

**RECORD OF DECISION  
AND  
AMENDMENT TO THE PLAN OF OPERATIONS APPROVAL**

**NEWMONT MINING CORPORATION  
PHOENIX COPPER LEACH PROJECT  
FINAL ENVIRONMENTAL IMPACT STATEMENT**

**PLAN OF OPERATION NUMBER: NVN-067930 (07-3A)  
DOI-BLM-NV-B010-2011-0037-EIS**

**BUREAU OF LAND MANAGEMENT  
BATTLE MOUNTAIN DISTRICT,  
MOUNT LEWIS FIELD OFFICE  
BATTLE MOUNTAIN, NEVADA**

**COOPERATING AGENCY:  
NEVADA DEPARTMENT OF WILDLIFE**

**RECORD OF DECISION AND PLAN OF OPERATIONS  
AMENDMENT APPROVAL**



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**Christopher J. Cook  
Mount Lewis Field Manager**

*6/18/2012*  

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**Date Signed**

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## SUMMARY

On May 30, 2007, Newmont Mining Corporation (Newmont) submitted a proposed Amendment to the Plan of Operations (NVN 067930 [07-3A]) for the Phoenix Copper Leach Project (Project) to the Bureau of Land Management (BLM), Mount Lewis Field Office of the Battle Mountain District, in compliance with 43 Code of Federal Regulations (CFR) 3809 and 3715. Newmont concurrently submitted to the Nevada Division of Environmental Protection, Bureau of Mining Regulation and Reclamation (NDEP-BMRR) a Permit for Reclamation (#0223) as well as a major modification to Newmont's NDEP-BMRR Water Pollution Control Permit.

Revised plans of operations were submitted to the BLM on January 24<sup>th</sup>, 2008; September 1<sup>st</sup>, 2010; October 29<sup>th</sup>, 2010; September 21<sup>st</sup>, 2011; and February 29<sup>th</sup>, 2012.

Newmont proposes to expand and operate the existing Phoenix Mine to include copper leaching/beneficiation of copper oxide rock material that previously has been permitted for disposal on waste rock facilities (WRFs).

The Amendment to the Plan of Operations (APO or Project) also includes the expansion of the existing Phoenix Mine POO boundary to encompass approximately 902 additional acres of land. The majority of these proposed facilities would occur in areas that previously have been approved for surface disturbance as analyzed in the Phoenix Project Final Environmental Impact Statement (EIS).

The Project area is located in Lander County, approximately 12 miles southwest of the town of Battle Mountain, Nevada, in Townships 30 and 31 North, Range 43 East Mount Diablo Base Meridian. Approximately 194 acres of the proposed new disturbance area would be located on public lands administered by the BLM Mount Lewis Field Office, while approximately 708 acres would be on private lands owned by Newmont.

The Project mining activities on Public Lands and/or Federal Mineral estate, are subject to review and approval by the BLM pursuant to the Federal Land Policy and Management Act of 1976 as amended, and the BLM's Surface Management regulations (43 CFR Subpart 3809). The BLM's review and approval of a mine plan of operations under the Surface Management regulations constitutes a federal action that is subject to the National Environmental Policy Act of 1969 (NEPA). The BLM determined that the Project constitutes a major federal action and determined that an environmental impact statement (EIS) was required to fulfill NEPA requirements.

A Notice of Intent to prepare an EIS was published in the Federal Register (FR) on February 12<sup>th</sup>, 2008. A public scoping meeting for the proposed project was held on February 27<sup>th</sup>, 2008 in Battle Mountain, NV. The comments received during the scoping process were considered in developing the Draft EIS.

The publication of the Draft EIS Notice of Availability (NOA) in the FR began a 45-day public comment period for the Draft EIS commencing on October 28<sup>th</sup>, 2011. The comments received during the public comment period were considered in preparing the Final EIS (see page 20). The

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publication of the Final EIS NOA in the FR on April 27<sup>th</sup>, 2012 began the 30-day review period for the Final EIS. That review period ended on May 29<sup>th</sup>, 2012.

The BLM's selection of a Preferred Alternative was based on the BLM's NEPA analysis of the Project, including comments received throughout the NEPA process. The decision of the Mount Lewis Field Manager, BLM Battle Mountain District, is to select the Proposed Action with the environmental protection measures of the APO and the mitigation measures specified in Chapter 3 of the Draft and Final EISs, as the BLM's Preferred Alternative. The Preferred Alternative is the alternative that best fulfills the agency's statutory mission and responsibilities, considering economic, environmental, technical, and other factors. The BLM has determined that implementation of this decision with the identified monitoring and mitigation measures will not cause unnecessary or undue degradation of the public lands.

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## **RECORD OF DECISION AND AMENDMENT TO THE PLAN OF OPERATIONS APPROVAL**

### **NEWMONT'S PHOENIX COPPER LEACH PROJECT FINAL ENVIRONMENTAL IMPACT STATEMENT**

**PLAN OF OPERATIONS #: NVN-067930 (07-3A)  
DOI-BLM-NV-B010-2011-0037-EIS**

**PREPARED BY:  
BUREAU OF LAND MANAGEMENT  
BATTLE MOUNTAIN DISTRICT  
BATTLE MOUNTAIN, NEVADA**

**COOPERATING AGENCY:  
NEVADA DEPARTMENT OF WILDLIFE**

## **INTRODUCTION**

Newmont Mining Corporation (Newmont) has submitted an Amendment to its current mining Plan of Operations (APO) for the Phoenix Project to the Bureau of Land Management (BLM). The Phoenix Copper Leach Project Amendment to the Plan of operations (the APO or the Project) is located in north-central Nevada approximately 12 miles southwest of Battle Mountain, Nevada. The Project would be located on both public and private lands in Lander County, Nevada. The Project would involve the expansion and operation of the existing Phoenix Mine to include copper leaching/beneficiation of copper oxide rock material that previously has been permitted for disposal on currently permitted waste rock facilities (WRFs). Active mining and processing for the Project would last approximately 24 years; active reclamation activities are anticipated to extend a minimum of 25 years beyond the operational phase. A minimum of 5 years of vegetation monitoring are required following revegetation activities. Additionally, long-term post-reclamation obligations would follow final reclamation.

The Project would mine approximately 158 million tons of copper ore for processing resulting in approximately 245 million pounds of recoverable copper during the ore processing timeframe. New surface disturbance associated with the Project would total 902 acres. The majority of the facilities would occur in areas that have previously been approved for surface disturbance.

## **DECISION**

The decision of the Mount Lewis Field Manager, BLM Battle Mountain District, is to select the Proposed Action inclusive of environmental protection measures of the APO and the mitigation measures specified in Chapter 3.0 of the Draft EIS and abbreviated Final EIS, as the BLM's

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Preferred Alternative. Development of the Project is authorized by this plan approval decision. The BLM decision is based on the final APO (NVN-067930 (07-3A)), submitted to the BLM on February 29, 2012 pursuant to 43 CFR 3809 and 3715, and the analysis in the Draft EIS and abbreviated Final EIS. In making this decision, BLM is relying on the Draft and abbreviated Final EIS's, and the data and analyses prepared in connection with both documents. The BLM has determined that implementation of this decision with the identified environmental protection measures along with the monitoring and mitigation measures will not cause unnecessary or undue degradation of the public lands and is consistent with other applicable legal requirements.

