

CHAPTER 1 - PURPOSE AND NEED

1.1 Introduction

This Draft Environmental Impact Statement (EIS) discloses the environmental impacts of a proposed action and alternative actions for road maintenance, road construction on unauthorized roads, confirmation sampling on the Golden Hand No. 1 and No. 2 lode mining claims, along with activities/equipment associated with accomplishing the aforementioned on the Krassel Ranger District of the Payette National Forest in Valley and Idaho Counties, Idaho.

This document has been prepared pursuant to the requirements of the National Environmental Policy Act (NEPA, 40 CFR 1500-1508), the National Forest Management Act (NFMA implementing regulations of 2005, including transition language at 36 CFR 219.14), the 2003 Payette National Forest Land and Resource Management Plan, as amended (USDA 2003, 2010)(Forest Plan). Formal planning for this project was initiated on November 21, 2008 with a Notice of Intent to prepare an EIS appearing in the Federal Register.

1.2 Project History

The administrative record on the Golden Hand claim group is lengthy. The recent events leading to the preparation of this EIS on AIMMCO's proposed plan of operations are briefly summarized as follows:

- The FC-RONR was withdrawn from mineral entry on December 31, 1983.
- In February, 1984 a Plan of Operations for Golden Hand claims 1 – 8 was submitted that proposed to clean the caved tunnel portal, sample and drill.
- In March, 1984, AIMMCO was advised that a field examination of the Golden Hand claims would be scheduled and that no operating plans could be approved until that examination had been completed and the basic facts of validity substantiated.
- On July 10, 1984, a field examination of Golden Hand claims 4, 5, 6 and 8 was made by Forest Service mining geologist Patrick Curtis who concluded, in a report dated August, 1984, that valid existing rights had been established on each of those claims before withdrawal. Curtis described Golden Hand claims 1-3 as “associated claims”, but reported no findings concerning their validity.
- In August, 1984, the Forest Service advised AIMMCO it had received “favorable results” from its mineral examiners, requested additional information concerning the proposed Plan of Operations and authorized necessary assessment work.
- The Forest Service conducted another mineral examination of the Golden Hand claims in July 1985 to determine if any of the Golden Hand claims were valid prior to processing the plan of operations.
- The mineral report concerning the Golden Hand claims was completed in November 1986. It concluded that none of the eight claims were valid and recommended to the Department of Interior that contest be initiated against all of the claims.
- A validity contest concerning the Golden Hand claims was commenced February 25, 1987.
- AIMMCO timely responded to the BLM's contest notice and the validity contest was set for trial before Administrative Law Judge Ramon M. Child.
- In July, 1987, before trial of the validity contest, AIMMCO submitted an assessment work request to the Forest Service that included, among other things, drilling, trenching and opening a caved adit. This request was denied the same month.
- In July, 1988, AIMMCO filed a complaint in United States District Court for the District of Idaho. In that complaint, AIMMCO appealed the denial of its July, 1987 assessment work request and sought an order that it be permitted to access the Golden Hand claims with mechanized equipment to perform the described work. This complaint was stayed, by agreement, until the outcome of the validity contest was determined.
- In January, 1989, after receiving evidence at the validity contest trial, Administrative Law Judge Ramon M. Child held Golden Hand claim No.'s 1, 5, 6, and 7 to be invalid, that claims No's 2, 3, 4, and 8 were valid and dismissed the contest on claim No's. 2, 3, 4, and 8.

Golden Hand No. 1 and No. 2 Lode Mining Claims Draft EIS

- Both parties appealed to the Interior Board of Land Appeals (IBLA). On February 10, 1992, the IBLA affirmed Judge Child's decision that claim No.'s 1, 5, 6, and 7 were invalid and that claim No.'s 3 and 4 were valid. It reversed his decision that claim No. 2 was valid and remanded claim No. 8 back to the Hearings Division for review of the historic value of silver as it bore on the validity of claim No. 8. The Forest Service later dismissed its contest against claim No. 8.
- On April, 16, 1996, AIMMCO submitted a proposed Plan of Operations for work on claims No. 3 and No. 4.
- In December, 1999 AIMMCO filed a motion to reactivate and amend the July, 1988 lawsuit in in Idaho Federal District Court to appeal from the IBLA decision that Golden Hand claim No's. 1 and 2 were invalid, to obtain an order requiring the Forest Service to allow access to Golden Hand claims 1 and 2 with mechanized equipment and requiring the Forest Service to act upon its April 16, 1996 Plan of Operations.
- On August 9, 2002, Judge B. Lynn Winmill entered Judgment reversing the decision that Golden Hand claim No's. 1 and 2 are invalid, ordering that the Forest Service allow AIMMCO access to Golden Hand claim Nos. 1 and 2 to give it a fair opportunity to prove the validity of the claims, and compelling the Forest Service to complete the EIS and its review of the 1996 plan by May 1, 2003.
- In October, 2002, the Forest Service filed a Notice of Appeal with the 9th Circuit Court of Appeals.
- On May 1, 2003 the Forest Supervisor, Payette National Forest, signed the Record of Decision for the Golden Hand claim Nos. 3 and 4 Plan of Operation and selected an alternative that required AIMMCO to amend the proposed plan of operations prior to implementation.
- In July, 2003, the Forest Service appeal to the 9th Circuit Court of Appeals was dismissed.

1.3 Project Area Description

The Golden Hand No. 1 and No. 2 Lode Mining Claims Project Area is located in the Big Creek drainage on the Payette National Forest, approximately 19 miles north of Yellow Pine, ID (Figure 1-1). The actual claims encompass approximately 20 acres each and are located near Coin Creek, a tributary of Beaver Creek, which flows into Big Creek, a tributary of the Middle Fork Salmon River. The project area includes 1,309 acres of National Forest System lands (Figure 1-2).

Roughly 291 acres of the Frank Church River of No Return Wildness (FC-RONR Wilderness) lie within the Golden Hand No. 1 and No. 2 Lode Mining Claims Project Area. Project activities including the authorization of temporary roads and use of mechanized equipment for confirmation activity would occur within the FC-RONR Wilderness.

