



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Denver Federal Center, Building 67, Room 118
Post Office Box 25007 (D-108)
Denver, Colorado 80225-0007



November 15, 2011

9043.1
ER 11/917

Mr. Paul Bradford, Forest Supervisor
Kootenai National Forest
31374 U.S. Hwy 2
Libby, MT 59923-3022

Dear Mr. Bradford:

The U.S. Department of Interior (DOI) has reviewed the *Supplemental Draft Environmental Impact Statement for the Montanore Project* (SDEIS), jointly submitted by the Kootenai National Forest (Forest) and the Montana Department of Environmental Quality (MDEQ), and offers the following comments.

Our comments are focused on the impacts of the proposed action on Endangered Species Act (ESA) listed species, including: grizzly bears, Canada lynx, and bull trout. We also reiterate our comments submitted (letter dated May 8, 2009) on the Draft Environmental Impact Statement that remain relevant.

Bull Trout

We appreciate that the SDEIS includes results from modeling groundwater and surface hydrologic effects. Most of our new comments pertain to the documentation of those modeling studies. We recognize that much uncertainty still exists in the analysis of these impacts, but we nonetheless commend the agencies for undertaking such analyses.

- We agree with substituting Alternative 3 (Agency Mitigated Poorman Impoundment Alternative) as the agency preferred alternative in place of Alternative 2. Treating all waste water in a treatment plant instead of by land application is expected to reduce the potential for negative impacts on water resources in general and bull trout in particular in the Libby Creek drainage. However, we still have concerns for effects to bull trout and bull trout critical habitat from rapidly fluctuating stream flows in Libby Creek that will alter the natural hydrologic regime. More detail regarding the effects is needed to adequately assess the impacts to bull trout.

- Substituting the Poorman tailings impoundment site for the site on Little Cherry Creek is expected to reduce direct impacts to perennial surface waters and indirect effects to downstream bull trout and critical habitat.
- Regarding detailed impacts that are newly documented in the SDEIS, our greatest concern is with indirect effects of mining on groundwater drawdown and the reduction in base flows that are predicted to occur in East Fork Bull River and East Fork Rock Creek, the extent of which will be unknown until many years after mining is completed.

The East Fork Bull River is the single-most important bull trout spawning and rearing stream in the Lower Clark Fork bull trout core area. The modeling analysis projects base flows to be reduced by 11 percent at the Cabinet Mountains Wilderness boundary and by 97 percent within the wilderness at Year 52, and to potentially persist for more than 1000 years. When combined with expected climate change impacts of higher stream temperatures, earlier spring run-off, and the increased frequency of rain-on-snow events, such impacts would adversely impact the value of the upper East Fork Bull River for spawning and rearing habitat, including the possibility of serious population reductions or even extirpation of bull trout from the East Fork Bull River. Currently, 80 percent of observed bull trout redds in the East Fork Bull river occur upstream of the wilderness boundary. The potential impacts upon the Lower Clark Fork core area and implications for range-wide recovery of bull trout will need to be carefully evaluated in the Forest Service/Fish and Wildlife Service Section 7 (ESA) analysis.

The analysis for East Fork Rock Creek is similar to East Fork Bull River, with base flows projected to be reduced by 59 percent at the wilderness boundary and by 100 percent within the wilderness. Although flows in the lower end of this stream (near its confluence with the Clark Fork River) go subsurface for part of the year creating a seasonal barrier to fish passage, it is an important drainage for bull trout recovery in the Clark Fork River basin.

- Our comments of May 8, 2009 regarding adequacy of the fisheries mitigation plan still apply and are reiterated below. We further emphasize that, as described in the SDEIS, significant potential impacts to bull trout and bull trout critical habitat are reasonably expected. Mitigation for direct impacts from the mine operation are not clearly specified as commitments regarding what projects will be implemented. We found no mention of mitigation for the expected groundwater table draw down or reductions in base stream flows and potential related impacts to bull trout populations and critical habitat. We recommend that proposed mitigation commitments be clearly specified in the final EIS.
- In many different areas (e.g., waste rock management, tailings management, mining, water use and management, etc.) the SDEIS specifies final design and monitoring that would occur during the evaluation and operation phases of mining. Sometimes a potential response to non-attainment of standards or indication of the need for additional mitigation is suggested, but the technical feasibility and effectiveness of such responses appears uncertain, at best. In light of specifications and uncertainties contained in *Section 2.5.3.5.2 Final Design Process*, complete ESA consultation on effects to bull trout and bull trout critical habitat may not be

possible until numerous studies mentioned in the SDEIS are completed and the final design approved.