All mitigation that has been developed and adopted is consistent with regulations and policies in order to avoid or minimize environmental harm resulting from the selection of the BLM's Preferred Alternative. Means or methods to avoid or minimize environmental harm resulting from the selection of the BLM's Preferred Alternative have been adopted. All mitigation will be implemented and enforced. All mitigation was designed to be effective.

### **MANAGEMENT CONSIDERATIONS**

The rationale for the above decision is supported by the BLM's Surface Management regulations (43 CFR § 3809), the regulations governing Use and Occupancy Under the Mining Laws (43 CFR § 3715), the Federal Land Policy and Management Act of 1976 (FLPMA), and the Mining Law of 1872, as amended. The Project has been analyzed under the Council on Environmental Quality implementing regulations for NEPA (40 CFR § 1500). Selection of the BLM's Preferred Alternative will allow Newmont to undertake and continue a legitimate use of the public lands in an environmentally sound manner without causing unnecessary or undue degradation to the public lands.

The BLM's selection of the Preferred Alternative primarily was based on the impacts associated with social and economic values and recovery of a substantial portion of the identified mineral resource within the Phoenix Project area. The Proposed Action will allow the recovery of approximately 245 million pounds of copper for sale on the metals commodities open market. The Proposed Action will have greater beneficial social and economic effects relative to employment, expenditures, and tax revenues, in comparison to the No Action and other alternatives. Permitting the Proposed Action will allow Newmont to hire approximately 48 additional permanent work force employees for 24 years. In addition, up to 150 construction workers will be hired for a period of up to one year. Under the No Action Alternative, the identified copper mineral resources would not be developed, resulting in the loss of approximately 245 million pounds of copper available for the commodities market. In addition, approximately 150 temporary construction and 48 permanent jobs would not be made available to Nevada and local economies.

The BLM, Nevada Department of Wildlife (NDOW), and Newmont have collaborated to mitigate environmental impacts that may result from the Project. Environmental protection measures of the APO and the mitigation measures outlined below will minimize adverse environmental impacts identified in the Draft and abbreviated Final EISs. Monitoring requirements of the APO and the Draft and abbreviated Final EISs will assist Newmont, the

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BLM, and others in identifying, mitigating, or avoiding unforeseen environmental impacts that may occur.

### Land Use Plan Conformance

The BLM has the responsibility and authority to manage the surface and subsurface resources on public lands located within the jurisdiction of the Mount Lewis Field Office, and have designated lands within the project area as open for mineral exploration and development. In its Record of Decision (ROD) for the Shoshone-Eureka Resource Management Plan (RMP), the BLM states in objectives 1.0 and 2.0 under Minerals that it would:

- “Make available and encourage development of mineral resources to meet national, regional, and local needs consistent with national objectives for an adequate supply of minerals,” and
- “Assure that mineral exploration, development, and extraction are carried out in such a way as to minimize environmental and other resource damage and to provide, where legally possible, for the rehabilitation of lands.”

The management decisions applicable to these objectives are as follows:

- **Locatable minerals.** “All public lands in the planning areas would be open for mining and prospecting unless withdrawn or restricted from mineral entry.”
- **Current mineral production areas.** “Recognize these areas as having a highest and best use for mineral production and encourage mining and minimum environmental disturbance. Make thorough examinations of all sites proposed for other Bureau programs in these areas.”

The Preferred Alternative is in conformance with the Shoshone-Eureka RMP and its ROD.

## SUMMARY OF THE PROPOSED ACTION

The proposed project would include the construction and operation of a new copper beneficiation facility, modification of existing mine components, and expansion of the proposed project boundary. Proposed project components would include:

- Expansion of the existing POO boundary;
- Development and operation of two copper heap leach facilities (HLFs);
- Construction of six new process ponds;
- Construction and operation of a copper solvent extraction-electrowinning (SX-EW) facility;

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- Designating the optional Use Area in Section 5 as a borrow area;
- Establishment of an additional clay borrow area;
- Development of new water monitoring wells;
- Construction of a new haul road, pipeline and utility corridor;
- Development of a new production well; and
- Conversion of five process ponds to evaporation (E-ponds) during reclamation.

Construction and operation of the proposed project is anticipated to begin in 2012, following receipt of all required permits and approvals. Active mining and processing for the project would last approximately 24 years. Active reclamation activities are anticipated to extend 25 years beyond the operational phase.

A minimum of five years of vegetation monitoring are required following revegetation activities.

### **SUMMARY OF THE BLM'S PREFERRED ALTERNATIVE, OTHER ALTERNATIVES CONSIDERED IN THE EIS AND THE ENVIRONMENTALLY PREFERRED ALTERNATIVE**

The BLM's Preferred Alternative is the proposed action. The BLM's Preferred Alternative includes all of environmental protection measures of the APO (and as may have been added to or modified in the abbreviated FEIS) that are to be incorporated into the design of the Proposed Action and all mitigation measures identified in the DEIS or as modified in the FEIS.

The BLM's Preferred Alternative will expand the overall project area by 902 acres, much of which has either been previously disturbed or previously approved for disturbance. The current and past mining operations have disturbed 7,223 acres. There would be 3,202 acres of Public Land disturbance and 4,923 acres of private lands. Construction of the Proposed Action will lead to a total of 8,125 acres of disturbance.

#### **ALTERNATIVES CONSIDERED BUT ELIMINATED FROM DETAILED ANALYSIS**

The BLM, working with Newmont, considered nine (9) potential alternatives that were subsequently eliminated from detailed analysis. These nine alternatives were considered relative to their means of addressing the identified purpose and need for the project; their technological and economic feasibility; as well as their potential to address environmental issues and reduce potential impacts. Each of these nine potential alternatives were ultimately rejected and not further analyzed in the EIS for the following reasons:

- a) Alternative Process Options: eliminated because this process was not economically viable for the project;

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- b) Copper Cementation: eliminated in favor of more modern and economically advantageous technology;
- c) Copper Sulfate Production: eliminated because there is little market demand for copper sulfate;
- d) Alternative Plant Design: eliminated because any alternative plant designs were not considered to have differing environmental consequences or advantages than the proposed plant design;
- e) Alternative Facility Locations: a single, larger copper HLF was eliminated from further analysis because of topographic physical constraints; further, the Phoenix copper heap leach facility could not be placed further north (than its current proposed location) because of an existing gas line and gas transfer station;
- f) SX-EW Plant Site Location: Three locations were evaluated for positioning the SX-EW plant with the intent of minimizing environmental impacts. A potential location for the SX-EW facility near the proposed Phoenix Copper HLF location was evaluated along with the proposed location near the current mill; however, the currently proposed location for this facility was selected based on the following primary factors:
  - The SX-EW plant location in Section 33, T31 N, R43E would be convenient to the existing infrastructure of the current mill, eliminating the need for separate infrastructure facilities;
  - The location near the current mill site would provide the desired elevation differences in relation to the HLF to facilitate gravity flow of solutions;
  - The proposed location would be centrally located between the proposed Reona and Phoenix Copper HLFs;
  - The proposed location would avoid interference with potential future expansion of the Phoenix Copper HLF; and
  - The proposed location would minimize new disturbance areas by using existing roads and pipeline corridors, where possible.
- g) Alternative Raffinate Pond Cover: a proposed sprung building over the Raffinate pond to protect volant (flying) and terrestrial wildlife was eliminated for economic reasons, i.e. the high cost of construction and maintenance;
- h) Alternative Phoenix Copper Leach Heap Leach Pad Configuration: eliminated from further detailed analysis because the reconfiguration did not identify any additional environmental advantages over the current configuration; and reconfiguration would limit operational flexibility for potential future leaching of copper ore;