1.4 Proposed Action

On September 4, 2007 AIMMCO submitted an operating plan for drilling operations, trenching and sampling, and reopening the caved Ella Mine adit. The Forest Service worked with AIMMCO for more than two years to revise the initial proposal. A revised Plan of Operations was submitted to the Forest Service on June 4, 2010 and was further revised by a November 12, 2010 letter. AIMMCO has incorporated additional changes to their proposed plan since that time.

This alternative is based on the proposed plan of operations (operating plan or plan) submitted by American Independence Mines and Minerals Company (AIMMCO) to the Forest Service on June 4, 2010, along with subsequent revisions. It represents a reasonable plan which the Forest Service is required to approve, unless actions are needed to minimize adverse environmental impacts on National Forest System surface resources. The proposed action would allow AIMMCO to collect subsurface geologic information in order to prepare for a new mineral examination by the Federal Government. Except for one drill location, the proposed drilling operations, rock chip sampling, and Ella Mine opening would occur on Golden Hand No. 1 and No. 2 lode mining claims (Figure 2-1). The project area includes the Golden Hand claims, the connecting temporary roads between the claims and Pueblo Summit, the temporary road to the Werdenhoff, and Forest Service Roads 343, 371, and 373 (Figure 1-2).

Because the proposed action does not meet Forest Plan standard SCST01 for Visual Quality, a one time, site specific, non-significant amendment to the Forest Plan would be necessary. This is described in section 2.4.2.1.

The following is a summary of the proposed action:

- Maintain portions of Forest Roads (FR) 371 and 373 between the Big Creek Trailhead and Pueblo Summit and maintain approximately 4.1 miles of temporary road, including 4.0 miles within the FC-RONR Wilderness. Reconstruct one short approach to a crossing of the North Fork of Smith Creek on FR 373.
- Repair a ford on a tributary to Coin Cr. and repair a ford on Coin Cr.
- Authorize up to 771 motorized trips into the FC-RONR Wilderness annually during a 100 day operating season. Motorized trips within the Wilderness claim operating area to transport needed items from the storage area to work sites will be kept to the minimum necessary.
- Construct 11 drill pads from which 13-18 core holes would be drilled.
- Collect rock chip samples from pits excavated to bedrock at several locations in the temporary roads.
- Reopen and timber a caved mine adit (the “Ella”) to allow access for underground mapping and sampling. Excavated material would be placed on the existing flat disturbed area in front of the portal location.
- Use a variety of vehicles and equipment including, but not limited to, four-wheel-drive pickup trucks, a 7 cubic yard dump truck, flatbed truck, D-8 (or equivalent) bulldozer, 3-cubic yard loader or small excavator, a track or skid-mounted drill rig, air compressor, small jackhammer, and generator.
- Store fuel on the claims or an adjacent valid lode claim (Golden Hand No. 8).
- Use the Penn Ida plaza for storage, if necessary.
- Use the Golden Hand bunkhouse within the FC-RONR Wilderness as office space.
- Establish a temporary camp at the Werdenhoff.
- Obtain water from Coin Creek in accordance with the water right, which would not exceed 25,000 gallons per day. The water would be obtained and used in accordance with a temporary water right issued by the Idaho Department of Water Resources.
- Conduct defined reclamation activities at the end of each season.
- Implement design features and/or mitigation to reduce or prevent undesirable effects resulting from proposed management activities.

A detailed description of the proposed action is provided in Section 2.4.2.