- A statement is made in *Section 3.6.4.3.6 Threatened and Endangered Species* under Effects to Critical Habitat that “reduced flows would affect designated bull trout critical habitat with direct effects to springs, seeps, groundwater sources, and subsurface water connectivity... such that normal reproduction, growth, and survival are **not** inhibited” [emphasis added], citing the Kootenai National Forests *Biological Assessment for Threatened and Endangered Aquatic Species on the Montanore Minerals Corp. Montanore Project*. The biological assessment does not support this statement as written and, in fact, contradicts the statement. This discrepancy should be corrected.

The following comments from our letter of May 8, 2009, also still apply:

- While the DEIS provides a comprehensive analysis of the potential impacts from the proposed action to the aquatic and fisheries resources, it was difficult to get an overall understanding of the how much impact would occur under each alternative and how adverse impacts would be mitigated. We suggest a summary table be provided to display the anticipated primary impacts to bull trout (sediment, habitat loss, water quantity, water quality, temperature, passage, etc.) and the corresponding offsetting mitigation, for each alternative and primary bull trout drainage (i.e., Libby Creek drainage or Bull River drainage).
- The proposed action, regardless of alternative, may have significant adverse effects to bull trout in both the Libby Creek and the Bull River drainages. We encourage the Forest to ensure that all potential impacts to listed species and aquatic resources are adequately addressed through minimization and mitigation. The DEIS describes adverse impacts (e.g., reductions in stream base flows [corresponding to a loss of aquatic habitat and impacts to altered hydrology], direct loss of aquatic habitat [e.g., Little Cherry Creek], reduction in Riparian Habitat Conservation Area function, etc.) without mention of the corresponding mitigation. Finally, mitigation plans should be sufficient to address adverse effects to listed species, as well as the Forest Section 7(a)(1) responsibilities to conserve ESA listed species.
- The fisheries mitigation plans presented in the alternatives section of the DEIS (section 2.4.6.2, section 2.5.7.2, and section 2.6.6.2) are ambiguous in terms of how much mitigation work will actually be completed under the plans. To adequately assess the environmental consequences of the proposed action relative to the reported benefits of the mitigation plan, the final EIS should present the level of mitigation that is expected to be implemented (e.g., number of acres/tons of sediment reduction work, number or miles of habitat restoration projects, fix all identified sediment sources, bring all habitat features up to Riparian Management Objective standards within the action area, etc.).
- The environmental consequences section of the DEIS (Section 3.6.4) suggests that the proposed action may increase water temperatures. Water temperature is already functioning near, or at unacceptable risk in Libby Creek Drainage and stream temperatures may increasingly become a limiting factor for the bull trout local population. We recommend this

issue receive more attention in the analysis section for each alternative and be adequately addressed in the mitigation and monitoring plans for this project.

- The environmental consequences section of the DEIS (Section 3.6.4) suggests that the proposed action may increase the competitive advantage of brook trout in the action area stream systems. Impacts from non-native species are becoming the preeminent threat to bull trout survival and recovery in these Montana stream systems. We recommend you review Dunnigan et al 2007, which provides data on the expansion of the brook trout population relative to bull trout in the Libby Creek drainage. We recommend the analysis section for each alternative address this issue in greater detail and be adequately addressed in the mitigation and monitoring plans for this project. The Avista Utilities Corporation is implementing an innovative and comprehensive non-native suppression project in the East Fork Bull River drainage and a similar approach should be considered for addressing the impacts from the proposed action. The U.S. Fish and Wildlife Service (USFWS) can provide more information on this approach at your request.
- A primary component of the mitigation plan in the Libby Creek drainage appears to be habitat surveys and implementation of in-stream habitat improvement projects. Section 3.6.3.1.1 describes several habitat restoration projects that were implemented in Libby Creek and destroyed in subsequent rain-on-snow events. The DEIS describes a habitat restoration project in the East Fork Bull River that also seems to have been unsuccessful. Preliminary data from the AC (Horn and Tholl 2008) shows that non-native fish appear to be benefitting more than native salmonids from their habitat restoration projects. Data from MTFWP efforts in Libby Creek (Dunnigan et al 2007) could suggest similar conclusions from the Libby Creek restoration projects. The final EIS should consider the adequacy of the proposed mitigation plan and anticipated outcomes in the context of this information. Perhaps a mitigation strategy that includes habitat projects in concert with non-native suppression efforts (e.g., partnering with the existing Avista Utilities Corporation nonnative fish suppression effort) should be considered.
- We suggest more analysis of the potential impacts of increased vehicle use along Libby Creek, what activities and impacts will occur under the road maintenance program (e.g., snow plowing, sanding, blading, road narrowing/widening, etc.), and what the minimization and mitigation plans would include for all road related impacts. Sufficient information should be available on the proposed road closures/obliterations, road use, existing road condition, and culverts, to provide some level of quantitative sediment analysis. Analysis results should be used to determine/justify adequate sediment mitigation levels. The final EIS should include a list and description for any BMPs that are cited as minimization measures for the proposed action.
- The aquatic and fisheries related mitigation and monitoring plans for all alternatives should include an adaptive management commitment whereby if monitoring shows the initial level of project mitigation are insufficient in accomplishing the specified objectives, additional corrective actions would be developed and implemented.

