

**United State Department of the Interior
Bureau of Land Management
South Dakota Field Office
310 Roundup Street
Belle Fourche, SD 57717-1698
Finding of No Significant Impact
Environmental Assessment DOI-BLM-MT-C040-2012-0015-EA**

Introduction and Summary of Proposal:

Wharf Resources (U.S.A.) Inc. submitted a Plan of Operations (POO) to the Bureau of Land Management (BLM) for the purpose of surface mining 0.74 acre of federal mineral claims located approximately 2.5 miles west of Lead, Lawrence County, South Dakota. The proposed action is adjacent to the existing Wharf Mine and includes areas of Golden Reward Mine that were formerly mined and reclaimed. The proposal is to mine and reclaim 0.12 acre of the 0.74 acre of Bureau of Land Management (BLM) administered surface located within the 528 acre Wharf Mine Expansion Project. Wharf's purpose for the Proposed Action is to provide for a continuation of orderly, efficient, environmentally responsible, and profitable mining of gold resources on BLM administered surface within the Wharf Mine Expansion Project.

Background:

Metallic mineral deposits, such as gold, has been determined to be locatable under the General Mining Law of May 10, 1872, as amended (30 United States Code (U.S.C.) 22-54 and 611-615), the federal regulations, which are used to regulate locatable mineral exploration and development on BLM administered public lands, are called the Surface Management of Mining Claims Under the General Mining Law, found at 43 CFR 3809, which are commonly referred to as the "3809" regulations. These regulations require mining claimants and/or operators to submit a POO for BLM's review and approval. The plan must contain detailed information about the mining proposal and protective measures so that "Unnecessary or Undue" degradation does not occur to the federal lands. The operator must also comply with the performance standards set forth in 43 CFR 3809.420.

The regulations at 43 CFR 3809.411 directs BLM to prepare an environmental review under the National Environmental Policy Act (NEPA) for a new POO or a substantial modification to an existing plan. This environmental assessment was prepared by a third-party contractor following guidance from the BLM National Environmental Policy Handbook (H-1790-1). The environmental assessment was prepared in accordance with NEPA for projects involving federal lands. The Proposed Action is consistent with other local, state, and federal regulations.

Finding Of No Significant Impact (FONSI):

On the basis of the information contained in the Environmental Assessment and all other information available to me, I have determined that Alternative A – Wharf's amended Plan of Operations submittal, which I have selected, will not have significant effects on the human

environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity, as defined in 40 CFR 1508.27, and do not exceed those effects in the South Dakota Resource Management Plan. Therefore, preparation of an environmental impact statement is not warranted, as it would not further inform my decision, or the public, with respect to the significance or lack thereof, of the proposed action. This determination is based on the context and intensity of the project as described.

The proposed actions have been reviewed and found to be in conformance with the following:

- The current South Dakota Resource Management Plan/Environmental Impact Statement approved in April 1986.
- The federal regulations at 43 CFR 3809 “Surface Management of Mining Claims Under the General Mining Laws”. The BLM generally does not have authority to regulate locatable mineral mining on private surface.

Context:

The proposed action analyzed in this document is within the geographic area covered by the South Dakota Resource Management Plan, approved 1986, and is in conformance with this plan. The current South Dakota Resource Management Plan/Environmental Impact Statement was approved in April 1986 and was written in conformance with BLM standards and 43 CFR 1610.5. Under this plan, it is noted that “private industry is encouraged to explore and develop federal minerals” and “provides for economically and environmentally sound exploration, extraction and reclamation practices.” In addition, mineral exploration and development of the Resource Area will continue to be administered through existing surface and mineral management regulations (43 CFR 3809).

Intensity:

The following discussion is organized around the Ten Significance Criteria described in 40 CFR 1508.27 and incorporated into resources and issues considered (includes supplemental authorities Appendix 1 H-1790-1) and supplemental Instruction Memorandum, Acts, regulations and Executive Orders. The following have been considered in evaluating intensity for this proposal:

1. Impacts may be both beneficial and adverse. Beneficial, adverse, direct, indirect and cumulative environmental impacts have been disclosed in the EA. Mitigating measures and stipulations to reduce impacts to the various resources were incorporated in the design of the proposed action. None of the environmental effects discussed in detail in the EA are considered significant. The EA also disclosed beneficial impacts to the state level, with social resource impacts to Lawrence County, and recreational impacts limited to Terry Peak Ski Area.