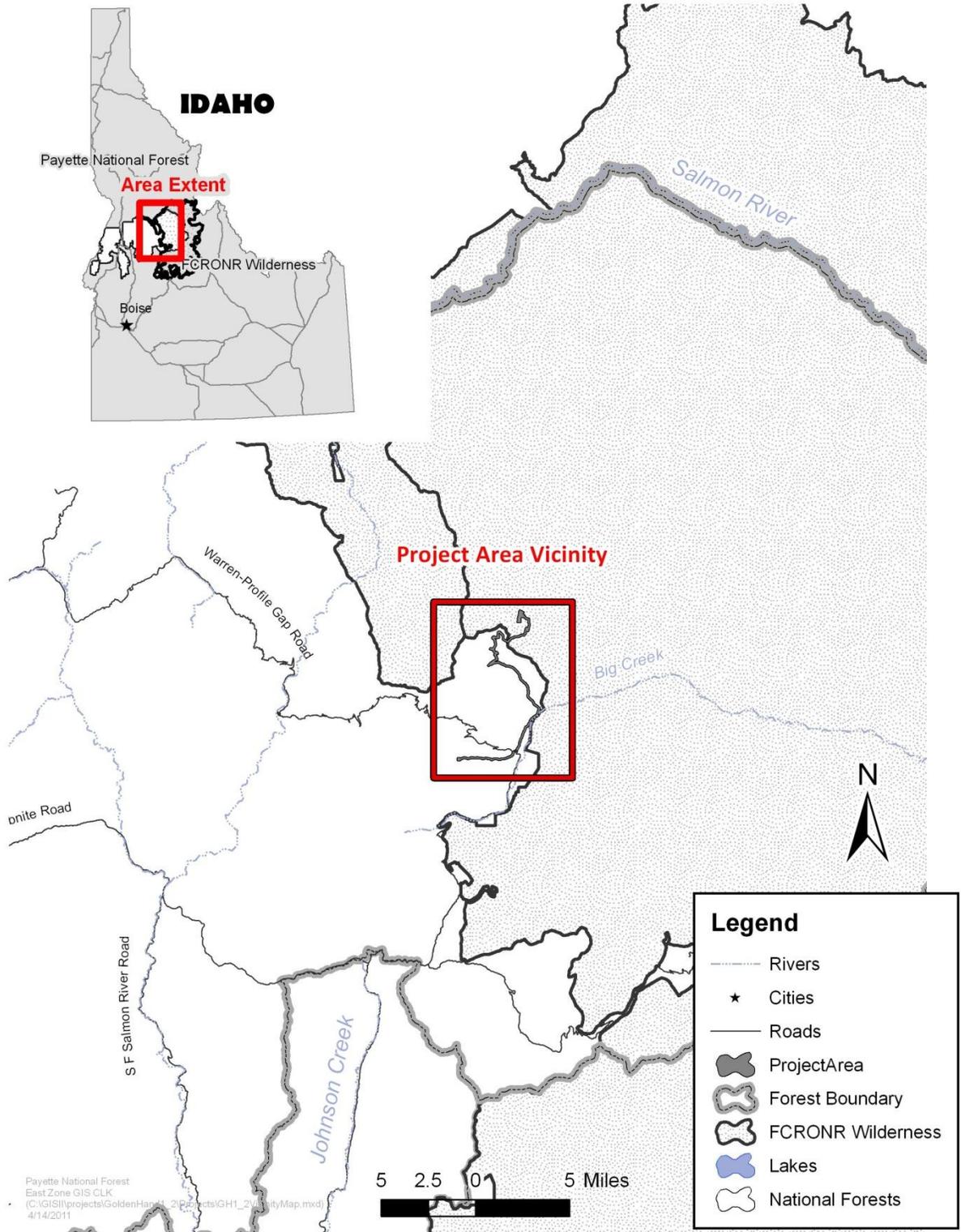


Figure 1-1 Vicinity Map

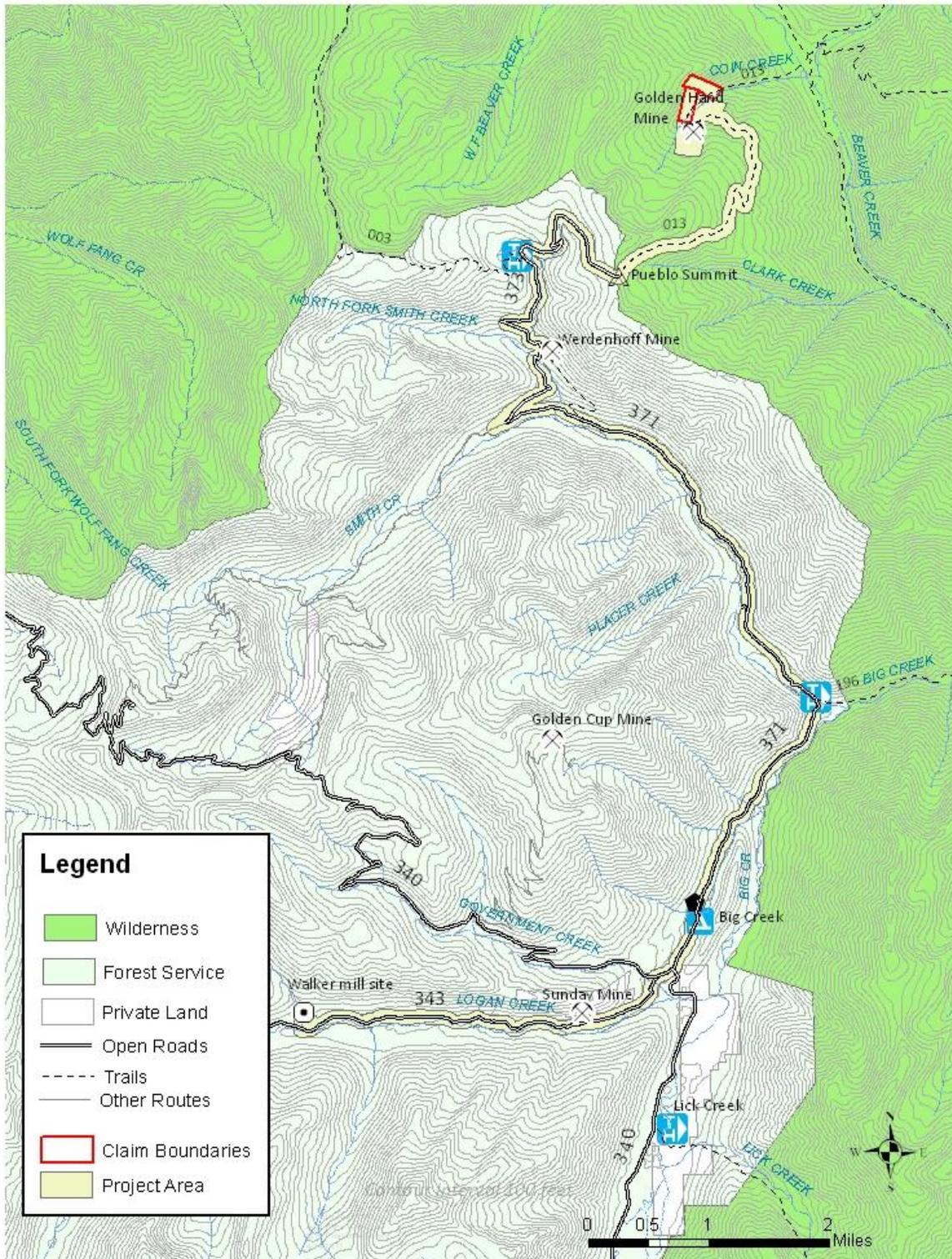


Figure 1-2 Golden Hand No. 1 and No. 2 Lode Mining Claims Project Area.

1.5 Purpose and Need for the Proposed Action

Law, regulation, agency policy, and court rulings define the purpose and need for the Forest Service response to AIMMCO's proposed plan of operations. The major laws and regulations governing such responses include the following:

- The 1872 Mining Law as amended (also referred to as the U.S. Mining Law[s]), provides in part that, "...all mineral deposits in land belonging to the United States are free and open to exploration and the lands in which they are found are open to occupation and purchase." This granting of statutory rights to explore, develop, and gain title to the minerals estate of federal lands open to mineral entry, remain in effect today.
- The 1897 the Organic Administration Act (16 USC 478, 551) created the National Forest System, and at the same time opened these lands to entry under the 1872 Mining Law. This law also gives the Secretary of Agriculture authority to regulate activities conducted under the Mining Law.
- The Multiple Use Mining Act of 1955 (30 USC 612) reserved to the United States the right to use the surface of unpatented mining claims providing such use did not endanger or materially interfere with prospecting, mining or processing operations or reasonably incident uses.
- Regulations defining Forest Service authority to manage locatable mineral activities were adopted in 1974, and are codified in 36 CFR 228A. In accordance with these regulations, an approved plan of operation is required for any locatable mineral activity on National Forest System land that would cause a significant disturbance of surface resources. These regulations also require the Forest Service to conduct an analysis that meets the requirements of the National Environmental Policy Act (NEPA) for each plan of operation received. Forest Service responses to a proposed plan of operation are defined by regulation at 36 CFR 228.5. The overall purpose of these regulations as stated in 36 CFR 228.1, is to manage operations so as to minimize adverse environmental impacts on National Forest System surface resources.

