

**United States Department of the Interior  
Bureau of Land Management  
Elko District Office  
3900 East Idaho Street  
Elko, NV 89801**

## **RECORD OF DECISION**

### **Newmont Mining Corporation Emigrant Project**

**3809/NVN-78123  
BLM/NV/EK/ES-GI-09/02+ 1793  
BLM/NV/EK/ES/11-05+ 1793**

#### **Introduction**

In 2004, 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 Emigrant Project, which is located in Elko County, Nevada in Township 31 North, Range 52 East and Township 32 North, Range 52 East. As provided by Section 102(c) of the National Environmental Policy Act of 1969 (NEPA), BLM prepared an environmental impact statement (EIS) with respect to NMC's proposed Plan. A Draft EIS was released to the public on March 25, 2005. A revised draft EIS was released on November 19, 2008 to address substantive comments received on the 2005 DEIS. The Final EIS for the Emigrant Project was issued on December 17, 2010.

The proposed Emigrant Project would include developing and operating an open pit mine; constructing a waste rock disposal facility, storing waste rock in mined out areas of the pit, developing an oxide heap leach pad, constructing ancillary facilities; rerouting intermittent stream flows in the pit area, and conducting concurrent reclamation. Proposed mining operations would last for approximately 10 years with an additional four years of closure operations. Approximately 1,170 acres of public land and 248 acres of private land would be disturbed.

The Emigrant Project would use the existing truck maintenance facilities at the Rain Mine, including the access road. Mining would continue at the Emigrant Project through 2020 followed by reclamation activities until 2024. Total additional employment due to the Emigrant Project is approximately 180 employees for 10 to 14 years. The BLM determined an EIS was required to analyze the proposal. Public scoping was initiated with a Notice of Intent in the Federal Register to Prepare an Environmental Impact Statement on a Plan of Operations for the Newmont Mining Corporation Emigrant Project in Elko County, NV; and Notice of Scoping Period and Public Meeting, (Vol. 69, No. 101, pages 29744-29745, May 25, 2004)

A Notice of Availability of the Final EIS (BLM/NV/EK/ES/11-05+1793) was published in the Federal Register on December 17, 2010. The Final EIS includes comments, responses to comments, and revisions to the Draft EIS.

## Decision

Based on the analysis in the Emigrant Project EIS, I have decided to approve the proposed action, as described in Chapter 2 of the 2010 Final EIS, including the applicant committed environmental protection measures, the mitigation measures described below, and in the Plan of Operations submitted January 14, 2011. This approval applies to the extent that the proposal involves or impacts public land as provided by the 43 CFR 3809 regulations. This approval provides for use of the public land necessary for the following aspects of the Emigrant Project Plan of Operations, including the following:

- Authorizes disturbance of 1,170 acres of public land (including 442 acres of public surface and private mineral estate), and 248 acres of private lands, mining of 92 million tons of ore and 83 million tons of waste rock. Authorization of construction of a zero discharge heap leach facility on 344 acres (214 acres public land and 130 acres private land).
- The originally proposed engineered stream channel would have followed a constructed meandering pathway along the pit bench. This proposed action was redesigned to include a geosynthetic clay liner in the channel and follow a constructed meandering pathway along the pit bench to replicate the natural drainage course. In order to replicate the natural drainage course, the proposed channel was redesigned to incorporate step-pools, native riparian grasses (graminoides), shrubs, and rock weirs to create a drainage that appears and functions as a natural channel providing both aquatic and riparian habitat (Photos 1 and 2 of the FEIS, page 2-21). This design is intended to mimic the natural form and function of the original stream channel.
- Non-Potentially Acid Generating rip-rap will be incorporated into the reconstructed channel to protect against erosion.
- Best management practices listed in the Stormwater Pollution Prevention Plan (Permit NVR300000, project ID Number MSW-365) will be added as conditions of approval. Thirty-three of these best management practices are listed in section I.C.3.vii.d of the Stormwater Pollution Prevention Plan and will be used as directed by BLM and NDEP. These best management practices include a design revision for debris and large sediment catch basins which will be constructed at the base of the pit highwall along the east side of the engineered stream channel to collect surface water run-off and rock and debris dislodged upslope during mining. A levee with 3.0H/1.0V slopes will be constructed along the western edge of the engineered stream channel to provide protection from erosion and sedimentation during periods of high flow. Sediment control structures were added to the design behind the levee to capture and retain sediment. These features were added in order to capture surface runoff and divert the runoff into sediment catchments to prevent sediment from entering the engineered stream channel.
- The proposed action was redesigned to include relocation of the fences to avoid damage to cultural sites and allow for livestock access to water sources.
- An adaptive management plan (AMP), FEIS Appendix A, was created which includes waste rock characterization studies to monitor the waste rock handling plan. The AMP identifies future waste rock characterization and monitoring associated with the project and options that could be employed to manage potentially acid generating (PAG) waste rock should the volume or character of PAG waste rock differ from the current plan or a revised method for managing PAG waste rock be warranted.