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- i) Borrow Area Elimination Alternative: eliminated from further detailed analysis after studies showed the current borrow area in Section 21 lacked sufficient materials to complete heap leach pad construction, thus dictating use of the proposed Section 15/16 borrow area.

### ALTERNATIVES INCLUDING THE PROPOSED ACTION

The Phoenix Copper Leach Project EIS analyzed three alternatives: the Proposed Action, the No Action, and the Reona Heap Leach Facility Elimination Alternative.

The Phoenix Mine area has been mined since the mid-to-late 1800s. The Phoenix Copper Leach Project proposes to disturb 902 acres within an overall mine footprint of just over 8,000 acres. Considering the current disturbance within this large industrial mine site, viable alternatives that meet the purpose and need of the BLM and the proponent were limited by the size and current disturbance of the current facility.

### ENVIRONMENTALLY PREFERRED ALTERNATIVE

The BLM's Environmentally Preferred Alternative is also the BLM's Preferred Alternative. The BLM's Preferred alternative includes all of the environmental protection measures of the APO (and as may have been added to or modified in the abbreviated FEIS) that are to be incorporated into the design of the Proposed Action and all mitigation measures identified in the DEIS or as modified in the FEIS. The No Action alternative was used as the basis for identifying the affected environment section of the EIS. Selection of the No Action alternative would not have met Newmont's purpose and need for their proposed mining activities.

The BLM, working in concert with Newmont in developing the proposed action, environmental protection measures of the APO, and the mitigation measures identified below has ensured all practicable means to avoid or minimize environmental harm were adopted for the Phoenix Copper Leach Project as required by the Council on Environmental Quality. The monitoring and enforcement plan for the proposed mitigation and environmental protections measures of the APO are identified below.

## ENVIRONMENTAL PROTECTION MEASURES OF THE AMENDED PLAN OF OPERATIONS

During construction and operation of the Project, Newmont will implement environmental protection measures of the APO to mitigate potential impacts to air, land, water, wildlife, cultural resources, and human resources and to prevent unnecessary or undue degradation of the environment as part of the Project's standard operating procedures. Pre-development planning, pollution prevention measures, and pollution control measures and equipment will be used to reduce potential project-generated environmental impacts.

Environmental protection measures of the APO applicable to the Proposed Action have been adopted from the Phoenix Mine POO, Phoenix Project Final EIS (January 2002), the Phoenix Project ROD and POO Approval (November 2003), and the Phoenix Copper Leach Project Proposed Amendment Phoenix Project. These measures are identified below:

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## Water Resources

- To minimize impacts to water resources, the copper leach facilities will be designed and operated as zero discharge facilities.
- To limit erosion and reduce sediment transport, Best Management Practices (e.g., permanent and temporary diversion ditches, silt fences, riprap) will be installed as outlined in the Storm Water Pollution Prevention Plan that will be prepared as part of the proposed project's NDEP Storm Water Discharge Permit.
- During operations, Newmont will review the necessary data and conduct long-term studies to support the design of final covers for closure of copper HLF's. Meteorological, soil and vegetation data will be collected and integrated into testing, design criteria and additional modeling efforts to evaluate water balance for cover performance. Appropriately sized lysimeters will be used for field testing and refined modeling of HLF's will be conducted to support final closure designs. Newmont will also conduct long-term column leach testing of representative samples of the copper ore placed on the copper HLF's to refine the estimates of the water quality of the leachate to be managed during the closure and post closure period. The effects of long-term leaching on ore properties such as particle size distribution, moisture contents, and hydraulic conductivity also will be evaluated to enable more precise modeling of heap drain down at closure. The results of the long-term column leach test will be provided to the BLM and NDEP on an annual basis. Resulting data will be used in the development of the Final Plan for Permanent Closure for the Phoenix Copper Leach Project facilities. The plan will be developed 2 years prior to closure of the HLFs pursuant to BLM policy and NDEP requirements (NAC 445A.430 through 445A.447).

## Soils and Reclamation

- To minimize impacts to soils, vegetation, and wildlife habitat, project-related disturbance areas will be reclaimed in accordance with the Phoenix Mine Reclamation Plan, as amended for inclusion of the Phoenix Copper Leach Project.
- Protection of reclaimed areas from livestock grazing will be provided by perimeter fencing (BLM-approved four-strand range fencing) installed prior to, or concurrent with, the start-up of operations. Perimeter fences will remain in place until applicable reclamation standards have been satisfied. Access to reclaimed areas by wildlife will not be restricted.

## Vegetation

- To minimize the introduction and spread of noxious weeds and invasive species in project-related disturbance areas, Newmont will implement their Weed Management Plan, which outlines the following control measures: prevention techniques, noxious weed surveys, selective site sterilization, and annual spraying.

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## Wildlife Resources

- Operators will be trained to monitor the mining and process areas for the presence of larger wildlife species (e.g., deer and pronghorn) as well as volant (e.g., bats, birds, etc.) and other terrestrial wildlife. Mortality information will be collected in accordance with the Industrial Artificial Pond Permit (IAPP) issued by NDOW. Newmont will continue to operate in accordance with established wildlife protection policies that prohibit feeding or harassment of wildlife.

Newmont will develop a wildlife monitoring plan to identify wildlife mortality in the project area and to report all mortalities. As part of this process, the top of the copper heap leach pads will be monitored daily for any substantial pooling of process solutions. Drip emitters on heap leach pads will be surface run and the heaps will be scarified to minimize ponding and pooling of the process solutions. If pooling does occur during active operations, Newmont will: 1) reduce solution application rates; 2) re-scarify the heap leach pad surface; and 3) place netting over any ponding to prevent wildlife access.