The Wilderness Act of 1964 requires the Forest Service to ensure that valid rights exist prior to approving locatable mineral activities inside a congressionally designated Wilderness area. To establish valid existing rights, mining claimants must show they have made a discovery of a valuable mineral deposit on the claim(s) prior to the withdrawal date, and have maintained that discovery. The Wilderness Act allows for surface disturbing activities that are reasonably incident to mining or processing operations when valid rights have been found to exist (U.S. Congress 1964, Section 4[d-3]). The mining activities described may be implemented if such activity is carried on in a manner compatible with the preservation of the wilderness environment (U.S. Congress 1964, Section 4[d-2]). In the case of valid mining claims or other valid occupancies the Secretary of Agriculture shall permit ingress and egress to such surrounded areas by mean which have been or are being customarily enjoyed with respect to other such areas similarly situated (U.S. Congress 1964, Section 5[b]). The Wilderness Act also states that mineral leases, permits, and licenses covering lands within National Forest Wilderness, shall contain reasonable stipulations as may be prescribed by the Secretary of Agriculture for the protection of the wilderness character and consistent with the use of the land for the purposes for which they are leased, permitted, or licensed.

The Forest Service response is also guided by the following rulings:

- AIMMCO and Jim Collord located Golden Hand No's. 1-5 lode mining claims in 1979. In 1983, AIMMCO located Golden Hand No's. 6-8. Mr. Collord subsequently deeded his interest in claims No. 1-5 to AIMMCO. On December 31, 1983 the FC-RONR was withdrawn from entry under the mining law. Prior to any further mineral development activity on the claims a determination of the validity of the claims was required. Following a validity examination, a hearing before the Department of Interior- Office of Hearings and Appeals, and subsequent appeals by both parties, the

Interior Board of Land Appeals (IBLA) ruled in 1992 that the Golden Hand No's. 3 and 4 lode mining claims within the FC-RONR Wilderness were valid. Claim No. 8 is also valid because the government withdrew its contest against claim No. 8 in 1999. In summary, Golden Hand No's. 3, 4, and 8 lode mining claims have valid existing rights.

- On August 12, 2002, the U.S. District Court in Idaho ordered the Forest Service to complete the Environmental Impact Statement (EIS) on AIMMCO's proposed operating plan for Golden Hand No. 3 and No. 4 lode mining claims. That decision was signed on May 1, 2003 and was vacated on March 14, 2011. The court also directed that in regards to Golden Hand No. 1 and No. 2 lode mining claims "the Forest Service must recognize AIMMCO's right to prepare for (a) validity hearing, and allow work to that end, while requiring adherence to all applicable rules and regulations."

Other state and federal laws and regulations may apply to plans submitted under 36 CFR 228A, depending on the nature of the proposal and resources affected. Such laws include the Clean Water Act, Clean Air Act, Endangered Species Act, National Historic Preservation Act, and others. Forest Service planning direction also defines the purpose to be achieved by the Forest Service action.

AIMMCO has the legal right to develop the mineral resources on their Wilderness claims where valid existing rights have been established, and the Forest Service has the legal authority to manage those activities to minimize, where feasible, environmental impacts on surface resources, including Wilderness. AIMMCO's right to develop is limited to activities that are reasonably incident to mining and not needlessly destructive, and by the obligation to comply with applicable state and federal laws. The Forest Service's right to manage AIMMCO's activity is limited in that it may not deny a plan of operation for development of such resources provided that it is reasonably incident and not needlessly destructive, and complies with applicable federal mining laws and regulations, and applicable state and federal laws and regulations related to air, water, and solid waste.

The **Purpose** of the Forest Service in proposing this action is to minimize adverse environmental impacts to surface resources by regulating the functions, work, and activities connected with the miner's plan to remove locatable minerals from National Forest System lands. The compelling **Need** for the Forest Service to take this action is to comply with the legal requirements to respond to the claimant's reasonable Plan of Operations (36 CFR 228.4), and to ensure that "operations are conducted so as, where feasible, to minimize adverse environmental impacts on National Forest surface resources" (36 CFR 228.8).

1.6 Decisions to be Made

This Draft EIS does not document a decision. The purpose of this document is to disclose the effects and consequences of alternative strategies being considered in detail and solicit public input. Using comments received on this Draft EIS, a Final EIS will be developed. Based upon information disclosed in that Final EIS, its associated planning record, and public feedback, the Forest Supervisor (Responsible Official) will make a decision which will be documented in a Record of Decision (ROD).

Given the Purpose and Need, the deciding official will review the Proposed Action, the other Alternatives, and the environmental consequences of each to decide which of these alternatives most effectively minimizes adverse effects to surface resources consistent within the intent and constraints of regulations and the Forest Service Manual direction concerning such terms and conditions.

Based on the analysis documented in the Final EIS the Forest Supervisor will make decisions on this project. The decisions to be made include:

- ◆ Should the mining proponent be notified of changes or additions to the plan necessary to minimize, where feasible, adverse environmental impacts on National Forest surface resources?
- ◆ Should minor amendments to the Forest Plan be made at this time; and if so, what amendments?
- ◆ What monitoring should be applied to the project?