- BLM and NDEP will require Newmont to manage all waste rock as PAG by providing a financial guarantee sufficient to cover all waste rock with a synthetic cover. This financial guarantee will include the costs for capping all waste rock, including pit backfill, with a synthetic cover. If required testing, as described in the AMP, shows that waste rock will not generate acid, BLM and NDEP will re-evaluate bonding for the synthetic cover and set the bond at the appropriate level.
- The proposed waste rock handling plan was modified such that PAG waste rock would be placed in encapsulation cells with encapsulation material that exhibits an acid neutralizing potential to acid generating potential (ANP/AGP) ratio of at least 3:1. Encapsulation would be 10-feet thick on all portions of the cell (bottom, sides, and top). PAG will be placed on top of a sloped 10-foot thick bottom layer of encapsulation material and compacted in lifts (less than 1 foot thick) using random wheel compaction techniques. Backfilling and encapsulation will be done at the end of each mining phase to limit time the waste rock is exposed to the elements to as short a time as possible.
- The adaptive management plan includes provisions for additional testing of waste rock. After test results have been reviewed and confirmed and a revised PAG management plan has been approved (if necessary), bonding levels will again be reviewed to encompass the selected management plan.

### **Applicant Committed Environmental Protection Measures and Reclamation Plan**

During scoping and preparation of the EIS, several alternative construction and operational measures were considered and incorporated into the proposed action to address environmental issues identified during the NEPA process, including the following:

- Newmont will conduct noxious weed management and comply with the reclamation plan. Newmont will educate Newmont employees and contractors to identify noxious weeds and non-native invasive species that could occur in the proposed disturbance areas. Newmont will take appropriate measures such as grubbing and/or spraying with approved chemicals, surfactants and utilizing licensed applicators to prevent spread of noxious weeds and invasive non-native species.  
  
To prevent the spread of non-native invasive species and noxious weeds, any vehicle or equipment coming from or working in known non-native invasive or noxious weed infested areas will be washed prior to working on site or leaving the project area. One area of the mine site will be designated as the wash area. The location will be on an unvegetated disturbed area with coarse material and that is not located near a water source. Using the one designated site to wash vehicle and equipment will allow for isolation of the weed seed and provide a designated area to monitor and treat non-native invasive species and noxious weeds.
- Newmont will construct the waste rock facilities based on hydrologic principles to resemble surrounding landforms in order to minimize erosion and promote long-term stability.
- Newmont will fence riparian areas to restore wildlife habitat. These riparian areas are located in NE1/4 Section 28, Township 32 North, Range 53 East, SW1/4NW1/4, Section 27, Township 32 North, Range 53 East and SW1/4NW1/4 Section 27, Township 32 North, Range 53 East. Emigrant Spring enclosure would be reconstructed/maintained using wildlife friendly pipe rail fencing on the north side of the drainage. Ongoing weed control measures will be implemented by Newmont in the Emigrant Spring enclosure.

- Newmont will construct the stream diversion with step-pools, native riparian grasses (graminoides), shrubs, and rock weirs to create a drainage that appears and functions as a natural channel providing both aquatic and riparian habitat. Restoration efforts will be considered successful when the stream exhibits characteristics of a properly functioning riparian system.
- Newmont will place PAG waste rock in cells encapsulated with material that exhibits an acid neutralizing potential to acid generating potential (ANP/AGP) ratio of at least 3:1. Encapsulation will be 10-feet thick on all portions of the cell (bottom, sides, and top).
- Newmont will implement reclamation measures that favor establishment of Wyoming big sagebrush in portions of the site as determined by the BLM wildlife biologists.
- Newmont will review status of native fish and macroinvertebrate populations in the Emigrant drainage and engineered stream channel with BLM and NDOW every 5 years. Fish and/or macroinvertebrate populations will be re-introduced into the channel as necessary or warranted.