- During all operational periods for the life of the Project, Newmont will provide eight-foot-high chain link fencing around the perimeter of process or solution ponds that may pose a hazard to all terrestrial wildlife.
- During the operational periods for the life of the Project, Newmont will provide protection to all volant wildlife by placing bird netting over the process or solution ponds that may pose a hazard to volant wildlife.
- During the operational periods for the life of the Project, Newmont will monitor these wildlife exclusion facilities (i.e., chain link fencing and bird netting) on a twice weekly basis. The integrity of the wildlife exclusion facilities will be monitored for effectiveness, and any damage to these facilities will be properly repaired within 48 hours. Newmont will maintain a record of any wildlife mortalities that occur in association with the permitted facility. Those reports will be provided quarterly to the NDOW and BLM on a form provided by the NDOW. In addition, Newmont will report any mortalities to wildlife species protected under the Migratory Bird Treaty Act (MBTA); all game animals; game birds; and sensitive, threatened or endangered species, which are associated with chemical-containing tanks or impoundments. This report will be made by telephone to the regional office of the NDOW, by the beginning of the next working day following the occurrence or observation of those mortalities.
- Newmont will provide once monthly monitoring of wildlife exclusion facilities during the long-term closure process of E-ponds that could pose a threat to both terrestrial and volant wildlife. The monitoring frequency may be changed to a more frequent timeframe should the operational monitoring of wildlife exclusion facilities require an increased monitoring frequency. The implementation of an increased monitoring frequency would result from operational monitoring indicating that the effectiveness of these facilities require more frequent repairs to protect all wildlife.

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- The new transmission line segment (120 kV) and power line segment (13.8 kV) will be designed and constructed in accordance with applicable guidelines to minimize raptor perching, nesting, electrocution, and collision potential. To minimize raptor perching and nesting, BLM-approved raptor deterring devices will be installed on horizontal crossbars. To minimize electrocution of raptor species attempting to perch on the lines, standard safe designs as outlined in Suggested Practice for Raptor Protection on Power Lines (Avian Power Line Interaction Committee (APLIC) 2006; APLIC and U.S. Fish and Wildlife Service (USFWS) 2005) will be incorporated, as applicable. To minimize collision potential for foraging raptors, standard safe designs as outlined in Mitigating Bird Collisions with Power Lines will be incorporated, as applicable.
- If construction activities occur during the raptor nesting season (March 1 through July 31), a raptor survey, including, but not limited to, hawks, eagles, and burrowing owls, will be conducted, and appropriate mitigation measures (e.g., buffer zones around occupied nests) will be developed and implemented.
- To protect nesting birds, all ground-disturbing activities will be conducted outside the migratory bird nesting season (March 1-July 31). If ground-disturbing activities cannot be avoided during this time period, pre-construction nest surveys will be conducted by a BLM-approved biologist with the following guidelines: 1) surveys will cover all potential nesting habitat in and within 300 feet of the area to be disturbed; 2) surveys must be conducted between sunrise and 3 hours post-sunrise when birds are most active; 3) surface-disturbing activity must be conducted within 10 days of surveys or additional surveys may be required to "re-clear" the area; and 4) if active nests are detected, a no-disturbance buffer zone (as determined by the USFWS, NDOW, and BLM) will be established. Nest locations will be mapped and submitted to the BLM as needed. Survey protocols will be provided by the BLM to the approved biologist prior to survey initiation.
- Prior to the initiation of surface disturbance activities, pygmy rabbit surveys will be conducted through areas of suitable habitat, as determined by the BLM. If pygmy rabbit burrows are identified, the BLM and NDOW will be contacted to determine appropriate mitigation.

### Cultural Resources

- The Archaeological Resources Protection Act (ARPA) codified at 43 CFR 7, as well as the Native American Graves Protection and Repatriation Act (NAGPRA) codified at 43 CFR 10, both provide protection for historic properties, cultural resources, and Native American funerary items and/or physical remains located on federal land. Additionally, ARPA provides for the assessment of criminal and/or civil penalties for damaging cultural resources. Any unplanned discovery of cultural resources, human remains, items of cultural patrimony, sacred objects, or funerary items requires that all activity in the vicinity of the find ceases, and notification be made to the Mount Lewis Field Office Field Manager by telephone (775-635-4000), with written confirmation to follow (50 Bastian Road, Battle Mountain, Nevada 89820), immediately upon such discovery. The

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location of the find should not be publically disclosed and any human remains must be secured and preserved in place until a notice to proceed (NTP) is issued by the Authorized Officer (AO).

- If previously unknown cultural resources are discovered during construction, all construction activities will cease within 300 feet of the discovery and the BLM AO will be notified of the find. Steps will be taken to protect the resource from vandalism or further damage until the BLM AO can evaluate the nature of the discovery. If the previously unidentified or unevaluated resources are determined eligible to the National Register of Historic Places (NRHP), impacts will be mitigated as outlined in the Programmatic Agreement (PA). Construction will not resume in the area of the discovery until the BLM AO has issued a NTP.

### **Air Resources**

- Current fugitive dust control BMPs (e.g., water application on haul roads) will continue to be implemented. In addition, control equipment will continue to be installed, operated, and maintained in good working order. The training of employees to identify and minimize fugitive dust and point source emissions also will continue.
- Newmont will continue to ensure that the BLM receives copies of all air quality data and reports submitted to the State of Nevada. In addition, Newmont will continue to report annually to BLM on source-specific measures taken to control fugitive dust emissions and the effectiveness of those measures.

### **Visual Resources**

- Wherever possible, the following measures will be incorporated into the operation and reclamation of the proposed project: 1) visually reduce the creation of linear and angular landform crests; 2) vary final lifts of the heap leach pads to create intermediate hummocks and hills; 3) vary interbench heights to reduce linear, equally spaced, terrace-like features; 4) flatten final slopes to 3H:1V; and 5) revegetate surfaces with diagonal patterns/mosaics of grasses and shrubs.
- New night lighting will be shielded and directed downward to comply with the International Dark Sky Association guidelines.
- Newmont will paint or construct buildings associated with the proposed Project using earth tones in order to minimize color contrasts with the surrounding landscape.

### **Hazardous Materials**

Newmont will monitor for radionuclides in various process areas during active operations. Quarterly testing for uranium and radium will occur at the following:

- Leached copper ore;

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- Reona Copper Leach PLS/Events ponds solution;
- Phoenix Copper Leach pond solution;
- All groundwater monitoring wells for Reona and Phoenix Copper Leach; and
- Raffinate pond solution.

In addition, quarterly measurements of gamma radiation will be conducted at the EW plant, recharge strip outfall, and the tank farm sump.

During closure operations, Newmont will (1) employ quarterly gamma meter monitoring of the open E-ponds when workers are performing regular monitoring and maintenance of the E-ponds; and (2) upon full closure of each E-pond, perform a one-time gamma meter measurement over the entire surface of the closed E-pond.

Monitoring results will be provided to the BLM on an annual basis. The monitoring will provide an indication if Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) are being concentrated over time. No thresholds of radioactivity are proposed, but if monitoring shows an increase of radioactivity, Newmont will consult with the appropriate regulatory agencies including the BLM, NDEP-BMRR, US-EPA, or Mine Safety and Health Administration (MSHA) with regard to measures that can be taken to ensure protection of the environment and worker safety.

### **MONITORING AND MITIGATION MEASURES**

The BLM's Preferred Alternative will expand the overall project area by 902 acres, much of which has either been previously disturbed or previously approved for disturbance. The overall Phoenix Project resides in a historic mining district that has seen significant mining activity for both precious metals and commodities mining for the last 140 plus years.

