disturbance, infrastructure developments, and transportation corridors; and demographic stochasticity and loss of genetic diversity due to small effective population sizes (USDI-FWS 2013).

Wolverine Status in the Proposed Action Area

MTNHP has documented only one record of a wolverine in the Elkhorns from 1994. The wolverine is a wide-ranging species; a dispersing individual could be found in any forested habitat in western Montana. However, the action area does not have the elevation and deep snow conditions into spring and early summer that the species requires for reproduction. It is unlikely that the action area is within the home range of any wolverine.

Direct, Indirect, and Cumulative Effects on Lynx and Wolverine

Direct Effects, under the ESA, are those effects caused by the action and that occur in the same time and place (USDI-BLM 2008). Possible Direct Effects of the proposed action on lynx and wolverine would be direct mortality from roadkill, avoidance of the area due to disturbance, or reduction of prey species in the area due to disturbance.

Direct mortality of lynx or wolverine from being hit in the road by a haul truck is highly unlikely due to the necessity for the trucks to move slowly on the proposed ROW. The route is a primitive road and haul truck speeds are not expected to be over 15 MPH. Lynx and wolverine are agile, alert, fast-moving species, and would likely have to be previously injured to get hit by a truck going at such a slow speed. Also, truck drivers going that slowly would be expected to see any wildlife ahead and avoid impacting animals.

Disturbance to lynx, wolverine, or prey species from the action could occur and cause avoidance of the area. The action could involve anywhere from a high daily level of haul traffic for 15 weeks to a low level of daily haul traffic for up to three years. Most likely, the action would involve a modest amount of traffic for some intermediate period of time. Wildlife in the area could be expected to move away from the proposed route somewhat and become habituated to the haul traffic over time. If haul truck disturbance causes wildlife to move away from the route, adjacent habitat is available for them to move to. Lynx and wolverine are unlikely to be negatively affected by truck disturbance. Any haul truck disturbance to lynx, wolverine, or prey

species would be less than would occur if public access to the route were not blocked by adjacent private landowners.

Indirect Effects, under the ESA, are those effects caused by the action that are later in time, but reasonably certain to occur (USDI-BLM 2008). No future actions are foreseen that are reasonably certain to occur and caused by the proposed action of hauling ore.

Cumulative effects, as defined for the purposes of the ESA, involve those effects from future non-Federal actions (tribal, State, local, private and other entities) that are reasonably certain to occur within the action area (USDI-BLM 2008). Due to lack of access to BLM and FS land in the action area, no future non-Federal actions on public land are foreseen that are reasonably certain to occur. On private land in the vicinity, increased housing development is likely to occur in future years.

Lynx and wolverine are currently not known to occur in the action area, but potentially could occur with this area being used by transient individuals or as the periphery of a home range. The proposed action would not be expected to change that or harm either species.

CONSERVATION MEASURES

No Conservation Measures are currently proposed to mitigate effects of the action on lynx and wolverine. However, stipulations in the Environmental Assessment that would minimize impacts include:

- The operator will conduct an operation resulting in not more than 5 acres of surface disturbance on the private inholding.
- The operator cannot pollute or contaminate any stream.
- The operator provides DEQ with an appropriate map of his/her operation, and files a renewal annually that describes what has been done in the past year, and what is proposed for the coming year.
- The operator must comply with the Noxious Weed Management Act.
- The operator would control dust from haul traffic.
- The operator would maintain the route to control and minimize erosion.

EFFECTS DETERMINATION

The proposed action **MAY AFFECT BUT IS NOT LIKELY TO ADVERSELY AFFECT** lynx. The proposed action is **NOT LIKELY TO RESULT IN JEOPARDY OF A PROPOSED SPECIES AND/OR DESTROY OR ADVERSELY MODIFY PROPOSED CRITICAL HABITAT** for wolverine. (As a Proposed species, the wolverine has a different effects determination standard than Threatened or Endangered species.) The action would have **NO**

EFFECT on designated Critical Habitat for lynx. The action would have NO EFFECT on any other listed species.