### **Monitoring and Mitigation**

- Newmont will provide adequate financial guarantee as determined by BLM and NDEP to cover the projected costs of final reclamation. This financial guarantee will be reviewed by BLM and the Nevada Division Environmental Protection (NDEP) at least every three years. If additional funds are determined to be necessary by the BLM and NDEP, Newmont will provide additional financial guarantee.
- As described in the AMP (Appendix A of the FEIS), BLM requires additional testing of waste rock, previously classified as “uncertain”, to determine if it is PAG or non-PAG. These supplemental waste rock characterization studies will follow the study procedures identified in section 5.1.1 Static and Kinetic Testing of the Adaptive Management Plan. BLM and NDEP will determine which samples will be tested from the available samples. At the direction of BLM and NDEP, testing on the first ten samples selected by the BLM and NDEP was initiated January 12, 2011. As directed by BLM and NDEP, Newmont will collect an additional 15 samples which BLM and NDEP select for supplemental humidity cell testing consistent with EPA technical document Acid Rock Drainage Prediction (1994), ASTM standard procedure (D5744-07) and BLM’s Baseline Data Collection Management Plan Initiative for mining Plan of Operations and NEPA Analysis (BLM IM No. NV-2010-014). As directed by the BLM and NDEP, the samples will be submitted to a certified laboratory where humidity cell tests will be performed. Humidity Cell Test results will be interpreted in the context of available geochemical information for the Emigrant Project and within the context of potential impacts to surface water and groundwater quality. This testing will continue until BLM and NDEP have agreed on the results of the humidity cell testing. The humidity cell testing will continue until BLM and NDEP provide written authorization to end the testing.
- Newmont will initiate seven (7) field oxidation tests as described in Section 5.1.3 of the AMP. These field oxidation tests will continue until BLM and NDEP have agreed that enough data has been collected to determine results and provide written authorization to end the testing.
- Material determined to be PAG will be placed in encapsulation cells as described on page 3 and 4 of this decision and monitored in accordance with the Emigrant Waste Rock Management Plan including the requirements developed by BLM and NDEP as described below. Three (3) surface water monitoring sites, EM1-D1-B, EM1-D1-A, EM1-D2 will be monitored in accordance with the Water Pollution Control Permit NEV2005107. Four (4) groundwater monitor wells, EM-WS, EM-MW2, EM-MW1, and EM-MW3 will be

monitored in accordance with Water Pollution Control Permit NEV2005107. Newmont will collect waste rock characterization data required for the Water Pollution Control Permit NEV2005107. These data will be provided to BLM and NDEP on a quarterly basis. Quarterly compliance inspections of the mine site will be conducted by NDEP and BLM.

