Preliminary Decision Memo

Golden Eagle Mine Head Frame Replacement

USDA, Forest Service
Okanogan-Wenatchee National Forest
Cle Elum Ranger District
Kittitas County, Washington
South ½ Sec. 19, T. 21 N., R.18 E., W.M.

Background

The operator of the Golden Eagle mining claim has requested authorization to replace a deteriorating head frame on a partially collapsed vertical shaft. The Forest Service is required to respond to this proposal and authorize the work, adding any reasonable measures to ensure consistency with Forest Plan standards and guidelines.

The mine is located in a small forest opening with sparse ground cover, on a southwest-facing slope above Forest Service Rd 9718-000. An intermittent stream is located below (west of) this system road.

The mine site is accessed via FS Rd 9712123 (a level 1 “closed road”), and a spur road created by previous miners.

The mine is located in the Swauk Late Successional Reserve (LSR). Under the Northwest Forest Plan, as established by the Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents within the Range of the Northern Spotted Owl (USDA and USDI 1994, hereafter referred to as the “NWFP ROD 1994”), LSRs are managed for the creation and maintenance of late successional forest habitats. Direction for mining in LSRs is to minimize impacts to late successional habitats (NWFP ROD 1994 page x).

The Project Area does not encompass any streams, seeps, water bodies, or Riparian Reserves.

Under the Wenatchee Land and Resource Management Plan (USDA 1990), the mine is located in the Scenic Travel – Partial Retention (ST-2) management allocation.

The Project Area is located at a 4200-ft elevation, in Cougar Gulch drainage of Swauk Creek subwatershed, in the Taneum Creek-Yakima River watershed (HUC10 1703000105).

Decision

I have decided to authorize the miner’s request, as shown on the attached map and described below.

The miner will utilize a rubber tired backhoe (CAT 302.5) to remove old timbers and clean out fallen rock from the collapsed shaft. Fallen rock will either be stockpiled by the head reframe, or if suitably-sized, spread on the old access road. If needed, one tree on the edge of the shaft may be felled to ensure safe operation of equipment. This felled tree may be utilized for mine timbers, but would otherwise be left on site to meet down wood retention standards for LSR. New shoring (the felled tree and/or purchased lumber) and a new locking cover will be installed on the shaft. Estimated duration of work is approximately 4 days, in summer 2012.

Required Mitigations

Measure to Prevent Erosion, Rutting, and Sediment Delivery to the Intermittent Stream

The miner will install and maintain waterbars on the user-built access road, to prevent erosion, rutting, and sediment delivery.
Measures for Prevention and Control of Invasive Plants

The 2005 Record of Decision for Preventing and Managing Invasive Plants (“Invasives ROD 2005”) amended the 1990 Forest Plan, and established standards for the prevention and control of invasive plants. Applicable Forest Plan standards and Best Management Practices from Okanogan-Wenatchee National Forest Weed Management & Prevention Strategy & Best Management Practices are as follows:

1. All mud, dirt, and plant parts will be removed from all heavy equipment prior to entering National Forest System Lands (BMP and Invasives ROD 2005, Standard 2)
2. Forest personnel who visit this mine site will inspect, remove, and properly dispose of weed seed and plant parts on their clothing, equipment, and vehicles. (Invasives ROD 2005, Standard 2)

Consultation and Public Involvement

The Confederated Tribes of the Colville Reservation and the Yakama Nation were both contacted by letter on x regarding proposed mining on the Golden Eagle claim. Tribal response: pending.

The proposal was also listed in the Schedule of Proposed Actions from x until x. Scoping letters were mailed on x to Kittitas County Commissioners and members of the public who have expressed interest in projects on the Cle Elum Ranger District. Kittitas County response: pending. Public response: pending.

Findings

Finding of No Extraordinary Circumstances

This action is categorically excluded from documentation in an environmental impact statement or an environmental assessment under 36 CFR 220.6(c)(8): Short-term (1 year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than 1 mile of low standard road, or use and minor repair of existing roads.

Categorical exclusion of this action is appropriate because there are no extraordinary circumstances that may significantly affect the environment. This finding is based on the following:

- A joint Biological Assessment (BA) / Biological Evaluation (BE) dated x determined that this project would not affect habitat for any listed species, but because of a potential for brief, localized disturbance during operation of chainsaws and heavy equipment, it may affect but would not likely adversely affect northern spotted owl, grizzly bear, and gray wolf. The project would not affect Canada lynx or marbled murrelet. The U.S. Fish and Wildlife Service concurred with these findings in a letter dated x.
- No habitat would be impacted for any Forest Service Sensitive species, but again because of the potential for brief and localized disturbance, the Project may impact but would not likely adversely impact two Sensitive species that potentially occur here—California wolverine and Pacific fisher. There would be no population level impacts, however, to either species.
- The Project Area encompasses designated critical habitat for spotted owls (USDI 2008), but because of the mine’s location in a natural forest opening (with one isolated tree next to the adit), proposed mining activities would have no effect on critical habitat.
- With the provision to install and maintain waterbars on the access road, the project would not impact a fish-bearing stream downslope from the mine. The Project would not affect federally listed or Forest Service Sensitive fish.
- The Project would not result in new ground disturbance, and therefore would not affect federally listed or Forest Service Sensitive plants. There are no known sites in or near the Project Area.
- Projects within the range of the northern spotted owl are subject to the Survey and Manage standards and guidelines in the Record of Decision for Amendments to the Survey and Manage, Protection, Buffer, and other Mitigation Measures Standards and Guidelines in Forest
Service and Bureau of Land management Planning Documents within the Range of the Northern Spotted Owl January 2001 (USDA and USDI 2001, hereafter referred to as the “Survey and Manage ROD 2001”), as modified by the 2011 Settlement Agreement in Conservation Northwest et al. v. Sherman et al. (a case that went before the U.S. District Court for the Western District of Washington). This project would not result in new ground disturbance, and the Project Area does not encompass habitat for any of the vascular plants, fungi, lichens, bryophytes, vertebrates, or mollusks listed in the 2001 Survey and Manage ROD. Pre-disturbance surveys were not required and were not conducted for this project. There are no known Survey and Manage sites in or near the Project Area.