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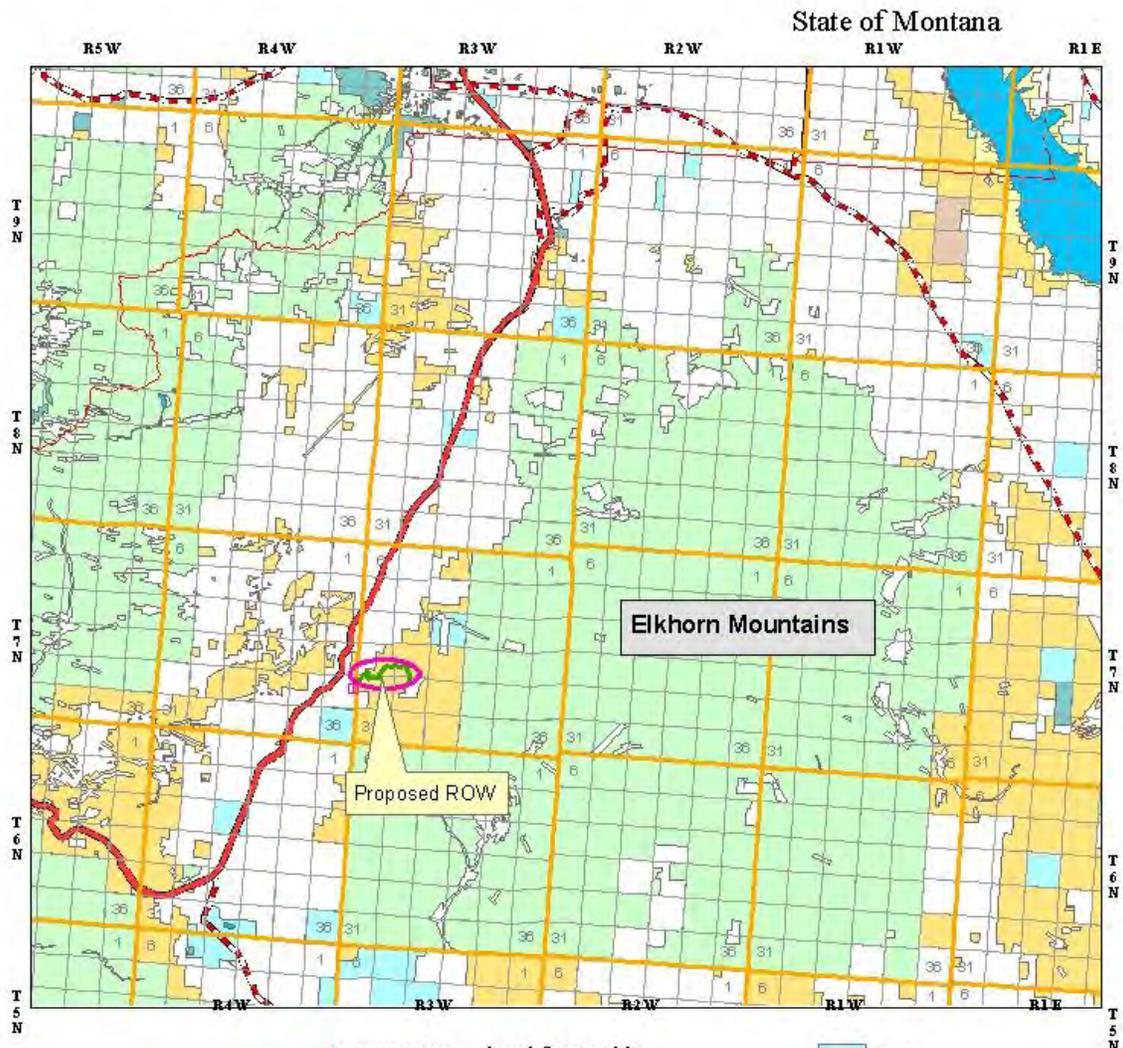
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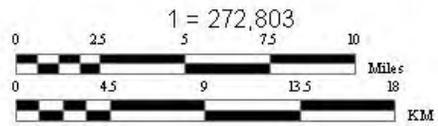
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LOCATION MAP