- At the end of each quarter, Newmont will prepare a report of tracking data for tons placed on the waste rock disposal facilities. Newmont will collect samples for preparation of quarterly composite sample for each waste rock disposal facility. These samples will be sent to a certified outside laboratory for Acid Base Accounting (ABA) and Meteoric Water Mobility Procedure (MWMP) (Nevada Profile I parameters) analysis. The certified laboratory results for Nevada Profile I analyses and tracking data report for waste rock placement will be submitted to NDEP and BLM at the end of each quarter.
- BLM, NDEP, and Newmont will review the performance of the waste rock testing, reporting results, and if indicated by the results of the SWRC testing, BLM and NDEP will require implementation of all phases of the Adaptive Management Plan on a quarterly basis.
- BLM and NDEP will review and monitor reports provided by Newmont detailing accomplishments and attainment of the objectives listed in AMP section 2.0 of Appendix A of the FEIS. Quarterly compliance inspections of the mine site will be conducted by NDEP and BLM. The Waste Rock Disposal Facilities will be monitored following periods of heavy spring snow melt or a precipitation event with potential for run-off. Observations of abnormal conditions or unusual flow or ponding will result in solutions being sampled, analyzed, contained or treated as necessary. Reports of sample results will be submitted to NDEP and BLM.
- The new engineered stream channel will be constructed to accommodate a 500-year storm event (3.9 inches). Culverts with reinforced concrete or Non-PAG rip-rap headwalls will be installed where haul roads cross the channel. Culverts will be capable of conveying 100-year peak flow and installed in a manner to allow passage of aquatic life within engineering constraints. Flow in excess of culvert capacity would pass over the roadway. Non-PAG rip-rap will be incorporated into the diversion and at the discharge point to reduce potential coarse sediment effects. Applicable Clean Water Act (Section 404) permits will be obtained from the U.S. Army Corps of Engineers.
- BLM and NDEP will require Newmont to monitor surface water sites EM1-D1-B, EM1-D1-A, EM1-D2 for total suspended solids (TSS) and profile I chemical constituents. BLM requires surface water sample locations upstream and downstream of the proposed Emigrant Project site and in natural stream channels located in Dixie Creek drainage, but outside the influence of the proposed project. Samples will be collected during periods when flow is occurring at these monitoring locations. Results of the monitoring episodes will be provided to BLM after the spring runoff (after June 15 of each year). Data will be reviewed to determine whether sediment is being contributed by the proposed project at levels that exceed TSS levels measured in stream channels that are unaffected by the Emigrant Project or if there is a substantial change in TSS levels as measured in the upstream versus downstream monitoring stations. Since natural TSS levels in area streams are elevated during certain periods of the year, the evaluation of TSS levels at selected monitoring stations will require site specific assessments.
- Four monitoring wells (EM-WS, EM-MW2, EM-MW1, and EM-MW3) are required to be sampled by Newmont for profile 1 constituents on a quarterly basis and reported to BLM and NDEP. Ground water levels will be recorded as part of the sampling program. BLM

and NDEP may require additional monitoring wells as part of the adaptive management plan.

- PAG waste rock will be segregated and placed on a 10-foot thick sloped drainage layer of encapsulation material that exhibits an acid neutralization potential to acid generating potential ration of at least 3:1 or on limestone benches within the Emigrant Pit(s). The drainage layer or bench will be sloped to allow lateral migration of meteoric water to daylight for chemical evaluation and to eliminate pond formation. Collection ditches will be constructed as needed at appropriate locations to allow sampling of any leachate and will be monitored for leachate at least quarterly and after precipitation events. Any leachate will be analyzed for Profile I constituents.
- Reclamation measures will be implemented that favor establishment of perennial native grasses, forbs, and shrubs, including big sagebrush on portions of the site. If necessary, BLM may require additional measures including application of mulch, inoculation with arbuscular mycorrhizae, and/or lower seeding rate of grasses and forbs to reduce competition with herbaceous species. Best management practices will be implemented so that atomizers used to disperse heap leach drain-down fluids will not be used during periods of high wind in order to keep solutions within areas designed for containment to avoid affecting surrounding vegetation. Reclamation seeding criteria will follow the *Nevada Guidelines for Successful Revegetation for the Nevada Division of Environmental Protection, the Bureau of Land Management, and the U.S.D.A. Forest Service*.
- Newmont will continue the noxious weed management program through closure of the project.
- BLM will monitor vegetation on the affected range allotments and require, if necessary, the development of two springs and piping of water outside the fenced area for livestock and wildlife use. If necessary, Newmont will maintain the east side livestock corridor by constructing a pipe and trough system in this area.
- An evaluation of status of native fish and macroinvertebrate populations in the Emigrant drainage and engineered stream channel with BLM and NDOW will be conducted every 5 years. Re-establishment of fish and macroinvertebrate populations into the channel would be done by BLM and/or NDOW as warranted or necessary.
- Ten rock piles and ten drill or blast holes will be constructed/drilled for bat roosting in highwalls and other rock faces. The location of these features will be determined by BLM and NDOW biologists.
- Best management practices will be coordinated with BLM and NDOW to control soil loss associated with the slow establishment of big sagebrush after planting.
- Newmont will provide funding for three (3) interpretive signs which meet BLM standards to be placed at the South Fork Special Recreation Management Area.
- Newmont will follow the cultural resources data recovery plan prepared and approved by BLM in consultation with the Nevada State Historic Preservation Office. BLM will monitor the compliance with this plan.
- No monitoring or mitigation measures for Native American concerns have been identified by BLM. However, if impacts to any unknown to BLM Traditional Cultural Properties or

sites of cultural/spiritual/traditional use occur, mitigation and monitoring measures will be addressed on a site specific basis.

