



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Ref: 8EPR-N

Christopher Savage, Supervisor
Kootenai National Forest
31374 U.S. Highway 2
Libby, Montana 59923-3022

Tom Livers, Director
Montana Department of Environmental Quality
P.O. Box 200901
Helena, Montana 59620-0901

Re: Montanore Project Joint Final Environmental Impact Statement – CEQ#20150352

Dear Mr. Savage and Mr. Livers:

The U.S. Environmental Protection Agency Region 8 has reviewed the Joint Final Environmental Impact Statement (JFEIS) for the Montanore Mine proposed by the Montanore Minerals Corporation (MMC), developed by the Kootenai National Forest (KNF) and the Montana Department of Environmental Quality (MDEQ). The Montanore Mine is a proposed copper and silver mine underlying the Cabinet Mountains Wilderness Area (CMW) approximately 18 miles southwest of Libby, Montana. We have completed a review consistent with our responsibilities and authorities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act.

Throughout the NEPA process, the EPA has worked with the KNF and the MDEQ on issues relating to the Montanore Mine project. We appreciate the cooperative approach to identifying issues, discussing areas of disagreement, and working toward a resolution where possible. The EPA appreciates the opportunity we have had to participate on several technical workgroups with the KNF and the MDEQ to develop additional information to resolve many of our concerns with the DEIS. Significant improvements to the analysis have been made since the Draft EIS (DEIS) was published in 2009. While our collaboration has addressed or resolved a number of concerns, some of our concerns remain unresolved. With this letter, the EPA reiterates and updates our general concerns. This letter does not attempt to fully reference or repeat in detail these remaining concerns which can be found in the May 29, 2015, EPA letter and detailed comments submitted on the Draft Record of Decision (ROD) (herein referred to as "5/29 Letter").

EPA Comments and Recommendations

Overarching Comments

The JFEIS documents both data limitations and uncertainty in the impact assessment for some resources. We therefore support the KNF's plan to collect additional data during the Evaluation Phase, and use the

new information to determine if the impacts are within the range of impacts considered in the JFEIS. The Evaluation Phase has a high potential to produce substantial new information that can inform the impact assessment and the adequacy of mitigation measures. This letter offers two overarching recommendations: 1) Design the Evaluation Phase to fill the most important data gaps toward reducing uncertainty in the impact assessment for several key resources; and 2) Allow the public a formal opportunity to review the new information collected during the Evaluation Phase and to inform the final project design and mitigation decisions.

Although there are important opportunities in the Evaluation Phase to collect additional information to reduce the uncertainties present in the impact assessment, we did not find a detailed data collection plan specifying how the Evaluation Phase would reduce uncertainty and fill data gaps. The EPA recommends that prior to initiating the Evaluation Phase, the KNF and MDEQ convene Technical Advisory Groups (TAG) to assist in designing the sampling and monitoring plans, and to ensure that the most important data gaps associated with refining the impact predictions can be determined. The EPA reaffirms our desire to participate in TAGs in the Evaluation Phase. An example of uncertainty that could be substantially reduced during the Evaluation Phase is the quantity and quality of groundwater in the mine. The water treatment facility design and any associated impacts will depend on this information, and the information will be important in determining whether additional mitigation is warranted.

Due to the limitations in available data, we continue to have concerns with the sufficiency or capability of some mitigation measures to offset impacts. We recommend that the KNF and the MDEQ, in collaboration with the TAGs, develop an approach to selecting the appropriate mitigation measures as additional information is collected. Detailed comments regarding mitigation measures can be found in our 5/29 Letter.

Following release of the KNF & MDEQ Records of Decision (ROD) for this project, the U.S. Army Corps of Engineers (Corps) will be reviewing this project for a Clean Water Act (CWA) Section 404 permit decision for the discharge of dredged or fill material into waters of the U.S. The EPA understands the Corps intends to rely on the JFEIS for purposes of CWA Section 404 permitting. In our interest to resolve CWA Section 404 related issues as soon as possible and to avoid any delay in the permitting process, the EPA has also reviewed the JFEIS for compliance with CWA Section 404. It is the EPA's assessment that the JFEIS does not include sufficient information for the Corps to fully evaluate whether the project complies with the CWA Section 404(b)(1) Guidelines (40 CFR Part 230). Many of our CWA Section 404 compliance concerns are summarized in this letter. We will provide greater detail regarding our concerns to the Corps as we work with them through the permitting stage of the project.