- | | | |
|---------------------|---------------------------------|------------------------------|
| Proposed ROW | Land Ownership | State |
| highways arc | Bureau of Land Management (BLM) | US Fish and Wildlife Service |
| TYPE | Bureau of Reclamation | US Forest Service (USFS) |
| Interstate Highway | Local Government | USFS Wilderness Area |
| Interstate Ramp | National Park Service (NPS) | Water |
| US / State Highway | Other Federal Land | |
| land status | Private | |



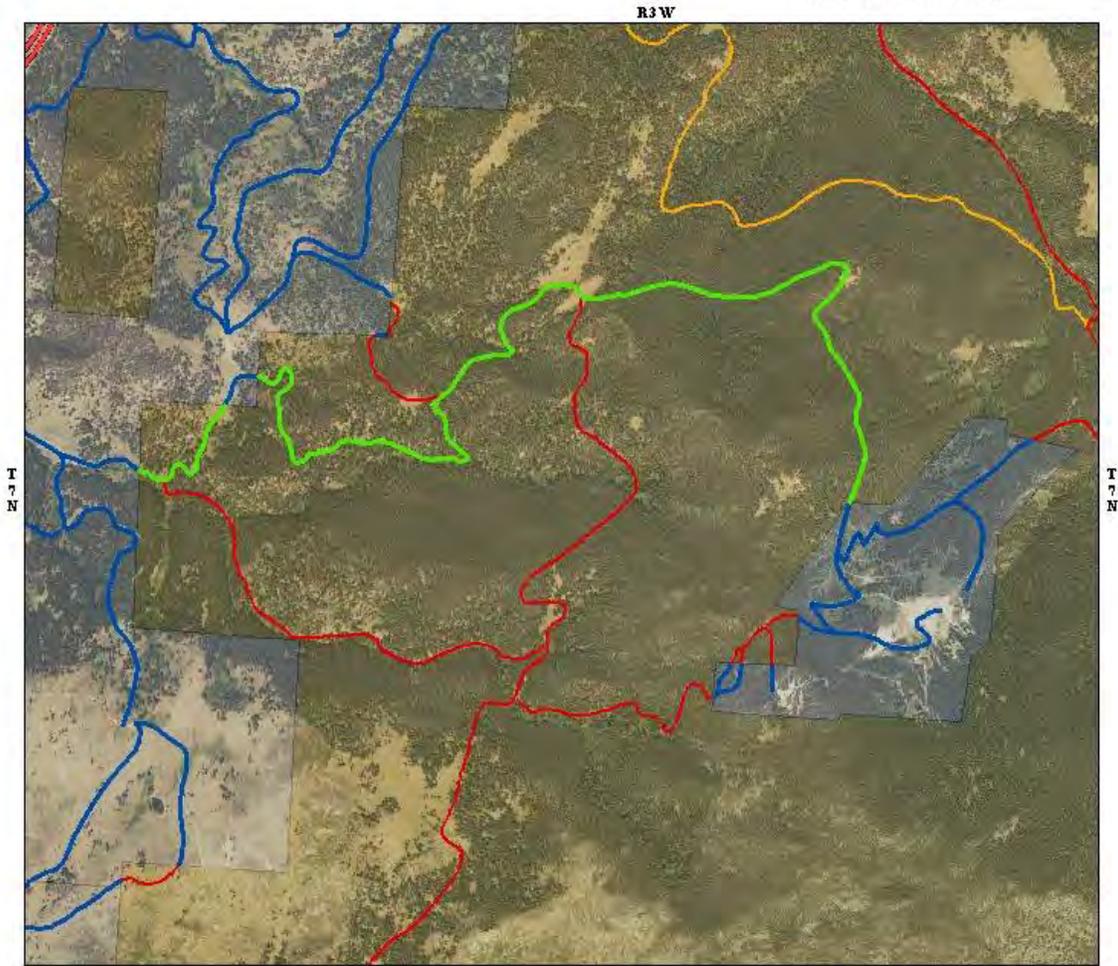
CAUTION:
 Land ownership data is derived from less accurate data than the 1:24000 scale base map. There are land ownership may not be shown for parcels smaller than 40 acres and land ownership lines may have plotting errors due to source data.

No warranty is made by the Bureau of Land Management for the use of the data for purposes not intended by the BLM.