- Operations staff will be on site daily until reclamation and closure operations are complete in order to respond to storm events or other emergencies.
- As directed by BLM and NDEP, visual contrast of structures will be minimized using colors that blend with the land rather than the sky, and using finishes with low levels of reflectivity. Night lighting using “Dark Sky” features will be installed where practicable to reduce the visible glow around mining and processing areas.

### **Alternatives to the Proposed Action**

The BLM and NDEP considered several alternatives during preparation of the EIS. As noted above, several alternative construction and operational measures were incorporated into the proposed action during the NEPA process. Several other alternatives were considered during the BLM's NEPA analysis as summarized below.

#### **No Action Alternative**

Under the No Action Alternative, the Proposed Action would not be approved. Newmont would not be authorized to develop the defined ore reserves, construct ancillary mine facilities, and construct a waste rock disposal facility or heap leach facility on public land. Potential impacts predicted to result from development of the Project would not occur. Newmont could modify the proposed action and resubmit to the BLM, or modify the proposed action to exclude use of public land and thereby not be required to submit a proposal to the BLM for approval.

#### **Alternatives Considered but Eliminated from Analysis During Scoping.**

During initial scoping in July of 2004 several alternatives were discussed including fencing alternatives, public access road alternative, underground mining operations, and diversion of the stream around the west side of the pit. The fencing alternatives were eliminated because they would be a barrier to big game movement and could entrap cattle. An alternative public access road was eliminated because of concerns about public safety during blasting. The underground mining alternative was eliminated early on because the low grade ore could not be profitably mined using underground methods. Routing the stream around the west side of the pit through black shale was considered but eliminated because 1) it would introduce the possibility of slope failure of the black shale and 2) it would allow water seepage into the backfilled material.

## **Alternatives Considered but Eliminated from Detailed Analysis**

### **Use Existing Heap Leach Facility at Rain Mine**

This alternative would include all components of the Proposed Action but would require Newmont to haul ore approximately 2.5 miles from the proposed Emigrant Project to the existing heap leach facility at the Rain Mine. This alternative could eliminate the need to construct the proposed heap leach facility at the Emigrant Mine site.

#### **Rationale for Dismissal**

The existing heap leach facility at the Rain Mine encompasses approximately 40 acres and expansion of this facility to accommodate up to 92 million tons of ore from the Emigrant Project would require construction of an additional 320 acres of leach pad area. Expansion of the existing Rain Mine heap leach facility to accommodate proposed ore production from the Emigrant Mine would require extensive reconstruction of the existing heap leach pad. Such an expansion at the Rain Mine was determined to not have an advantage over the Proposed Action because the acres of disturbance associated with expansion of the Rain Mine leach facility would disturb an additional 320 acres whereas the proposed heap leach pad at the Emigrant Project would disturb approximately 288 acres. Operation of the proposed leach facility at the Emigrant Project would also require less fuel because the haul distance for placement of ore on the leach pad is less.

This alternative would also result in delayed reclamation of the Rain Mine compared to the proposed action and increase the costs and resources required for mining. Other aspects of this alternative are the same as the proposed action.

### **Construction of Office and Maintenance Shop Complex at Emigrant Mine Site and Road Upgrade.**

The 2005 DEIS considered this alternative. Implementation of this alternative would include construction of all components of the Proposed Action but would require Newmont to construct a new Office and Maintenance Shop near the northwest corner of the proposed leach facility. This alternative would require upgrading the existing two-track road to accommodate haul truck traffic.

#### **Rationale for Dismissal**

This alternative was dismissed from further analysis because it would require approximately 22 acres of new surface disturbance compared to the Proposed Action and would not provide any environmental advantage over the Proposed Action.

## **Regrade Backfilled areas to Eliminate Terraces.**

The 2005 DEIS considered this alternative. This alternative would require regrading of backfilled mine panels to eliminate flat terraced surfaces associated with the backfill operation.

### **Rationale for Dismissal**

This alternative was eliminated from further analysis in the 2005 DEIS because regrading backfilled areas to eliminate flat surfaces would increase the erosional energy on slopes associated the backfilled areas which could increase soil loss from regraded areas.

