

3.9 Native American Traditional Values

The study area for direct and indirect impacts to Native American traditional values includes the proposed POO expansion areas. The CESA encompasses the approximate area from the Town of Battle Mountain, northwest along I-80 (approximately 20 miles), south along the western boundary of the Buffalo Valley Hydrographic Basin to Antelope Valley Road, east to SH 305, and north along SH 305 to the Town of Battle Mountain (**Figure 3.8-1**).

3.9.1 Affected Environment

Regulatory Framework

Federal law and agency guidance requires the BLM to consult with Native American tribes concerning the identification of cultural values, religious beliefs, and traditional practices of Native American people that may be affected by actions on BLM-administered lands. This consultation/coordination includes the identification of places (i.e., physical locations) of traditional cultural importance to Native American tribes. Places that may be of traditional cultural importance to Native American people include, but are not limited to, locations associated with the traditional beliefs concerning tribal origins, cultural history, or the nature of the world; locations where religious practitioners go, either in the past or the present, to perform ceremonial activities based on traditional cultural rules or practice; ancestral habitation sites; trails; burial sites; and places from which plants, animals, minerals, and waters possessing healing powers, or used for other subsistence purposes, may be taken. Some of these locations may be considered sacred to particular Native American individuals or tribes.

In 1992, the NHPA was amended to explicitly allow that “properties of traditional religious and cultural importance to an Indian tribe may be determined to be eligible for inclusion on the NRHP.” If a resource has been identified as having importance in traditional cultural practices and the continuing cultural identity of a community, it may be considered a traditional cultural property. The term “traditional cultural property” first came into use within the federal legal framework for historic preservation and cultural resource management in an attempt to categorize historic properties containing traditional cultural significance. In addition to NRHP eligibility, some places of cultural and religious importance also must be evaluated to determine if they should be considered under other federal laws, regulations, directives, or policies. These include, but are not limited to, the NAGPRA of 1990, American Indian Religious Freedom Act (AIRFA) of 1978, ARPA of 1979, and EO 13007 (Sacred Sites) of 1996.

Native American Consultation/Coordination

In compliance with the NHPA, as amended, the BLM initiated NHPA government-to-government consultation/coordination for the proposed Phoenix Copper Leach Project on May 7, 2008, by sending letters to the following tribal groups: Te-Moak Tribe of Western Shoshone, Duck Valley Sho-Pai Tribes, Elko Band Council, Wells Band Council, Western Shoshone Committee, Duckwater Shoshone Tribe, Battle Mountain Band Council, Yomba Shoshone Tribe, South Fork Band Council, Winnemucca Paiute Tribe, Lovelock Paiute Tribe, and Fallon Paiute-Shoshone Tribe. Letters were sent to inform the various tribal groups of the proposed undertaking and to request the tribes to contact the BLM if they had any concerns, interests, or resources in 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 tribal groups responded to the letters: Battle Mountain Band, Yomba Shoshone, and Duckwater Shoshone. 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.

Due to delays resulting from state and federal comments on the proposed project and changes to the project's POO, the BLM re-initiated government-to-government consultation/coordination by sending a second letter to the following tribal groups: Yomba Shoshone Tribe, Winnemucca Paiute Tribe, Battle Mountain Band Council, Western Shoshone Committee, Duck Valley Sho-Pai Tribes, Te-Moak Tribe of Western Shoshone, and Duckwater Shoshone Tribe. The letter was sent on February 9, 2011, to inform the tribal groups of the proposed project, and request the tribes to contact the BLM with any concerns

regarding the proposed project or resources in the study area. To date, only the Duckwater Shoshone Tribe has responded to the letter. The Tribe requested involvement in the consultation/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.

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

3.9.2 Environmental Consequences

Primary issues pertaining to traditional cultural properties and places of religious and cultural importance to the tribes located in the study area include ground-disturbing activities associated with construction and operation of the proposed project, and illegal collecting of artifacts and inadvertent damage to areas of tribal concern.

Environmental impacts to traditional cultural properties and places of religious and cultural importance would be significant if the Proposed Action or alternatives to the Proposed Action result in any of the following:

- Adverse effects to NRHP-eligible traditional cultural properties or places of religious and cultural importance; or
- Adverse effects to Native American grave sites.