Given that the Project lies generally in this previously disturbed historic mining district, along with Newmont's extensive list of existing or environmental protection measures of the APO, the overall list of proposed mitigations for potential impacts to resources are relatively few in number.

All mining projects in Nevada have various local, State of Nevada and federal requirements placed upon them to ensure compliance with various local, state and federal regulations. For example, in order to protect waters of the State of Nevada, NDEP-BMRR issues water pollution control permits for projects. These permits require various levels and timing of monitoring and reporting to the NDEP-BMRR. Most, if not all of those monitoring requirements are summarized below.

Final closure of the Phoenix Copper and Reona HLF's is one of the primary focuses of the Draft and Final EIS's. The long term disposal of the various precipitates that will result from the leachate at closure of both facilities have been identified as a Bevill exempt mine processing waste. These mine-processing wastes will precipitate in the form of various salts and contain

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numerous heavy metals and minerals. As such, the monitoring and maintenance of the facilities used to accumulate and store these mining wastes is critical to ensure protection of the natural and human environment. These monitoring and maintenance requirements for the closure facilities are taken from the Draft and Final EIS's and are part of the approval requirements for operation, monitoring, and maintenance of these facilities.

The BLM, the NDEP-BMRR and Newmont identified two potential closure options for the HLFs. Both HLF slopes would be recontoured to a final slope of 3H:1V and the top of the heaps would be sloped or crowned as necessary to prevent surface ponding. Based on current understanding and developing closure technologies and research the heap leach pads would be covered with either a 5-foot engineered ET alluvial cap (closure Option 1) or a synthetic liner with an ET alluvial cap (Closure option 2).

As identified in the Amendment to the Plan of Operations Approval, the BLM and the NDEP-BMRR has required Newmont to bond for Closure Option 2.

### **Monitoring and Maintenance of the Residual Drain Down and Heap Leach Closure**

The ultimate amount of precipitates that could be stored in the Phoenix Copper HLF E-ponds (assuming that 2/3 of the open volume in the pond is filled with precipitates) is expected to be 4.1 MT under both options 1 and 2. The ultimate amount of precipitates that could be stored in the Reona Copper HLF E-ponds (assuming that 2/3 of the open volume in the pond is filled with precipitates) is expected to be 35.2 thousand tons (kt). Each new evaporation pond is expected to hold 44.4 kt of precipitates. Precipitates that may form in the evaporation ponds include: gypsum; epsomite; and small amounts of alunite, cryolite, gibbsite, and goethite. A study was conducted by Geomega to determine the aggregate loading of salts and minerals in the E-pond precipitates due to heap closure. The results of this study are presented in Appendix A (of the Draft EIS). Since the precipitate volume is expected to exceed the capacity of the initial converted E-ponds, and in order to maintain proper function, the E-ponds will be monitored weekly, through closure, for buildup of excess precipitates.

For both options 1 and 2, the effluent from the heap leach facilities will be managed by evaporation from the E-ponds once the flow rates reaches approximately 15 gpm for the Phoenix Copper HLF and approximately 2 gpm for the Reona Copper HLF. These flow rates are predicted to gradually reduce overtime in response to the cover design and reclamation. The drain down over the initial 30 years was estimated using the Heap Leach Draindown Estimator (HLDE) spreadsheet model. The HLDE model is designed to estimate drain down curves for HLF's and is used as a tool by the BLM and NDEP-BMRR for financial guarantee calculations.

Under Option 1, the flow rates are predicted to reduce to approximately 10.2 gpm for the Phoenix Copper HLF and 1.2 gpm for the Reona Copper HLF after 30 years. Under Option 2, the flow rates are predicted to reduce to approximately 8.6 gpm for the Phoenix Copper HLF and approximately 0.9 gpm for the Reona Copper HLF after 30 years. For the purpose of estimating the E-pond storage and reclamation requirements, the flow rates at 30 years were assumed to remain constant over the initial 500 year closure period. These long term flow estimates are conservative since the flow rates are predicted to continue to decline after 30 years prior to reaching a final steady state flow rate.

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For Option 1, with the assumed chemistry of the leachate and estimated drain down flow rates, the initial E-ponds (i.e., converted process ponds) would reach their full designed precipitate storage capacity at approximately 86 years for the Phoenix Copper HLF E-ponds and 53 years for the Reona Copper HLF E-ponds. New E-ponds will be constructed before each prior E-pond reaches its design precipitate storage capacity. A preliminary estimate of the time frame for the new E-pond construction is included in Table 2.4-4 of the DEIS. Assuming that both the leachate chemistry and 30-year flow rates remain constant in the future, each subsequent E-pond would reach full capacity after an estimated 13 years for the Phoenix Copper HLF, and after 111 years for the Reona Copper HLF.

Under Option 2, the initial E-ponds (i.e., converted process ponds) would reach their full designed precipitate storage capacity at approximately 86 years for the Phoenix Copper HLF E-ponds and 53 years for the Reona Copper HLF E-ponds. Each new E-pond constructed during the post-closure phase would reach full capacity after an estimated 15 years for the Phoenix Copper HLF, and after 149 years for the Reona Copper HLF.

The estimated rate of accumulation of precipitates was calculated using the maximum total dissolved solid (TDS) value (153,000 milligrams per liter (mg/L)) for the Duval-era Phoenix HLF drain down chemistry data set provided in Geomega 2010. The Duval-era Phoenix HLF was operated as a copper HLF on the Phoenix Mine site in the vicinity of the existing Philadelphia Canyon WRF from the mid-1960s to 1984. The Duval-era Phoenix HLF considered an analog for estimating the leachate chemistry from the proposed new copper HLF's. The mineral phase assumed for the rate of precipitate accumulation was based on modeling conducted by Geomega. The modeling showed that several mineral phases would precipitate from the process solution during evaporation. The modeling indicated the primary mineral phases would be gypsum and epsomite. Since epsomite has a greater specific gravity (1.7 kilograms per liter or 2,664.5 pounds per cubic yard), it was selected for use in the precipitate volume calculations to represent a more conservative outcome. The epsomite specific gravity was used to calculate the amount of precipitates which would form over time depending on the heap leach drain down rate over time.

Preliminary Evaporation Pond Construction Schedule

<b>Closure Option</b>	<b>Leach Pad Facility</b>	<b>Years of New E-pond Construction at Closure Phase</b>
Option 1	Phoenix	86, 99, 112, 125, 138, 151, 164, 177, 190, 203, 216, 229, 242, 255, 269, 282, 295, 308, 321, 334, 347, 360, 373, 386, 399, 412, 425, 438, 451, 462, 477, 490, 503
	Reona	53, 164, 276, 386, 497
Option 2	Phoenix	86, 101, 116, 131, 146, 161, 176, 191, 206, 221, 236, 251, 266, 281, 296, 311, 326, 341, 356, 371, 386, 401, 416, 431,

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		446, 461, 476, 491
	Reona	53, 202, 351, 500

Once the mineral precipitation results in filling the E-pond to its design storage capacity each E-pond will be reclaimed by placement of 5 feet of alluvial material and 2 feet of growth media. The cover materials will be obtained from stockpiles created during construction of the ponds. The growth media will be graded to shed meteoric water to reduce infiltration. Prior to reclamation, the precipitates would be allowed to dry sufficiently to support equipment. The 7-foot cover and growth media thickness, along with selective planting of vegetation with root depths less than 5 feet and 3.5 feet (for Options 1 and 2, respectively) would preclude the uptake of the precipitates by the vegetation on the reclaimed ponds.