## **Management Considerations**

In making my decision to approve the Proposed Action, I have carefully considered the following factors.

- The Proposed Action is the alternative that best fulfills the agency's statutory mission and responsibilities, considering environmental, technical, economic, and other factors.
- This Decision conforms to the Elko Resource Management Plan's objective for minerals: BLM will "Maintain public lands open for exploration, development, and production of mineral resources while mitigating conflicts with wildlife, wild horses, recreation and wilderness resources."
- Implementation of this Decision will not cause unnecessary or undue degradation of the public lands and is consistent with other legal requirements.
- This Decision allows for mining and employment for up to 180 mine workers for 10-14 years in an economy highly dependent on mining.
- This Decision will help maintain revenue for local government.
- This Decision will allow for backfilling and partial backfilling of the excavated pits with waste rock that otherwise would be disposed of in a waste rock facility in some exterior waste rock site. Backfilling and partial backfilling the pits will reduce the overall surface disturbance and will allow for post-mining land uses including wildlife habitat and livestock. The final phase VIII pit will be partially backfilled and a highwall will remain. This highwall will be drilled and blasted as directed by BLM and NDOW to create wildlife habitat. Leaving open pits would have limited the options for post-mining land use.
- Backfilling the pits and the reclamation design of the proposed project will be based upon landforms, watersheds, hill-slopes, and channels that mimic natural conditions in the region, thereby minimizing erosion and impacts to visual resources and wildlife habitat, while also promoting long-term stability.
- Monitoring and Mitigation measures have been incorporated into the Adaptive Management Plan in Appendix A of the FEIS that will allow the BLM to respond to any future developments in the waste rock characterization. The design and reclamation plan for the project will allow the BLM to adapt to 4, 10 or 14 million tons of PAG waste rock. Surface and groundwater monitoring is required that will detect any adverse conditions.

- Implementation as necessary of the 33 Best Management Practices described in section I.C.3.vii.e of the Stormwater Pollution Prevention Plan (Permit NVR300000, project ID Number MSW-365) will prevent degradation of water quality from storm events.
- In response to public and agency comments concerning the predicted volume of PAG, three management actions (Appendix A, sections 5.2.2.1, 5.2.2.2 and 5.2.2.3, pages S-11, S-12, S-13) were added to the adaptive management plan to address handling of up to 14 million tons PAG waste rock. A supplemental testing program was also added to the AMP to monitor the waste rock handling program.
- Historically Newmont used NCV and paste pH to designate the acid potential of samples. ABA data does not exist for these samples, however, this data was mathematically converted to net neutralization potential NNP, from which the samples to be composited were chosen for the supplemental testing program. These composite samples were then analyzed using ABA (Nevada Modified Sobek). Future samples to be selected for the required supplemental humidity cell testing program will be analyzed using ABA.
- The surface occupancy proposed in association with this project meets the conditions specified in the applicable regulations (43 CFR § 3715).
- A reclamation bond to provide for reclamation of both private and public lands will continue to be required and regularly updated in compliance with both the 43 CFR 3809 regulations and the requirements of the NDEP.
- The Proposed Action will have no effect on lands with wilderness characteristics. Elko District Staff has reviewed the Proposed Action in light of Secretarial Order 3310 and have determined that the action will have no effect on wilderness characteristics for the following reasons:
  - The Emigrant Project lies in the southern end of the Carlin Trend, the foremost gold mining district in the United States. This area already includes numerous active mines.
  - The area is within a checkerboard area of private-public ownership which originated with the construction of the first trans-continental railroad.

### **Public Involvement**

Memorandums of Understanding (MOUs) between the State of Nevada and the BLM Elko District established Cooperating Agency status for the Nevada Division of Environmental Protection (NDEP) and the Nevada Department of Wildlife (NDOW). Cooperating Agency status provides for enhanced coordination during the EIS process and specifies the respective responsibilities for the administration and reclamation of lands to be disturbed by the proposed project.

Newmont submitted the Plan of Operations for the proposed Emigrant Project in February 2004. Public scoping was initiated in May 25, 2004. BLM published a Notice of Intent to prepare an EIS in the Federal Register on May 25, 2004. BLM mailed a “Dear Interested Party” letter announcing the preparation of the EIS to the public on May 25, 2004.

