

**United States Department of the Interior
Bureau of Land Management
Tuscarora Field Office**

**MIDAS UNDERGROUND SUPPORT FACILITIES PROJECT
Newmont Mining Corporation**

DECISION RECORD

DOI-BLM-NV-E020-2013-0014-EA,
NVN-088898

In October 2011, Newmont Mining Corporation (NMC) submitted a Plan of Operations (Plan) pursuant to the Surface Management Regulations, Title 43 Code of Federal Regulations (CFR) Part 3809, to the Bureau of Land Management (BLM) for the Midas Underground Support Facilities Project, which is located in Elko County, Nevada in Township 39 North, Range 46 East. As provided by Section 102(c) of the National Environmental Policy Act of 1969 (NEPA), BLM prepared an environmental assessment (EA) with respect to NMC's proposed Plan. An EA was released to the public on March 25, 2013.

The Newmont Mining Corporation (Newmont) plans to construct proposed support facilities for the existing underground Midas Mine. The Proposed Action includes the construction and operation of up to seven ventilation raises along with associated access roads, power lines, and surface exploration, a total of approximately 54 acres of disturbance, for the Newmont Midas underground mine located near Midas, Nevada.

Decision

It is my decision to authorize the Proposed Action as described in chapter 2 as modified by alternative A and including the applicant committed environmental protection measures for the Midas Underground Support Facilities.

The Proposed Action would be located in Sections 16, 21, 22, 26, 27, and 28, T39N, R46E. Total surface disturbance (54.1 acres) associated with the project would include approximately 27.4 acres (all public) for the ventilation raises and 7.8 acres (6.1 acres public land and 1.7 acres private land) for new and improved access roads; approximately 1.5 miles of a new power lines along the access roads (creating no additional disturbance); and 25 acres (20 acres public land and 5 acres private land) of surface exploration. Including Alternative A, the ventilation raise shafts would be backfilled instead of capped. In addition the following stipulations and monitoring are required:

Stipulations

1. Newmont shall adhere to the Environmental Protection Measures outlined in Section 2.2.6 of the EA and Section 4 of the Plan of Operations.
2. Newmont shall adhere to the terms of the Memorandum of Agreement (MOA) developed for the Midas Underground Support Facilities Project for the cultural resources.
3. *Special Status Species* -Should any special status species be detected within the Project area, limitations on the amount of surface disturbing activities, type and scale of operations, location of disturbance, and timing of operations will be developed annually in consultation with the BLM by assessing on-the-ground conditions in the Project area.

4. Newmont shall contain all drill cuttings, fluids, and water in the on-site sumps, which will be designed to contain the expected volume of drill cuttings, fluids, and water that will be generated by drilling activities. In the event that there is an excess volume of water that cannot be contained in the sumps, a temporary groundwater discharge permit will be obtained from the Nevada Division of Environmental Protection's Water Pollution Control Bureau, prior to discharging any water from the sumps.

Monitoring and Mitigation

Per 43CFR 3809.600, the BLM will conduct inspections a minimum of twice a year throughout the life of the mine expansion, exploration, and subsequent reclamation activities. Included, are reviews of the annual NDEP Reclamation Report submitted by Newmont that will summarize exploration, construction, and reclamation activities of the previous year with a reclamation cost estimate. Field compliance inspections will extend through monitoring of the reclamation and release of the bond. The results of the field compliance inspections will be documented in the project file at the BLM Tuscarora Field Office.

Newmont is responsible for the following stipulations for the sage-grouse mitigation strategy for the Midas project. These stipulations include:

1. Square-split silencers on all fans (existing and new). Silencers on existing fans shall be installed within 90 days after the signing of this decision. Silencers shall be added to new fans during construction.
2. Perch deterrents and flight diverters will be installed on existing and proposed overhead power line poles within the Plan Boundary.
3. Newmont shall provide on and off-site habitat mitigation on private or public land within the Tuscarora Population Management Unit (PMU) or other nearby PMUs in cooperation with BLM and NDOW. A total disturbance in sage-grouse PPH of 841.1 acres will be mitigated at a 3:1 ratio for a total of 2523.3 acres to be mitigated. Habitat restoration areas and efforts will be agreed upon by Newmont, BLM, and NDOW in a mitigation agreement, or Memorandum of Understanding (MOU), and will meet the mitigation obligation of 2523.3 acres. Habitat restoration efforts will be implemented upon approval of the MOU, will require measurable results, and will be completed within ten years. Mitigation efforts considered for habitat restoration will be reviewed on an annual basis and will reflect the latest greater sage grouse research, strategies, and conclusions.
4. Install underground (buried) power line to Queen Raise.

Rationale

The General Mining Law of 1872 gives the claimant the right to explore, discover, and diligently develop the mineral deposit(s) on their claims in a prudent manner. The BLM's responsibility is to review the operation and reclamation plan submitted by the claimant in accordance with mining regulations found at 43 CFR 3809. As a result of the BLM's review of the exploration, expansion and reclamation plan, no unnecessary or undue degradation will occur to public lands during the exploration of locatable mineral deposits and expansion activities of the Midas mine.

As a result of the analysis in the Midas Underground Support Facilities EA, the BLM determined that the Proposed Action including Alternative A is consistent with the objectives of the Elko Resource Management Plan and complies with federal, state, and local laws and regulations to the maximum extent possible.

The implementation of the Proposed Action including Alternative A will allow Newmont to continue their exploration drilling and mining program on public lands within the Project area. As discussed in the EA, the Environmental Protection Measures proposed as part of the operation and reclamation plan would help Newmont avoid or reduce potential impacts from the Proposed Alternative Action. The commitment to the mitigation and monitoring activities from this decision would minimize the risk of adverse impacts and unnecessary or undue degradation to public lands.

The No Action Alternative was not selected because the purpose of the ventilation raise is to either convey fresh air from the surface to the underground mine workings below ground, or to vent exhaust air from the mine to the surface. Depending upon the location and design, a given ventilation raise could also serve as a secondary escapeway from underground in an emergency. This ventilation provides a flow of fresh air to the mine of sufficient volume to dilute and/or remove noxious gases from equipment that runs on diesel engines, blasting with explosives, and the ore-body itself. The ventilation raises are critical to the health and safety of the miners.

Public, agency, and tribal involvement included posting the Plan of Operations and EA document for comment, coordination with tribal representatives, and input and review of the EA by the Nevada Department of Wildlife.

Appeals

If you are adversely affected by this decision, you may request that the Nevada BLM State Director review this decision. If you request State Director Review, the request must be received in the Nevada BLM State Office at 1340 Financial Blvd. Reno, NV 89502, 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 you request and obtain a stay from the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted using the standards and procedures for obtaining a stay from the Interior Board of Land Appeals (IBLA).

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 IBLA. You may contact the Nevada BLM 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 3900 East Idaho St., Elko, NV 89801 which we will forward to IBLA.

Under 43 CFR 3809.801(a)(1), 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 part 4. Your Notice of Appeal must be filed in this office at 3900 East Idaho St., Elko, NV 89801 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. This decision will remain in effect while the IBLA's decision is pending, unless you request and obtain a stay under 43 CFR 4.21. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted under the criteria in 43 CFR 4.21.

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, 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 shall 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.

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5/8/13

Richard E. Adams, Field Manager
Tuscarora Field Office

Date