Grizzly bear

The mitigation plan for grizzly bears is an improvement over the DEIS. We appreciate the specificity provided in the SDEIS version. The USFWS will analyze the mitigation plan in detail during the preparation of their biological opinion for grizzly bears.

Most of our May 8, 2009 comments on the DEIS still apply and are reiterated below.

The mine would occur within occupied grizzly bear habitat within the Cabinet-Yaak Ecosystem (CYE). We are concerned that the proposed alternative may adversely affect grizzly bears in a manner that could rise to the level of “take” (DEIS, page 880). We recognize that this conclusion is based on a draft proposal and could change when the project details are finalized.

The grizzly bear population in the Cabinet-Yaak Ecosystem (CYE) is one of six populations essential to the conservation of the grizzly bear in the United States. Its geographic location is key for providing connectivity between other grizzly bear populations and Canada. As you are aware, the grizzly population in the CYE is threatened by small population size and increasing human demands on its habitat (FR 64:26725-26733). An estimated 45 bears occurred within the CYE recovery zone in 2007 (*Kasworm et al, 2008*). The population trend has been variable during the history of grizzly bear monitoring in the CYE. Earlier grizzly bear population estimates (between 1999 and 2006) indicated a high probability of decline (*Kasworm et al. 1999 through 2008*) due to relatively high levels of human-caused mortality. However, this trend has moderated somewhat in recent years and since 2006, has shown some slight improvement. The CYE population of bears is vulnerable to shocks however, just because of the low overall numbers of bears that exist there, causing small perturbations to have large impacts.

The previous comments pertained to the population status and trend of the CYE grizzly bear population. The subsequent comments concerning grizzly bears focus on the content of the DEIS and the preliminary mitigation package.

- The opening sentence of the grizzly bear section (DEIS 3.24.5.3.1) incorporates a body of information by reference. We caution that additional scientific information is available to inform your decision (and in fact the DEIS goes on to reference some of that material). Focusing on specific conclusions or important facts from the reference material is more useful than blanket citations that do not focus on specific issues.
- With regards to the term “cumulative effects,” we recommend the Forest and the USFWS work together to reconcile the differences in the treatment of the term under the National Environmental Protection Act versus the Endangered Species Act as it pertains to the analysis of the effects of this project.
- In general, the grizzly bear analysis focuses on the traditional methods of examining Open Motorized Route Density (OMRD), Total Motorized Route Density (TMRD), Core, Habitat Effectiveness, and other measures. The USFWS and the Forest have a long history of relying on these measures. However, the typical project examined using these measures is a timber sale and associated road system. The timber harvest portion of such a project usually has

temporary effects on grizzly bears, with the negative effects to grizzly bears diminishing within a decade. Road effects can, of course, be more chronic. The Montanore project would last for decades, affecting two to three generations of grizzly bears, and could result in the permanent adverse conversion (e.g., from forest to tailings impoundments) of significant quantities of habitat (varies with the alternatives analyzed in the SDEIS) currently used by grizzly bears. Therefore, we recommend a more comprehensive examination of the underlying habitat effects.

- Specifically, rather than reporting only the raw percentages of BMUs affected by OMRD, TMRD, etc., it would be useful to understand how much seasonal habitat is affected by baseline conditions; how this would change under the alternatives; and what the implications are in terms of landscape-level effects among BMUs. We recommend that the amount of spring range that has been compromised by baseline conditions be quantified, and the additional amount, if any, that would be affected by the proposed action. We also recommend an analysis of the impacts to other seasonally important habitats and important areas for movement or linkage. An analysis that examines the specific habitat effects will be useful in disclosing the baseline conditions and the direct, indirect, and cumulative effects associated with the project.

Canada lynx

The Montanore Mine project may result in the permanent conversion of suitable Canada lynx habitat to non-suitable. We recommend the Forest and the USFWS work together during interagency consultation to address the habitat changes that would occur and how those changes affect the status and availability of suitable lynx habitat in the affected Lynx Analysis Units. The mitigation plan for the permanent conversion of suitable lynx habitat appears to adequately address the habitat ratios required by the Northern Rockies Lynx Management Direction in the affected area.

We appreciate the opportunity to review and comment on this SDEIS. In addition to your customary distribution, please send both an electronic and hard copy of the final EIS and signed Record of Decision to the USFWS office in Helena, MT. They look forward to working with the Forest through the ESA consultation process once a final alternative has been selected. If you have any questions, please contact Tim Bodurtha (406) 758-6882 or Anne Vandehey (406) 449-5225, ext. 212.

Sincerely,



Robert F. Stewart
Regional Environmental Officer

cc: Lynn Hagarty