A public scoping meeting was held in Elko, Nevada, at the BLM Elko District Office on June 16, 2004. The BLM issued a press release on June 1, 2004, announcing the public scoping meeting.

The press release was distributed electronically to Congressional office staff, local government entities (city/county), federal and state agencies, and various media outlets throughout the proposed project area, including the Elko Daily Free Press, where it was published on June 2, 2004. The BLM received a total of 17 comment submittals (e.g., letter, email) during the scoping period.

The 2005 Draft EIS was distributed to 325 interested parties. Notice of Availability for the Emigrant Mine Plan of Operations Draft Environmental Impact Statement was publicized in the Federal Register, (Vol. 70, No. 57, pages 15346-15347, March 25, 2005). The BLM issued a news release announcing the 60-day Draft EIS comment period. On May 25 2005, the BLM held a public meeting at the BLM Elko District Office. Forty-one persons signed the attendance sheet. During the comment period, the BLM received 25 comments. During this comment period, EPA Region 9 requested an extension of the comment period. On June 10, 2005, BLM State Director granted an extension of the comment period until after the supplemental kinetic test results were completed. These supplemental tests were conducted in 2005 and 2006. An evaluation report of the test results was prepared in 2007.

In November 2008, a new Draft EIS was released which included the new kinetic test data and was available for public comment for 45 days. The BLM received 15 public comments on the 2008 DEIS.

In response to the comments concerning the waste rock characterization, BLM prepared an adaptive management plan (AMP, Appendix A) to monitor and respond to any unforeseen surface and ground water impacts. The adaptive management plan provides for a management action for 4, 10 or 14 million tons of PAG waste rock. The AMP establishes monitoring procedures and response plans.

### **Native American Involvement**

Throughout the preparation of the EIS, Native American consultation was conducted with the Te-Moak Tribe of Western Shoshone, Battle Mountain Band, Elko Band, South Fork Band, Wells Band, and Shoshone Paiute Tribe.

No concerns were raised. Representatives of South Fork Band Council, Wells Band Council, and Te-Moak Tribe of the Western Shoshone attended a field tour of the proposed mine site on June 7, 2004. To date, formal and informal consultation efforts have not identified any specific Western Shoshone Traditional Cultural Properties within or in close proximity to the Emigrant Project. The Te-Moak Tribal Chairman, the Wells Band Council Environmental Director, and the South Fork Band Council Environmental Director voiced a concern regarding the proposed diversion of the unnamed drainage and water quality. No area Tribal representatives have indicated that this project presents a major concern.

### **Agency Involvement**

The U.S. Fish and Wildlife Service (FWS) provided comment as BLM prepared the EIS and identified protection of historic Lahontan cutthroat trout habitat downstream from the project as a potential issue. In response, the proposed actions was modified to include construction of a sinuous meandering cobble bed stream channel, rock weirs, and riparian vegetation establishment, including willows, sedges and rushes.

Region 9 of the Environmental Protection Agency (EPA) commented on the Draft and Final EIS. EPA commented on the waste rock characterization procedure, ground water quality, financial guarantees, air quality, design and placement of waste rock disposal facilities. In response to EPA's comments on waste rock characterization, BLM in coordination with NDEP prepared an adaptive management plan (AMP, Emigrant FEIS, Appendix A) to monitor and respond to any unforeseen waste rock issues. This AMP provides for management actions for encapsulation and placement of 4, 10 or 14 million tons of PAG waste rock along with monitoring procedures and response plans. The air quality section was revised in the FEIS to describe impacts to air quality including PM2.5 and mercury emissions.

### **Appeals**

If you are adversely affected by this decision, in accordance with 43 CFR § 3809.804, you may have the BLM State Director in Nevada review this decision. If you request a State Director review, the request must be received in the BLM Nevada State Office, 1340 Financial Blvd. 89502, P.O. Box 12000, Reno, Nevada 89520-0006, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR § 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director.

If the Nevada State Director does not make a decision on whether to accept 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 then have 30 days in which to file your notice of appeal with the IBLA (see procedures below). If you wish to bypass the State Director review, this decision may be appealed directly to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR § Part 4. If an appeal is taken, your notice of appeal must be filed in this office (Elko District Office, 3900 B. Idaho St, Elko, NV 89801) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error. 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 the Board, 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 also must be submitted to each party named in the decision and to the Interior Board of Land Appeals 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.