The effects of federal undertakings on traditional cultural properties or places of religious and cultural importance to contemporary Native Americans are given consideration under the provisions of EO 13007, AIRFA, NAGPRA, and recent amendments to the NHPA. As amended, the NHPA now integrates Indian tribes into the Section 106 compliance process, and also strives to make the NHPA and NEPA procedurally compatible. Furthermore, under NAGPRA, culturally affiliated Indian tribes and federal agencies jointly may develop procedures to be taken when Native American human remains are discovered on federal lands.

3.9.2.1 Proposed Action

To date, no traditional cultural properties or places of cultural and religious importance to the tribes have been identified in the study area through tribal consultation/coordination or cultural resource inventory of the project APE; however, tribal representatives who participated in the August 2008 field tour expressed concern with mining (in general) and its impact on natural resources.

Tribal consultation/coordination currently is ongoing and would continue through project completion. If a traditional cultural property or place of cultural and religious importance is identified by tribal representatives, and avoidance is not feasible, specific operating procedures, stipulations, or mitigation measures would be developed in consultation/coordination with the affected tribal groups with the goal of reducing or eliminating impacts to the identified site. Per the 1994 PA, if mitigation is required at a traditional cultural property or place of cultural and religious importance, a treatment plan would be reviewed and approved by the BLM, SHPO, ACHP, and Newmont. Tribal representatives would be asked to participate in the development of any such treatment plan.

If construction or other project personnel discover what may be Native American human remains, funerary objects, or items of cultural patrimony on BLM-administered land, construction would cease within the vicinity of the discovery, and the BLM AO would be notified of the find. The location of the find would not be publically disclosed, and the remains would be secured and preserved in place. Treatment of Native American human remains, funerary objects, or items of cultural patrimony found on federal land would be handled in accordance with the NAGPRA.

If Native American human remains and associated funerary objects are discovered on private land during construction activities, construction would cease within the vicinity of the discovery and the county coroner or sheriff would be notified of the find. The location of the find would not be publically disclosed, and the remains would be secured and preserved in place. Treatment of any Native American human remains found on private land would be handled in accordance with NRS 383.150.

3.9.2.2 Reona Copper Heap Leach Facility Elimination Alternative

The Reona Copper HLF Alternative would be similar to the Proposed Action, except that the Reona Copper HLF and associated infrastructure (i.e., solution pipelines) would not be developed. The Reona HLF (Gold) would continue to be developed under the current permitted authorizations. Effects of this alternative on Native American traditional values would be the same as the Proposed Action.

3.9.2.3 No Action Alternative

Under the No Action Alternative, the proposed project would not be developed and the associated impacts would not occur. The mining activities associated with the existing Phoenix Project would continue under the terms of current permits and approvals as authorized by the BLM and State of Nevada. No additional ground-disturbing activities beyond those currently authorized would occur at the mine site. Prior to construction of the authorized facilities, adverse effects to traditional cultural properties and places of cultural and religious importance located in the area of the approved facilities were, or would be, fully mitigated in accordance with the 1994 PA.

3.9.3 Cumulative Impacts

The CESA for Native American traditional values is shown in **Figure 3.8-1**. Past and present actions and RFFAs are identified in **Table 2.8-1**; their locations are shown in **Figure 2.8-1**.

Pending further tribal consultation/coordination, no cumulative effects to Native American traditional values are anticipated as a result of the Proposed Action and no incremental impacts to these values would occur when added to past and present actions and RFFAs within the CESA. Cultural resources inventories and government-to-government consultation/coordination would be completed for any future proposed development within the CESA, and potential adverse effects to any Native American traditional values would be avoided or mitigated, as appropriate.

It should be noted that illegal collecting of artifacts and inadvertent damage to archaeological sites, including sites of tribal importance, has occurred and most likely would continue to occur in the CESA through increased access, development, and increased human presence as a result of past, present, and RFFAs.

3.9.4 Monitoring and Mitigation Measures

At this time, no traditional cultural property or place of cultural and religious importance have been identified in the study area. If tribal representatives were to identify any sites of tribal importance, impacts to these resources would be mitigated through specific operating procedures, stipulations, or mitigation measures developed in consultation/coordination with the affected tribes and bands. Any Native American human remains discovered during construction activities would be treated as described in Section 3.9.2.1, Proposed Action. Therefore, no additional monitoring and mitigation measures are recommended.

3.9.5 Residual Adverse Effects

It is assumed that through continued consultation/coordination with participating tribal groups, and by following the procedures outlined in the NHPA and 1994 PA, no residual adverse effects to Native American traditional values would occur as a result of the Proposed Action.