1.7 Forest Plan Direction Relative to the Project Area

This document is tiered to the 2003 Payette National Forest Land and Resource Management Plan, as amended (USDA 2003, 2010)(Forest Plan). Information from the Forest Plan, the Forest Plan amendments, the Final Environmental Impact Statement prepared in concert with that plan, and all associated appendices, have been referenced and incorporated into this document.

Chapter III of the Forest Plan describes management direction to guide Forest personnel to achieve desired outcomes and conditions for both land stewardship and public service. This direction is presented in two sections: (1) Forest-wide Management Direction, and (2) Management Area Description and Direction. The Forest-wide management direction provides general direction for all Forest resources and the foundation for more specific direction at the management area level. The management area description and direction describes these areas in detail, highlights resource areas of importance or concern, and prescribes specific management direction to address these concerns.

Activities within the various management areas are further directed by management prescription categories (MPCs), several of which may occur within any given management area. Management prescriptions are defined as, “Management practices and intensity selected and scheduled for application on a specific area to attain multiple use and other goals and objectives” (36 CFR 219.3). MPCs are broad categories of management prescriptions that indicate the general management emphasis prescribed for a given area.

The project area lies within Management Area 14 (Frank Church – River of No Return Wilderness), discussed on pages III-269 through III-274 in the Forest Plan and within Management Area 13 (Big Creek/Stibnite) discussed on pages III-257 through III-267. Several Management Prescription Categories (MPCs) apply within these Management Areas (MA). However, the Project Area only includes MPC 1.1, 3.2, and 4.1c (Figure 1-3). MPC 1.1 incorporates the Frank Church – River of No Return Wilderness Management Plan via a standard associated with the MPC.

1.7.1 MPC 1.1 – Existing Wilderness

This prescription applies to areas designated by Congress as Wilderness. The main management objective is preserving wilderness attributes, including natural appearance, ecological integrity, opportunities for solitude, opportunities for primitive recreation, and identified special features. The area is managed to allow ecological processes to prevail, with little or no evidence of human development. Current wilderness management plans and approved fire management plans provide specific direction for management activities.

1.7.2 MPC 3.2 – Active Restoration and Maintenance of Aquatic, Terrestrial and Hydrologic Resources

This prescription is designed to minimize temporary and short-term risks and avoid long-term risks from management actions to soil/hydrologic conditions and aquatic, botanical and terrestrial habitats. The objective of this prescription is to actively restore or maintain conditions for Threatened, Endangered, Proposed/Petitioned, Candidate, and Sensitive (TEPCS) fish, wildlife, and botanical species, or 303(d) impaired water bodies through a combination of management activities and natural processes. Management activities used to achieve this objective include watershed restoration, noxious weed treatments, and vegetative treatments that include prescribed fire, wildland fire use, and mechanical. Restoration is focused on those components of the ecosystem that are not functioning properly, or are outside the range of desired conditions, while maintenance helps to preserve those components that are functioning properly.