In order to minimize impacts to wildlife species from the exposure to precipitate in the E-ponds, Newmont has committed to: 1) installing and maintaining fencing around and bird netting across E-ponds to prevent wildlife access to the ponds until reclamation is complete; 2) monitoring the fencing and bird netting on a twice-weekly basis during operations and reclamation; and on a monthly basis during closure; 3) repairing damages to these facilities within 48 hours; and 4) submitting quarterly reports to BLM and NDOW on wildlife mortalities. If wildlife mortalities are identified within or near the evaporation ponds, Newmont will immediately contact NDOW, as required under the IAPP's, and the BLM to determine appropriate mitigation.

During active operation, Newmont will conduct representative long-term water balance tests on potential cover designs and leachate quality tests on ore in addition to other NDEP-BMRR testing requirements. The goal of these tests would be to collect data to be used in the development of a Final Permanent Closure Plan for the proposed facilities.

### GEOLOGY AND MINERALS

No significant impacts to geology and mineral resources were identified; therefore, no additional monitoring and mitigation measures are recommended.

### WATER RESOURCES AND GEOCHEMISTRY

No significant impacts water resources or geochemistries were identified; therefore, no additional monitoring and mitigation measures are recommended.

### SOILS

Issue: Soils in the proposed disturbance and borrow areas are high in salts and sodium. Newmont proposes to utilize seedbed amendments for reclamation of the heap leach pads where pH, nitrogen, phosphorous, or potassium levels are low. Amendments such as inorganic fertilizers and livestock waste are often high in salts. Livestock waste also may have weed seed.

Monitoring and Mitigation Measure SW1: Prior to reclamation and reseeding, Newmont will perform soil testing for the above identified parameters. Where pH, nitrogen, phosphorous, or potassium levels are low compared to the soil survey, soil amendments will be applied in consultation with the BLM.

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Where soil nutrient levels are low, any amendments utilized also must be low in salt. Livestock waste will not be used due to high levels of salt and possible weed seed introduction.

Effectiveness: Where nutrient levels are poor, the use of fertilizers low in salt would promote reclamation efforts. In addition, the avoidance of livestock waste would reduce the spread of noxious weed species and the introduction of additional salts to already saline soils.

### VEGETATION

No significant impacts to vegetation resources (including special status species or wetlands) have been identified as a result of the proposed project; therefore, no additional monitoring and mitigation measures for vegetation resources are recommended.

### WILDLIFE

No significant impacts to terrestrial wildlife, aquatic species or special status species will occur as a result of the Proposed Action; therefore, no additional monitoring and mitigation measures for vegetation resources are recommended beyond what is required in the NDOW's IAPP and applicant-committed protection measures.

### RANGE

No significant impacts to range resources were identified; therefore, no additional monitoring and mitigation measures are recommended.

### PALEONTOLOGICAL RESOURCES

Issue: Unique or site-specific paleontological resources are unlikely to exist within the proposed areas of new disturbance; however, because fossils are commonly buried, their locations cannot be confirmed until site grading or excavation activities occur. If unique or site-specific invertebrate, vertebrate, or paleontological fossils are present within the proposed disturbance areas, they will require protection under FLPMA and BLM Manual H-8270.

Mitigation Measure P1: If vertebrate fossils are discovered during construction, operation, or reclamation of the proposed project, construction activities will be halted in the area of the discovery and Newmont will contact the BLM AO. The BLM AO will evaluate the discovery within 5 working days of being notified. If the discovered paleontological resource is determined significant, appropriate measures will be developed in coordination with the BLM to mitigate potential adverse effects. Construction activities will not resume until a NTP was granted by the BLM AO.

Effectiveness: This measure will allow for the evaluation of any vertebrate fossils that may be discovered and provide adequate time for their preservation or data recovery, if needed.

### CULTURAL RESOURCES

Unavoidable adverse effects to historic properties identified within the project APE will be mitigated in accordance with the Programmatic Agreement. Any previously unknown historic properties that may be discovered during construction activities will be treated as described in Section 3.8.2.1 of the DEIS (Proposed Action); therefore, no additional monitoring and

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mitigation measures are recommended. The BLM and the state historic preservation officer have concluded there will be no adverse impacts to eligible historic properties.

### NATIVE AMERICAN TRADITIONAL VALUES

At this time, no traditional cultural property, or place of cultural and religious importance have been identified in the study area. The BLM remains committed to continued Tribal engagement throughout the project life. Any Native American human remains discovered during construction activities will be treated as described in Section 3.9.2.1, Proposed Action. Therefore, no additional monitoring and mitigation measures are recommended.

### AIR QUALITY

The proposed project will include the use of control devices and dust suppression methods to mitigate fugitive dust emission, including PM10 emissions. Newmont has committed to the implementation of these air emissions controls in the Nevada Bureau of Air Pollution Control Permit to Operate and in the Fugitive Dust Control Plan for the Phoenix Project, which will be modified, as needed, for the proposed project. Due in part to these emission controls, the air quality analyses have demonstrated that impacts to air quality would not exceed acceptable levels compared to National Ambient Air Quality Standards. As the permitting process continues, the State of Nevada may require monitoring or mitigation measures as required by applicable regulations, if such regulations are triggered. To ensure that the BLM is informed of air quality impacts and the steps taken to mitigate impacts and comply with Nevada's regulatory requirements, the BLM currently is requiring, and will continue to require, that Newmont submit copies of all air quality reports delivered to the State of Nevada to the BLM Battle Mountain District Office, and also report annually to the BLM on measures taken to control emissions of fugitive dust. No additional monitoring and mitigation measures are recommended.

### LAND USE AND ACCESS

No significant impacts to land use, traffic, highway safety, or access were identified; therefore, no additional monitoring and mitigation measures are recommended.

### RECREATION AND WILDERNESS

No significant impacts to recreation or wilderness resources were identified; therefore, no additional monitoring and mitigation measures are recommended.

### SOCIAL AND ECONOMIC VALUES

No significant impacts to social or economic values were identified; therefore, no additional monitoring and mitigation measures are recommended.

### VISUAL RESOURCES

Based on environmental protection measures of the APO (Section 2.5.7) and this environmental analysis contained in the DEIS and FEIS, the visual effects of the proposed project would be minimized to the extent possible as required by VRM Class IV objectives. As a result, no additional monitoring and mitigation measures are recommended.

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## ENVIRONMENTAL JUSTICE

No significant environmental justice effects were identified; therefore, no additional monitoring and mitigation measures are recommended.