 United States Department of the Interior
 Bureau of Land Management
 Montana/Dakotas State Office
 Map created on 12/18, 2013

AERIAL PHOTO OF PROPOSED ROW

State of Montana



— Proposed ROW — Non-BLM routes

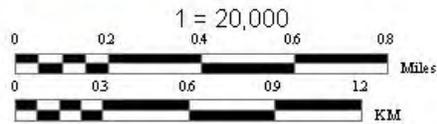
blm_routes arc
STATUS

— Restricted
— Closed

land status

Land Ownership

■ Bureau of Land Management (BLM)
□ Private



United States Department of the Interior
Bureau of Land Management
Montana/Dakotas State Office
Map created on 12/18/2013



CAUTION:

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M.02 BLM (I)

February 4, 2014

Memorandum

To: Field Manager, Bureau of Land Management, Butte Field Office, Butte, Montana,
(Attn: Scott Haight)

From: Field Supervisor (*for*), U.S. Fish and Wildlife Service, Montana Field Office,
Helena, Montana

Subject: Golden Asset Mine Access Road Right-Of-Way

This is in response to your January 3, 2014 request for U.S. Fish and Wildlife Service (Service) review of the biological assessment for federally listed threatened and endangered species regarding the effects of the proposed Butte Field Office 2014 Golden Asset Mine Access Road Right-Of-Way. The proposed action is located along the west side of the Elkhorn Mountain Range, approximately eight miles northeast of Boulder, in Jefferson County, Montana. We received your biological assessment on January 3, 2014.

The proposed action would grant a 3-year road right-of-way (ROW) to Smith Contracting that would authorize repair, maintenance, and use of approximately 16,250 feet of the existing Bureau of Land Management (BLM), Troy Creek Road. Smith contracting would use the access route to haul 50,000 tons of hardrock ore from the Golden Asset Mine that is currently located on private inholdings within BLM public lands. It is estimated that 20 loads, or 560 tons of ore per day, will be hauled 4 to 6 days per week when the road is open between May 16th and December 1st. While it may take as little as 15 weeks to haul the estimated 50,000 tons, authorization for up to three seasons has been granted to complete hauling in the event of delays caused by weather interruptions, seasonal road closures, and mining rates. Additional project actions will include grading, graveling, and installation of water bales/swales to address road damage caused by water runoff. The current road layout will not change and there would be no more than a 12-foot driving surface within a 24-foot ROW.

The proposed action is located within unoccupied, secondary Canada lynx (*Lynx canadensis*) habitat or a 'secondary area' as defined in the Canada Lynx Recovery Outline (U.S. Fish and Wildlife Service 2005) and Revised Canada Lynx Conservation Assessment and Strategy (Interagency Lynx Biology Team 2013). Secondary areas only support lynx intermittently and any lynx use of the action area would be considered transient. Lynx have not been verified in the Elkhorn Mountain Range in over 20 years. Therefore, the likelihood of disturbance to transient lynx by motorized use and associated mining operations is discountable. If transient lynx were

to come into the action area during motorized use and associated mining operations, they may be affected by the activity generated. However, these lynx would be able to move to an undisturbed part of the action area. The proposed action would not alter available lynx habitat and would not create any vegetative or other barriers to current or future lynx movements within the landscape.

The Service has reviewed the biological assessment and concurs with the determination that the proposed action is not likely to adversely affect the threatened Canada lynx. Therefore, pursuant to 50 C.F.R. § 402.13 (a), formal consultation on this species is not required. We also acknowledge the determination that the proposed action is not likely to jeopardize the continued existence of the proposed wolverine (*Gulo gulo luscus*). The Service bases its concurrence on the information and analysis in the biological assessment prepared by Scot Franklin, Wildlife Biologist, and information in our files. This project should be re-analyzed if new information reveals effects of the action that may affect listed species or designated or proposed critical habitat (1) in a manner or to an extent not considered in this letter, (2) if the action is subsequently modified in a manner that causes an effect to a listed species or designated or proposed critical habitat that was not considered in this letter, and (3) if a new species is listed or critical habitat is designated that may be affected by this project.

We appreciate your efforts to ensure the conservation of threatened and endangered species as part of your responsibilities under the Endangered Species Act, as amended. If you have questions or comments related to this issue, please contact Kelly Douglas at (406) 449-5225, extension 219.