2. The degree to which the selected alternative will affect public health or safety. The selected alternative will minimize or eliminate adverse impacts to public health and safety. Wharf Resources currently possesses all necessary permits from appropriate State and Federal

agencies for protection of the environment and human health and safety from permitted mining activities.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, wild and scenic rivers, or ecologically critical areas. The mine permit area does not include any unique characteristics. No cultural resources, isolated artifacts, or historic values were discovered during the inventory of the Wharf Expansion Project area as shown in EA section 3.9. This cultural inventory has been reviewed by BLM, the State Historic and Preservation Office, and affected Tribes and they concurred that no cultural values would be affected by the proposed action. Unanticipated discoveries of buried cultural resources would be dealt with through application of standard cultural resource stipulations attached to the mine permit. Implementation of the proposed action (the selected alternative) would not have effects on park lands, prime farm lands, wetlands, wild and scenic rivers, or ecologically critical areas.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial. The effects on the quality of the human environment are not likely to be highly controversial. The proposed action is not unique to the area. The Expansion Project is adjacent to the existing Wharf Mine and includes areas of Golden Reward mine that were formerly mined and reclaimed.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks. The proposed action is not unique or unusual because the State of South Dakota has approved similar actions in the same geographic area. The proposed action, including construction, mining, operating and reclaiming activities, is similar to past mining activities in the area, and the potential impacts from the proposed project are reasonably expected to be similar. The analyses showed that the proposed action does not involve highly uncertain, unique or unknown risks.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration. The proposed action would not establish a precedent. The BLM administered lands that are within the federal mining claims within the Expansion Project area are similar to the adjacent mine for which detailed site-specific environmental data have been collected and for which environmental analyses have previously been prepared to secure the necessary state and county mining permits. Monitoring programs have been and are continually being conducted on the adjacent mine permit area. It is reasonable to expect similar impacts from any future gold mining activities in this area. The decision does not constitute a decision in principle concerning a future action or consideration.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. The impact analysis is strongly based on past, present, and

future mining activities considered by the South Dakota Department of Environment and Natural Resources (SD DENR). This department has determined that past, present, and future mining activities do not exceed State or Federal Laws or Regulations. The state LSMP application was approved by the South Dakota Board of Minerals and Environment in November 2011 and the Lawrence County Office of Planning and Zoning in June 2011. After approval of the hearing findings of fact and the acceptance of the reclamation and post closure bonds by the board, Large Scale Mine Permit No. 476 was issued to Wharf on January 19, 2012. Many impacts have occurred at the Wharf mine and will continue to occur regardless of whether or not this 0.74 acre surface disturbance is approved.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources. The cultural resources survey conducted in 2008 did not discover any sites eligible for the National Register of Historic Places. The project will not adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places, nor will it cause loss or destruction of significant scientific, cultural, or historical resources. Unanticipated discoveries of buried cultural resources would be dealt with through application of standard cultural resource stipulations attached to the mine permit.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973. No endangered or threatened species or their habitat are known to exist within or adjacent to the project area.

10. Whether the action threatens a violation of a Federal, State, Local, or Tribal law, regulation or policy imposed for the protection of the environment, where non-Federal requirements are consistent with Federal requirements. The proposed action and the selected alternative do not violate any Federal, State, Local or Tribal law or requirement imposed for the protection of the environment. The proposed action is consistent with applicable land management plan, policies and program guidance. Project design features help assure compliance with applicable laws. The EA also meets National Environmental Policy Act disclosure requirements.

Approved By: _____
Marian Atkins
Field Manager
South Dakota Field Office

_____ Date

United State Department of the Interior
Bureau of Land Management
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310 Roundup Street
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Decision Record
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Decision:

Based upon the analysis of potential environmental impacts described in the Environmental Assessment (EA), it is my decision to select Alternative A – Wharf Resources (USA) Inc. Proposed Action. This decision includes mitigation identified in the attached EA and Proposed Plan of Operations submittal.

This decision does not include the privately owned lands as those lands are not subject to the federal mining regulation (Surface Management Regulations, 43 CFR 3809).

Approved project components include:

- Approve the Plan of Operations and allow for the mining and reclamation of the 0.74 acre of BLM administered surface contained within the disturbance area of the permit boundary.
- Mining and reclaiming those lands in accordance with the mine plans, 43 CFR 3809 regulations.

Authorities:

The authority for this decision is contained in 43 CFR 3809.

Compliance and Monitoring:

BLM will conduct compliance and monitoring inspections during the different phases of operations and in accordance with BLM's inspection policy for locatable mineral operations. Inspections will be conducted to determine whether or not operations are being conducted in compliance with the approved permit. Monitoring inspections will be conducted to determine the effectiveness of mitigation measures, results of reclamation work, and impacts to other resources. Based upon the results of inspections, BLM could impose requirements to modify operations to minimize or eliminate adverse impacts to other resources. In addition, the BLM administered lands which are within Expansion Project area are similar to the adjacent mine for which detailed site-specific environmental data have been collected and for which environmental analyses have previously been prepared to secure the necessary state and county mining permits. Monitoring programs have been and are continually being conducted on the adjacent mine permit area.