## HAZARDOUS MATERIALS AND SOLID WASTES

No significant impacts for hazardous materials, solid waste, or TENORM were identified; therefore, no additional monitoring and mitigation measures are recommended. Under the proposed action, mining activities associated with the existing Phoenix Project will continue under the terms of current permits and approvals as authorized by the BLM and State of Nevada.

## PUBLIC INVOLVEMENT

On February 12<sup>th</sup>, 2008, a Notice of Intent was published in the Federal Register (E8-2539) inviting scoping comments on the Proposed Action. A public scoping meeting for the proposed project was held on February 27<sup>th</sup>, 2008 in Battle Mountain, NV. The scope of the DEIS reflects input received from the public and the appropriate government agencies. Key issues identified during the scoping process include the following: (1) potential contamination of surface water and groundwater from leakage or spillage of process solutions or reagents; (2) potential contamination of water in Willow Creek drainage during flood events from the operation of the proposed Phoenix Copper Leach Facility; (3) potential increases in local atmospheric particulates resulting from haul traffic and increased disturbance of soil surfaces; (4) potential atmospheric emissions of sulfuric acid and other process chemicals; (5) increased fragmentation and loss of wildlife habitat; (6) potential contribution to cumulative water quality issues within the Battle Mountain mining district; (7) permanent alternation of local landforms, visible over a considerable distance; (8) potential impacts to cultural resources and resources important to Native Americans; and (9) potential socioeconomic impacts. All comments that were received have been incorporated in a Scoping Summary Report and have been considered in preparation of the Phoenix Copper Leach Project DEIS.

In March 2010, the BLM and cooperating agencies received a Preliminary DEIS (PDEIS) for internal review and comment. Approximately 480 comments were submitted; some requiring additional data collection and modeling efforts. The following items were presented as issues within the PDEIS comment period and were subsequently addressed and carried forward within the DEIS analysis: (1) revisions to the Proposed Action involving the expansion of the Phoenix Heap Leach Pads to reflect full project build-out; (2) development of a new action alternative; (3) revisions to the Copper Heap Leach Facility closure strategy; (4) revisions to the Air Resources section of the DEIS based on the US-EPA's modeling requirements for NO<sub>2</sub> and SO<sub>2</sub>; and (5) revisions to the Water Resources section to adequately analysis and mitigate impacts with respect to potential flow events and/or stream migration associated with the Willow Creek alluvial fan.

The DEIS Notice of Availability was published in the Federal Register on October 28<sup>th</sup>, 2011 and began the 45 day public comment period. The public comment period ended on December 12<sup>th</sup>, 2011. There were no substantive comments submitted to the BLM from either non-government organizations or interested publics. There were twelve letters of support for the

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project from Newmont employees and various Lander County, Nevada civic groups such as the Public Land Use Advisory Committee.

Two state agencies and one Federal agency commented on the DEIS. The Nevada State clearinghouse and the Nevada Department of Wildlife both filed comments on the DEIS. Region IX of the Environmental Protection Agency also commented on the DEIS. These comments were considered and addressed in preparing the abbreviated Phoenix Copper Leach Project FEIS.

The Notice of Availability for the FEIS was published on April 27<sup>th</sup>, 2012 and the 30 day review period ended on May 29<sup>th</sup>, 2012.

### **NATIVE AMERICAN CONSULTATION AND COORDINATION**

Per EO 13175, the BLM is required to establish regular and meaningful consultation and coordination with Native American tribal governments on the development of regulatory policies and issuance of permits that could significantly or uniquely affect their communities. On May 7, 2008, the BLM sent letters to the following twelve Tribes, bands, and interested parties notifying them of the proposed project and soliciting comments: Battle Mountain Band Council; Duck Valley Sho-Pai Tribes; Duckwater Shoshone Tribe; Elko Band Council; Fallon Paiute-Shoshone Tribe; Lovelock Paiute Tribe; South Fork Band Council; Te-Moak Tribe of Western Shoshone; Western Shoshone Committee; Winnemucca Paiute Tribe; Wells Band Council; and Yomba Shoshone Tribe. Letters were sent to inform the various Tribal groups of the proposed undertaking and to request the Tribes contact the BLM if they had any concerns, interests, or resources within the study area. Additionally, the BLM offered to arrange a field tour of the study area or meet with the Tribes, if requested. Three of the contacted groups (Battle Mountain Band, Yomba Shoshone, and Duckwater Shoshone) responded to the letters. In response to a request by the Battle Mountain Band, the BLM conducted a field tour of the study area with members of the Battle Mountain Band on August 29, 2008. Several concerns were expressed by the tribal participants, in particular their concern with mining and its impacts on natural resources. However, none of the tribal members identified any specific sites or resources of concern within the proposed project area.

To continue Tribal coordination and consultation, the BLM sent letters to the following seven Tribes, bands, and interested parties on February 9, 2010: Battle Mountain Band Council; Duck Valley Sho-Pai Tribes; Duckwater Shoshone Tribe; Te-Moak Tribe of Western Shoshone; Western Shoshone Committee; Winnemucca Paiute Tribe; and Yomba Shoshone Tribe. To date, only the Duckwater Shoshone Tribe has responded to these letters. The Tribe requested involvement in the coordination process and notification of when the proposed activities would begin in the study area. No specific sites or resources of concern have been identified in the study area by the contacted tribal groups.

On November 30<sup>th</sup>, 2010 eight members from the Battle Mountain and Elko Bands of the Te-Moak, the Yomba, and Duckwater Shoshone Tribes participated in a site visit to the proposed Phoenix Copper Leach project site. The site visit was conducted by the BLM Project Manager and three senior Newmont staff members. Once again, the tribal members' collective input focused on generalities of mining and mining impacts to the land and various resources. There

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was nothing specific presented by the tribal members with respect to the Phoenix Copper Leach Project.

Tribal consultation/coordination is currently ongoing and will continue through project completion. Any information on tribal resources in the study area would remain confidential and would not be available to the public.

**SURFACE MANAGEMENT REGULATIONS (43 CFR § 3809)  
AMENDMENT TO THE PLAN OF OPERATIONS APPROVAL**

Newmont Mining Corporation's (Newmont) Amendment to the Plan of Operations (APO) for the Phoenix Project, filed pursuant to 43 CFR § 3809, was filed with the Bureau of Land Management (BLM) on May 30, 2007; with revisions filed on January 24, 2008; September 1, 2010; October 29, 2010; September 21, 2011; and February 29, 2012. The Phoenix Copper Leach Project (Project) was assigned BLM case file number NVN-067930 (07-3A).

BLM has prepared a Final Environmental Impact Statement (FEIS) (DOI-BLM-NV-B010-2011-0037-EIS) that analyzed the affected environment, environmental impacts and developed mitigation measures associated with the Project. The Project is located approximately 12 miles southwest of the town of Battle Mountain, Nevada. The Project is located in Townships 30 and 31 North, Range 43 East, Mount Diablo Base and Meridian, Lander County, Nevada. The Project area for the APO encompasses approximately 902 acres; the Mount Lewis Field Office (MLFO) of the Battle Mountain District has been designated as the lead agency for the Project.