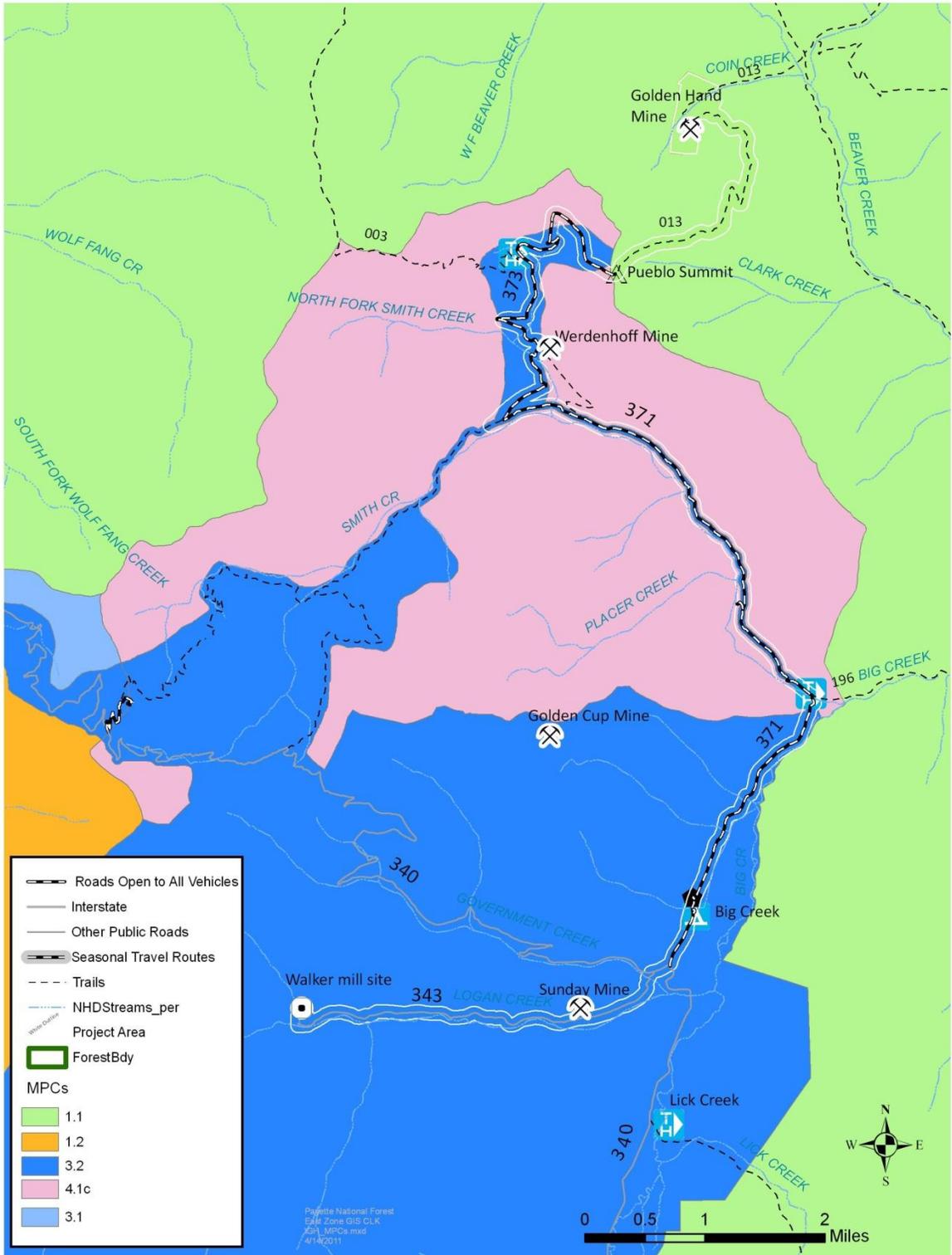


Figure 1-3 Management Prescription Categories

1.7.3 MPC 4.1c – Undeveloped Recreation: Maintain Unroaded Character with Allowance for Restoration Activities

This prescription applies to lands where dispersed recreation uses are the primary emphasis. Providing dispersed recreation opportunities in an unroaded landscape is the predominant objective. Both motorized and non-motorized recreation opportunities may be provided. Other resource uses are allowed to the extent that they do not compromise ROS settings. The area has a predominantly natural-appearing environment, with slight evidence of the sights and sounds of people. Species habitat and recreational uses are generally compatible, although recreation uses may be adjusted to protect TEPCS species.

1.7.4 Frank Church River of No Return Wilderness Management Plan

The FC-RONR Wilderness Management Plan (also referred to as the Wilderness Plan) provides management direction for each of the four National Forests (Bitterroot, Salmon-Challis, Nez Perce, and Payette) administering portions of the FC-RONR Wilderness. The Wilderness Plan direction for minerals states:

- “Use Forest Service Mineral Examiners to assess the proposed mineral development in determining:
- a. Status of the asserted rights of the claimant
 - b. That proposed methods of development are needed and reasonable and that the proposed operation is the next logical step in the orderly development of the mineral resources
 - c. Which alternative methods are possible and reasonable to minimize or mitigate impacts on surface resources” (USDA 2003, p. 2-44).

The Wilderness Plan includes standards for mineral access, “Reasonable access is allowed to valid mineral claims established before December 31, 1983. Such access is only for essential and exclusive use for the valid mining operations.” (USDA 2003, p. 2-43). Additionally, the Wilderness Plan states “Reasonable access will be located to have the least lasting impact in wilderness values. To accomplish this, the use of motorized access by ground or air to claims shall be authorized only when proven essential. Road, trail, bridge, or aircraft landing area construction or improvements is limited to those clearly identified as essential to the operation.” (USDA 2003, p 2-43).

1.8 Regulatory Requirements and Required Coordination

The Proposed Action was developed to respond to the claimant’s reasonable plan of operations (36 CFR 228.4), and to ensure that “operations are conducted so as, where feasible, to minimize adverse environmental impacts on National Forest surface.” Several of the design features presented in Chapter 2 were developed and incorporated to insure these requirements are met. The Interdisciplinary Team found Alternatives B and C to be consistent with federal legal requirements. Although all requirements would be met, the following summarizes the legal requirements and/or the results of the analysis for those concerns most often noted.

1.8.1 Central Idaho Wilderness Act (CIWA) and the Wilderness Act

The US Congress designated the FC-RONR Wilderness in 1980 with the passage of the CIWA. The CIWA mandated the development of a comprehensive wilderness management plan. The CIWA includes mining direction prohibitions for areas of the FC-RONR Wilderness but specific direction is provided in the Wilderness Act (US Congress 1964, 16 USC 1131-1136).

The Wilderness Act of 1964 (amended in 1978) was enacted by Congress to “secure for the American people, an enduring resource of wilderness for the enjoyment of present and future generations”. This act was passed “in order to ensure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition...”(Section 2 [a]). The Wilderness Act contains provisions for mining that include: “Mining locations lying within the boundaries of said wilderness areas shall be held and used solely for mining

or processing operations and uses reasonably incident hereto...subject to valid existing rights” (Section 4 [d-3]). Additional provisions in the Act and affects are described in the Minerals and Geology and Wilderness Resources section, Chapter 3.

1.8.2 Clean Water Act, The Federal Water Pollution Control Act of 1972 (PL 92-500) as amended in 1977 (PL 95-217) and 1987 (PL 100-4)

The objective of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (CWA), is to restore and maintain the chemical, physical, and biological integrity of the nation's waters by preventing point and nonpoint pollution sources. This Act establishes a non-degradation policy for all federally proposed projects to be accomplished through planning, application, and monitoring of Best Management Practices (BMPs) (Section 2.4.2.2, Section 2.4.3.2, and Section 2.4.4). Identification of BMPs is mandated by Section 319 of the Water Quality Act of 1987 (also referred to as the Clean Water Act), which states, “It is national policy that programs for the control of nonpoint sources of pollution be developed and implemented.” Additional information on BMPs is provided in Chapter 2 and the Watershed/Soils section, Chapter 3.

1.8.3 Endangered Species

The Endangered Species Act (ESA, 16 USC 35 §§1531 et seq. 1988) provides for the protection and conservation of threatened and endangered plants and animal species. All alternatives were assessed to determine their effects on threatened and endangered plant and animal species. The U.S. Fish and Wildlife Service (USFWS) provides a list of threatened, endangered, proposed, and candidate species to consider in project planning. The current list identifies two threatened wildlife species, Canada Lynx and Northern Idaho Ground Squirrel and three threatened fish species, Spring/Summer Chinook, Steelhead Trout, and Bull Trout (USFWS 2012). Additional information on effects determinations can be found in Chapter 2 and 3.

Consultation with the USFWS and National Oceanic and Administration (NOAA) is ongoing for threatened and endangered species and any effect determination would be preliminary until consultation is completed.

1.8.4 General Mining Law of 1872, as amended (30 USC 22, et seq.)

This law allows U.S. citizens the right to locate, explore, and develop mining claims on federal lands, such as National Forests, open to mineral entry. Additional information is provided in the Minerals and Geology section, Chapter 3.