Tailings Storage Facility

The Tailings Storage Facility (TSF) design is conceptual and based on limited geotechnical data. The EPA supports the plan to use a TAG to assist in designing the geotechnical evaluation and to review the final tailings facility design. We continue to recommend that the final design of the tailings storage facility include an evaluation of whether lining the TSF would be feasible. If found to be feasible, a liner could provide meaningful protection to groundwater and wetlands in the vicinity of the TSF.

Water Resources

We recognize the significant progress made in the water resource sections between the DEIS and the

JFEIS. The addition of 3D groundwater modeling to the Supplemental DEIS was a significant turning point in the sophistication in the NEPA analysis. Although the model has limitations and uncertainties, the modeling effort at this point predicts impacts that could include large reductions in groundwater levels resulting from mine construction and operation and reductions in stream base flow. Your efforts have also heightened awareness of the potential for impacts to Rock Lake.

The impacts assessment for groundwater dependent ecosystems (GDEs) is substantially limited by data availability at this pre-Evaluation Phase of the project. Specifically, limitations in geologic and hydrologic site data and lack of a detailed assessment of baseline conditions increase the uncertainty associated with evaluating effects to GDEs and the habitat provided by them. These issues are acknowledged in the JFEIS. The EPA considers the GDE impact assessment, based on the currently available data, insufficient to reliably describe the reasonable foreseeable significant adverse effects. The Evaluation Phase offers an important opportunity to refine this analysis and determine whether the effects to GDEs are likely to be in the range predicted in the JFEIS, and whether additional mitigation is needed.

The EPA has remaining concerns related to water resources and aquatic life as articulated in our 5/29 letter. The groundwater drawdown associated with the mine void and TSF pumpback system has the potential to impact streams, lakes, wetlands and groundwater-dependent ecosystems within and outside of the Cabinet Mountains Wilderness (CMW). The JFEIS does not propose adequate mitigation to offset impacts to aquatic resources that may result from flow changes and groundwater drawdown. Uncertainty about the feasibility of some of the proposed mitigation methods and approaches gives rise to concern about whether proposed measures will be successful. Again, the Evaluation Phase could be useful in enhancing the analysis of these impacts.

The MPDES permit for the Montanore mine was issued after April 29, 1993, and may be considered a new source (ARM 17.30.702(16)). Analysis for the JFEIS and MPDES permit limits established for the mine should be based on applicable nondegradation requirements and should ensure attainment of the most stringent criterion. Because the draft MPDES permit did not apply all applicable nondegradation limits, assumptions in the JFEIS that are based on the draft MPDES permit may not be accurate. For example, the JFEIS references a total nitrogen permit limit based on meeting the standard of 0.275 mg/L. The total nitrogen permit limit should be based on attaining the applicable nondegradation limit, which is derived as a percentage of the standard and identified in Table 129 of the JFEIS.

We note that there is uncertainty regarding the effect of discharges on temperatures in Libby Creek. We commend the JFEIS for highlighting the cooling effect discharges via groundwater will likely have, but recommend that best management practices be implemented to the maximum extent practicable to mitigate the impacts from wastewater discharges and decreased stream low flows.

Transmission Lines and Substations

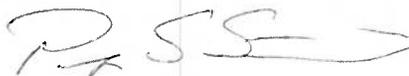
In our review of the JFEIS, we note that few details regarding the proposed mill site substation are known. We also noticed that the electrical load estimate could lead to insufficient transformer capacity because it does not include a power factor or load factor. The planned transformer size, weight, and transport requirements are important to project the design improvements needed for access roads. Road construction activities increase the potential to adversely impact sensitive species and their habitat, increase erosion and sediment transport, and negatively impact surface waters. Bridges and culverts

must be able to support the transformer's weight, and the size could require wide curves and reduced slopes to be able to transport the transformer to the project site. The EPA suggests that the final road design and mitigation requirements occur after the mill site transformer specifications are determined.

Closing

Thank you for the opportunity to participate in the NEPA process for the Montanore project. We appreciate your consideration of our comments and recommendations as the project moves into the Evaluation Phase and beyond. The EPA looks forward to working with the KNF and the MDEQ to continue our collaborative relationship to ensure that the additional information collected during the Evaluation Phase addresses the uncertainty in data in the JFEIS. If you have any questions or comments, please feel free to contact me at 303-312-6704, or your staff may contact Dr. Angelique Diaz at 303-312-6344 or diaz.angelique@epa.gov.

Sincerely,



Philip S. Strobel
Director, NEPA Compliance and Review Program
Office of Ecosystems Protection and Remediation

cc: Lynn Hagarty, Kootenai National Forest
Martha Chieply, U.S. Army Corps of Engineers
Larry Lockard, U.S. Fish and Wildlife Service