**DECISION**

It is my decision to approve the Amended Plan of Operations (NVN-067930 (07-3A) including the specified environmental protection measures included in the amended plan of operations. The monitoring and mitigation measures specified on pages 14-20 of the Record of Decision shall become conditions of approval for this amended plan of operations. Newmont may only perform those actions that have been described in the APO. Newmont also must comply with all federal, state, and local regulations including obtaining all necessary permits from the Nevada Division of Environmental Protection (NDEP) and other federal, state, and local agencies, and fulfilling any other applicable FLPMA requirements before proceeding with this Project.

**Reclamation Cost Estimate-Financial Guarantee Requirements**

**Based on Newmont's reclamation cost estimate, BLM in coordination with NDEP has determined that the required financial guarantee amount is hereby set at \$452,201,275 for the 8,125 acres of total possible surface disturbance on public and private lands associated with the Phoenix Project (NVN-067930), as amended by the APO. You must provide a financial guarantee in this amount using one or more of the acceptable financial guarantee instruments listed under 43 CFR 3809.555. The incremental increase to the overall financial guarantee associated with this APO is \$128,637,282.**

**A financial guarantee in the amount of \$452,201,275 must be filed and accepted by the Bureau of Land Management, Nevada State Office, Branch of Minerals Adjudication, 1340 Financial Blvd., Reno, NV 89502-7147. That office will issue you a decision as to the acceptability of your financial guarantee. You must not begin surface disturbing activities under the APO until you receive notification from the BLM State Office that the financial guarantee has been accepted. Failure to do so may result in enforcement action being taken against Newmont.**

### Long Term Funding Mechanism

Pursuant to the Guidelines for Establishing a Long Term Funding Mechanism (LTFM) and in accordance with 43 CFR 3809.552(c), the BLM has determined that a LTFM will be required for post-reclamation obligations (including long-term monitoring and mitigation) associated with the closure process of the Phoenix Copper HLF's. As identified within Section 2.4.3 of the Draft EIS, Facility Reclamation, and the APO, the following closure details have been incorporated into the cost estimate for the long-term funding mechanism:

- Periodic monitoring and maintenance and/or replacement of fencing around and bird netting over each E-pond;
- Scheduled inspection and repairs (as required) of E-pond liner and solution distribution system;
- Management of the residual drain down associated within the three phase heap leach pad closure process;
- Monitoring and sampling of the drain down E-pond capacity;
- Closure of the open E-ponds (once full of precipitates) by covering with alluvial material, growth media, and revegetation;
- Construction of new E-ponds, including installation of a solution distribution pipe network system; a 2-foot layer of alluvial material used to protect the liner from solar damage; and a double-liner system with leak detection;
- Periodic maintenance of access roads;
- Groundwater monitoring and sampling as required by the NDEP for permanent closure;
- As part of their water pollution control permit (WPCP) issued by the NDEP's Bureau of Reclamation and Regulation, Newmont will have groundwater monitoring wells placed down gradient of all operational ponds tied to the Phoenix Copper Leach Project. As these ponds are converted to E-ponds the WPCP will require monthly groundwater monitoring and quarterly reporting throughout the closure process. This groundwater monitoring and reporting will apply to all of the additional E-ponds constructed for the closure process.
- Submittal of quarterly reports to the BLM and NDOW on wildlife mortalities associated with the E-ponds.

The LTFM will include the establishment of a trust fund that is implemented through *The Copper Leach Project Long-Term Irrevocable Trust* and the *Copper Project Long-Term Trust Agreement* (collectively "Agreements"). The Agreements have been approved by BLM on June 18, 2012. Newmont will fund the initial amount of the trust fund in the amount of \$824,022. The initial funding amount was calculated based on the projected costs of implementing the above-described post-reclamation requirement for approximately 500 years. Total cost of the mitigation and monitoring over the 500 year period is anticipated to be \$63,147,437. The creation and funding of the LTFM does not preclude BLM from requiring further reclamation, monitoring or mitigation pursuant to 43 CFR § 3809 should conditions warrant. In addition, Newmont will establish an interim surety of \$1,000,000 (BLM Decision dated June 18, 2012), for a period of 30 years, to ensure that adequate funds are available if Newmont is unable to meet its funding obligations under the LTFM.

**Within 60 days of receipt of this Decision, all funding requirements must be in place in accordance with the Agreements and documentation of such funding shall be provided to the Bureau of Land Management, Nevada State Office, Branch of Minerals Adjudication, 1340 Financial Blvd., Reno, NV 89502-7147. Failure to do so will result in enforcement action being taken against Newmont.**

### **Other Requirements**

The surface occupancy proposed in association with this Project meets the conditions specified in the applicable regulations (43 CFR § 3715). BLM is in concurrence with the occupancy of the subject lands. Newmont must continue to comply with sections 3715.2, 3715.2-1, and 3715.5 of the regulations.

All operators must comply with applicable federal and state laws dealing with the storage and disposal of chemicals, petroleum, petroleum products, Resource Conservation Recovery Act (RCRA) Subtitle C hazardous wastes, and RCRA Subtitle D solid wastes. Under no circumstances can chemicals, petroleum, petroleum products, or RCRA Subtitle C hazardous wastes be disposed in solid waste disposal areas on the mine or mill site without the written approval of the NDEP.

The operator must identify what waste products will be produced, whether the waste streams are hazardous or solid, and the disposal method and location. If hazardous wastes are generated, the operator must obtain an U.S. Environmental Protection Agency generator identification number from NDEP and must manifest all shipments off site. Copies of the manifests must be available for the Authorized Officer's inspection.

Approval of the Project by BLM does not constitute a determination regarding the validity or ownership of any unpatented mining claims involved in the mining operation. Approval of the Project in no way implies the economic viability of the operation. Any modification to the Project must be coordinated with and approved by the Authorized Officer. Surface occupancy related to the Project is reasonably incidental to the mining operation.

This Decision is issued pursuant to 43 CFR 3809.803. It is effective immediately and will remain in effect while appeals are pending before the Office of Hearings and Appeals (OHA) unless OHA grants a stay under §4.21(b) of this title. The APO for the Project is hereby approved subject to the conditions of approval required to implement the Project in order to prevent unnecessary or undue degradation. Newmont must conduct operations as described in the APO, meet the performance standards found at 43 CFR § 3809.420 and in accordance with all mitigation measures and conditions of approval.

### **43 CFR 3809 APPEAL STATEMENT**

If you are adversely affected by this decision, you may request that the Nevada BLM State Director review this decision. If you request a State Director Review, the request must be received in the BLM Nevada State Office at:

BLM Nevada State Office  
State Director

1340 Financial Blvd.  
Reno, Nevada 89502-7147

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 BLM Nevada State Office to determine when the BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at 50 Bastian Road, Battle Mountain, NV 89820, 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 50 Bastian Road, Battle Mountain, NV 89820, within 30 days from receipt of this decision. As the appellant, you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1 that contains information on taking appeals to the IBLA.

This decision will remain in effect while the IBLA reviews the case, unless a stay is granted by the IBLA. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### Request for a Stay

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

#### Standards for Obtaining a Stay

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

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