1.8.5 Migratory Bird Treaty Act

The Migratory Bird Treaty Act decreed that all migratory birds and their parts (including eggs, nests, and feathers) were fully protected. Under the Act, taking, killing or possessing migratory birds is unlawful. The original intent was to put an end to the commercial trade in birds and their feathers that had wreaked havoc on the populations of many native bird species. On January 17, 2001, President William Clinton signed an executive order directing executive departments and agencies to take certain actions to further implement the Migratory Bird Treaty Act (FR Vol. 66, No.11, January 17, 2001).

Migratory birds occupy all source habitats found in the analysis area. If new requirements or direction result from subsequent interagency memorandums of understanding pursuant to Executive Order 13186, this project would be reevaluated to ensure that it is consistent.

1.8.6 National Forest Management Act (NFMA)

This Act guides development and revision of National Forest Land Management Plans and contains regulations that prescribe how land and resource management planning is to be conducted on NFS lands

to protect National Forest resources. The different alternatives for this project were developed to comply with NFMA, and represent varying degrees of resource protection.

1.8.7 National Historic Preservation Act

The National Historic Preservation Act (NHPA) of 1966 is the principle, guiding statute for the management of cultural resources on NFS lands. Section 106 of NHPA requires federal agencies to consider the effects of their activities and programs on historic properties. Historic properties are significant cultural resources that are included in or eligible for inclusion in the National Register of Historic Places. The criteria for National Register eligibility and procedures for implementing Section 106 of NHPA are outlined in the U.S. Code of Federal Regulations (36 CFR Parts 60 and 800, respectively).

1.8.8 Idaho Stream Channel Protection Act

In general terms, the Stream Channel Protection Act applies to any type of alteration work, including recreational dredge mining, done inside the ordinary high water marks of a continuously flowing stream.

A stream channel alteration is defined as any activity that will obstruct, diminish, destroy, alter, modify, relocate or change the natural existing shape or direction of water flow of any stream channel. This includes taking material out of the channel or placing material or structures in or across the channel where the potential exists to affect flow in the channel.

1.8.9 The Multiple Use Mining Act of July 23, 1955 (30 USC 611, *et seq.*)

The Act requires, among other things, that any unpatented mining claim "...shall not be used, prior to issuance of patent therefore, for any purpose other than prospecting, mining, or processing operations and uses reasonably incident thereto."

1.8.10 The Clean Air Act, as amended in 1990

The purpose of this Act is "...to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population; to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution; to provide technical and financial assistance to State and local governments in connection with the development and execution of their air pollution prevention and control programs; and to encourage and assist the development and operation of regional air pollution prevention and control programs."

1.8.11 American Indian Religious Freedom Act, Executive Order 12875, Executive Order 13007, Executive Order 13175, and Native American Graves Protection and Repatriation Act

The American Indian Religious Freedom Act, Public Law No. 95-341, 92 Stat. 469 (Aug. 11, 1978) (commonly abbreviated to AIRFA), is a United States federal law and a joint resolution of Congress that was passed in 1978. AIRFA was enacted to protect and preserve the traditional religious rights and cultural practices of American Indians, Eskimos, Aleuts, and native Hawaiians. Executive Order 13175 established a requirement for regular and meaningful consultation between federal and tribal government officials on federal policies that have tribal implications. Executive Order 12785 was enacted in order to reduce unfunded mandates upon State, local, and tribal governments; to streamline the application process for and increase the availability of waivers to State, local, and tribal governments; and to establish regular and meaningful consultation and collaboration with State, local, and tribal governments on Federal matters that significantly or uniquely affect their communities.

Executive Order 13007 was enacted in order to protect and preserve Indian religious practices. The Native American Graves Protection and Repatriation Act provides a process for museums and Federal agencies to return certain Native American cultural items, such as human remains, funerary objects, sacred objects, or objects of cultural patrimony, to lineal descendants, and culturally affiliated Indian tribes and Native Hawaiian organizations.

A proposal of the project was presented to tribe representatives at the April 8, 2010, June 10, 2010, and April 12, 2012 Wings and Roots Meeting. Individual scoping packages were also forwarded to representatives of the Shoshone-Bannock and Nez Perce Tribes in March of 2010. The project was presented to the Shoshone – Bannock Tribe in Fort Hall on June 22, 2011. The project was also presented at the Nez Perce Tribe and Payette National Forest Staff to Staff meeting on May 11, 2010 and June 7, 2012. Additional coordination with the Tribes will be conducted before a decision on this project is made to ensure that Tribes interests are considered.

1.8.12 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law created a tax on the chemical and petroleum industries and provided broad Federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment.

Nothing in this document or in the approval of a Plan of Operations by the USDA Forest Service authorizes or in any way permits a release or threat of a release of hazardous substances into the environment that will require a response action or result in the incurrence of response costs. All designs, monitoring plans, and analyses required by the Plan of Operations are subject to the requirement of 36 CFR 228.8 that mining operations be conducted so as, where feasible, to minimize adverse environmental impacts on National Forest surface resources. However, the operator's compliance with such requirement in no way insulates or releases it from any liability or obligations which may arise with respect to its operations under any applicable environmental law, including but not limited to the CERCLA, 42 U.S.C. 9601 et seq. The United States reserves its rights and claims under CERCLA to seek performance of response actions and/or reimbursement of response costs that may be incurred as a result of any release or threat of a release of a hazardous substance, or any ancillary operation for the confirmation activity.

1.9 Public Involvement and Consultation

1.9.1 Public Involvement

Public involvement has been extensive throughout the planning and analysis process leading to this document. Formal planning for this project was initiated on November 21, 2008 with a Notice of Intent to prepare an Environmental Impact Statement (EIS) appearing in the Federal Register.

A Notice of Intent to prepare an EIS was published in the *Federal Register* (November 21, 2008), a scoping package describing the Proposed Action was mailed to more than 300 individuals, agencies, and/or groups on March 16, 2010. In response to these scoping efforts more than 20,500 oral and written comments were received.