Terms, Conditions, and Stipulations:

MITIGATION MEASURES/REMARKS:

Conditions of Approval

1. If any cultural values (sites, artifacts, human remains, etc.) are observed during operations, they are to be left intact and the South Dakota Field Manager notified. The operator is responsible for informing all persons in the area who are associated with this project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts. If historic or archaeological materials are uncovered during construction, the operator is immediately to stop work that might further disturb such materials, and contact the authorized officer (AO). Within five working days, the AO will inform the operator as to:
 - A. whether the materials appear eligible for the National Register of Historic Places;
 - B. the mitigation measures the operator will likely have to undertake before the site can be used (assuming in situ preservation is not necessary); and,
 - C. a timeframe for the AO to complete an expedited review under 35 CFR 800.11 to confirm, through the State Historic Preservation Officer, that the findings of the AO are correct and that mitigation is appropriate.

If the operator wishes, at any time, to relocate activities to avoid the expense of mitigation and/or the delays associated with this process, the AO will assume responsibility for whatever recordation and stabilization of the exposed materials may be required. Otherwise, the operator will be responsible for mitigation costs. The AO will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the AO that the required mitigation has been completed, the operator will then be allowed to resume construction.

2. Wharf will conduct reclamation activities in accordance with regulations found at 43 CFR 3809 and will employ the mining, erosion control and reclamation measures found in the Plan of Operations.

Alternatives Considered:

Alternative A – Proposed Action. The Proposed Action would approve the Plan of Operations and approve the Plan of Operations and allow for the mining and reclamation of the 0.74 acre of BLM administered surface contained within the disturbance area of the permit boundary. The proposal is to mine and reclaim 0.12 acre of the 0.74 acre of Bureau of Land Management (BLM) administered surface located within the 528 acre Wharf Mine Expansion Project.

Alternative B – No Action. Under the No Action alternative, surface mining would continue to take place on the private land located within the Wharf Mine Expansion Project; however, no mining activity would take place on the 0.74 acre which includes the federal mining claims on BLM administered surface. The No Action alternative would reject the Plan of Operations and the BLM mining claims would not be mined for gold as proposed. Under the No Action alternative, the BLM administered surface would be left undisturbed.

Rationale for the Decision:

The decision to approve Alternative A, the proposed action, is based upon a number of factors, including careful consideration of the relevant issues listed in the EA.

Scoping Comments:

A scoping letter was mailed out to interested individuals for a 30 day period, seeking public scoping comments on Wharf Resource’s Plan of Operations. A press release was prepared notifying the public of the 30 day scoping period. No significant issues were raised during scoping.

Consistency with Land Use Plan:

The proposed action analyzed in this document is within the geographic area covered by the South Dakota Resource Management Plan, approved 1986, and is conformance with this plan. The current South Dakota Resource Management Plan/Environmental Impact Statement was approved in April 1986 and was written in conformance with BLM standards and 43 CFR 1610.5. Under this plan, it is noted that “private industry is encouraged to explore and develop federal minerals” and “provides for economically and environmentally sound exploration, extraction and reclamation practices.” In addition, mineral exploration and development of the Resource Area will continue to be administered through existing surface and mineral management regulations (43 CFR 3809).

Cultural Resources:

The South Dakota State Historic Preservation Office (SHPO) was also consulted (see Section 3.10). The SHPO concurred with BLM’s determination of No Historic Properties Affected on January 30, 2012.

Surface Water:

BLM’s approval of the Plan of Operations will not significantly impact water quality. The EA, mine plan, and state and federal regulations contain sufficient mitigative measures, regulatory requirements and enforcement authority to ensure that water quality will not be significantly impaired.

Cumulative Impacts:

The analysis in the attached EA did not identify any significant impacts that will result from approval of the Plan of Operations in combination with the cumulative actions listed in Section 4.0 of the EA.

Implementation:

Once the Environmental Assessment (DOI-BLM-MT-C040-2012-0015-EA), FONSI, and Decision Record are approved, the decision will be full force in effect. Wharf Resources (U.S.A.) Inc. may not commence operations until they receive written approval of their Plan of Operations from the Authorized Officer. In addition, Wharf Resources (U.S.A.) Inc. may not begin operations until such time as sufficient bonding is in place and accepted by the BLM as evidenced by an official bond Decision letter to Wharf Resources (U.S.A.) Inc. issued by the BLM Montana State Office.

Administrative Review Opportunities:

If you do not agree and are adversely affected by this decision, you may request that the Montana/Dakota BLM State Director review this decision. If you request a State Director Review, the request must be received in the Montana BLM State Office at 5001 Southgate Drive, Billings, Montana 59101-4669, no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless a Stay is granted by the State Director. If you request a Stay, you have the burden of proof to demonstrate that a Stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Montana BLM State Office to determine when BLM received the request for State Director Review. You have 30 days from the end of the 21day period in which to file your Notice of Appeal with this office at 310 Roundup Street, Belle Fourche, SD 57717-1698 which we will forward to IBLA.

If you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.801(a)(1). Your Notice of Appeal must be filed in this office at 310 Roundup Street, Belle Fourche, SD 57717-1698 within 30 days from receipt of this decision.

Approved By: _____ Date _____

Marian Atkins
Field Manager
South Dakota Field Office