Commenters voiced a variety of concerns including, but not limited to, potential adverse impacts on wildlife and wildlife habitat, proper bonding levels, season of operation, minimum tools needed to accomplish the project, public access, affects to historic properties, approval of off-claim drill pads, and contaminants. The planning record contains all written comments received relative to this project and discloses how the Interdisciplinary Team addressed those concerns.

1.9.2 Consultation Processes

On January 27, 2011, the conceptual idea of this project was discussed by representatives of the U.S. Forest Service, U.S. Fish and Wildlife Service, and NOAA Fisheries at a scheduled Level 1 Meeting. Follow-up meetings have been held at scheduled Level 1 Meetings on March 8, 2011, November 30, 2011, and February 22, 2012. In addition, scoping letters addressed specifically to the U.S. Fish and Wildlife Service and NOAA Fisheries representatives were mailed on March 16, 2010 soliciting comments on the Proposed Action.

A proposal of the project was presented to tribe representatives at the April 8, 2010, June 10, 2010, and April 12, 2012 Wings and Roots Meeting. Individual scoping packages were also forwarded to representatives of the Shoshone-Bannock and Nez Perce Tribes, as well as the Valley County and Idaho County Commissioners in March of 2010. The project was presented to the Shoshone – Bannock Tribe in Fort Hall on June 22, 2011. The project was also presented at the Nez Perce Tribe and Payette National Forest Staff to Staff meeting on May 11, 2010.

1.10 Issues and Concerns

Identification of issues included review of written and verbal comments, input from Forest Service resource specialists, review of the Forest Plan, and comments from state and other federal agencies. Comments identified during scoping were evaluated against the following criteria to determine whether or not the issue would be a major factor in the analysis process.

- ◆ Has the concern been addressed in a previous site-specific analysis, such as in a previous Environmental Impact Statement or through legislative action?
- ◆ Is the concern relevant to and within the scope of the decision being made and does it pertain directly to the Proposed Action?
- ◆ Can the concern be resolved through mitigation (avoiding, minimizing, rectifying, reducing or eliminating, or compensating for the proposed impact) in all alternatives?
- ◆ Can the issue be resolved through project design in all alternatives?

1.10.1 Issues

The Responsible Official identified three issues. These issues are points of unresolved conflict with the Proposed Action (Alternative B) identified during internal and external scoping efforts. Issues are used in environmental analysis to formulate alternatives, prescribe mitigation measures, and focus the analysis of environmental effects. Summaries of detailed analyses associated with these issues are presented in Chapter 3 of this document. Following each issue, indicators are listed for use in comparing how the different alternatives affect that issue.

1.10.1.1 Wilderness Character

Activities associated with the Proposed Action could result in a degradation of wilderness character.

Indicators:

- ◆ Would Activities Adversely Affect Natural Integrity?
- ◆ Would Activities Adversely Affect Untrammelled Condition?
- ◆ Would Activities Adversely Affect Solitude?
- ◆ Would Activities Adversely Affect Primitive Recreation?
- ◆ Authorized Use of Penn Ida for Storage?
- ◆ Number of Annual Authorized Motorized Trips into The FC-RONR Wilderness Expected During 100 Day Operating Season.
- ◆ Authorized Use of the Golden Hand Bunkhouse for Office Space.

1.10.1.2 Scenic Environment

Activities associated with the Proposed Action could result in undesirable impacts to the scenic environment.

Indicators:

- ◆ Would Activities Comply with Visual Quality Objectives (VQOs) Standards?
- ◆ Would Activities Allow the Use of the Golden Hand Bunkhouse within the FC-RONR Wilderness?

1.10.1.3 Water, Soil, and Fisheries

Activities associated with the Proposed Action could result in undesirable impacts to soil, water, and fishery resources.

Indicators:

- ◆ Modeled Interstitial Sediment Delivery (Pounds)
- ◆ Would Activities Result in Changes to Peak/Base Flow?
- ◆ Number of Annual Authorized Motorized Trips into The FC-RONR Wilderness Expected During 100 Day Operating Season.

1.10.2 Concerns

The Responsible Official reviewed other concerns raised during scoping. These concerns were valuable, but they did not raise unresolved conflicts. Numerous concerns were raised during internal and external scoping processes.

In addition to concerns raised by the public during scoping, the IDT identified concerns. As a result several of these internal and external concerns were addressed through analysis or project design features in this DEIS. The concerns include minerals and geology, soil, wildlife, Idaho roadless areas, botanical, noxious weeds, air quality, cultural, and recreation (ROS). Summaries of these detailed analyses are presented in Chapter 3 of this document.

Scoping comments received and the Forest Service response to those comments are contained in the project record.

1.11 Document Organization

This document is tiered to the Final EIS supporting the Record of Decision for the 2003 Forest Plan. Documented analyses in the Forest Plan Final EIS have been referenced rather than repeated in some instances. Detailed information that supports the analyses presented in this document, unless specifically noted otherwise, is contained in the project planning record located at the Krassel Ranger District Office.

Analyses pertaining to the Final EIS for the 2003 Forest Plan as amended in 2003 and 2010 are contained in the forest planning record located at the Forest Supervisor's Office in McCall Idaho.

This document consists of the following main chapters:

- ◆ **Chapter 1 - Purpose and Need:** Describes the Proposed Action, need and purpose of the action, decisions to be made, Forest Plan direction, regulatory requirements and required coordination, public involvement, and identification of issues.
- ◆ **Chapter 2 - Alternatives:** Includes design features common to all action alternatives, descriptions of the alternatives considered in detail, alternatives considered but eliminated from detailed study, and a comparative summary of the environmental consequences, activities, and outputs.
- ◆ **Chapter 3 - Affected Environment and Environmental Consequences:** Describes the existing conditions of the resources within the analysis area and the environmental impacts of the alternatives on those resources.
- ◆ **Chapter 4 - Consultation and Coordination:** Provides a list of the primary preparers of this document; a summary of the scoping and public involvement efforts; and; a list of agencies, organizations, and persons to whom copies of the EIS have been sent.
- ◆ **Appendix A – Cumulative Effects**
- ◆ **Appendix B – Watershed Condition Indicators**
- ◆ **Appendix C - Monitoring**