- There are no floodplains, municipal watersheds, or mapped wetlands in the Project Area.
- The Project Area does not encompass congressionally designated areas (wilderness, wilderness study areas, and inventoried roadless areas).
- There are no Research Natural Areas in the Project Area.
- Based on consultation with American Indian Tribes, no American Indian cultural or religious sites would be affected by project activities.
- Based on cultural resource surveys, no archaeological sites or historic properties would be affected by project activities.
- No Alaska Native religious or cultural sites are present in the project area.

Findings Required by Other Laws
The project is consistent with the National Environmental Policy Act, based on the interdisciplinary analysis of resource impacts in the Project Record, and on preparation of this Decision Memo and Finding of No Significant Impact.

As required by the National Forest Management Act (NFMA), all project activities are consistent with the 1990 Forest Plan, as amended by the NWFP ROD 1994, the Survey and Manage ROD 2001, and the Invasives ROD 2005. Planned mitigations ensure consistency with FS manual direction and all Forest Plan standards and guidelines, as follows:

- The project will not result in new ground disturbance. With required mitigation to install and maintain water bars on the access road, the Project is consistent with all amended Forest Plan standards and guidelines for protection of soils, and BMPs to prevent erosion.
- With required mitigation to install and maintain waterbars on the access road, the Project will not retard or prevent attainment of Aquatic Conservation Strategy (ACS) objectives under the Northwest Forest Plan, and is consistent with Forest Plan standards for protection of water quality and hydrologic functions. This mitigation also ensures consistency with the Clean Water Act.
- The Project Area does not encompass floodplains or wetlands and will not impact these features.
- The Project will not result in new ground disturbance but does entail use of heavy equipment. Required mitigations for prevention and control of invasive plants ensure consistency with all applicable standards of the 2005 Invasives ROD.
- The Project applies the Survey and Manage species list in the 2001 Survey and Manage ROD. Because there is no habitat present in the Project Area for any of the listed Survey and Manage species, and because the project will not result in new ground disturbance, pre-disturbance surveys were not required and were not conducted. The project meets the provisions of the Survey and Manage ROD 2001, as modified by the 2011 Settlement Agreement.
- The Project may impact but would not likely adversely impact two Forest Service Sensitive species that potentially occur here—California wolverine and Pacific fisher. It
will not impact any other sensitive species. Impacts to fisher and wolverine would stem only from brief, localized disturbance that would not lead to population level impacts. Because the project would not result in downward population trends that would lead to federal listing of wolverine or fisher under the Endangered Species Act, it is consistent with Forest Service Manual (FSM) 2670 direction for management of Sensitive species.

The project is consistent with General Mining Law of 1872 as amended (30 U.S.C. 21-54), because it will allow the operator to continue with lawful mineral explorations on National Forest System lands.

The project is consistent with the Endangered Species Act, because a BA was prepared, and informal section 7 consultation with the U.S. Fish and Wildlife Service (FWS) was completed on [date]. The BA determined (and FWS concurred) that proposed mining activities may affect but would not likely adversely northern spotted owl, grizzly bear, and gray wolf, due only to a small and discountable risk of disturbance associated with operation of a chainsaw and heavy equipment. This project is within designated critical habitat for northern spotted owl (USDI 2008), but mining activities would not affect this habitat.

The BA also determined that the project was consistent with the Grizzly Bear Recovery Plan Supplement: North Cascades Ecosystem Recovery Chapter (USDI 1997). It would not result in loss of core area for grizzly bears within the North Cascades Grizzly Bear Recovery Zone.

Project activities would not affect fish-bearing streams, and therefore would not affect threatened or endangered fish.

With required mitigation to prevent and control invasive species, the Project is consistent with Executive Order 13112 for prevention and control of invasive species.

The Project Area does not encompass floodplains and wetlands, therefore proposed mining activities are consistent with Executive Order 11988 (protection of floodplains), and Executive Order 11990 (protection of wetlands).

The project is consistent with the National Historic Preservation Act, because field surveys did not locate any archaeological or historic sites within the Project Area.

The Project Area does not encompass Inventoried Roadless Areas, and is therefore consistent with the 2001 Roadless Area Conservation Rule.

Opportunity to Comment

Due to the March 19, 2012 judicial ruling by the U.S. District Court for the Eastern District of California (Sequoia ForestKeeper v. Tidwell, Civil Case No. CV F 11-679 LJO DLB), projects categorically excluded from documentation in an Environmental Assessment or Environmental Impact Statement are now subject to notice, comment and appeal procedures under 36 CFR 215.6(a). To conform to the court’s ruling, the Cle Elum Ranger District provided notice of the 30-day opportunity to comment with the initial scoping letter for this project. The comment period was initiated by publication of a Legal Notice of Opportunity to Comment in the Ellensburg Daily Record (newspaper of record) on [date], and ended on [date]. X individuals and x organizations submitted written, electronic, and/or oral comments about this project during the comment period.

How Comments were Considered in the Decision

[deliberately left blank, to be filled in after comment period].
Opportunity to Appeal

This decision is subject to administrative appeal under 26 CFR 215. Only those individuals or organizations who submitted comments during the comment period specified at 26 CFR 215.6 may appeal this decision. The notice of appeal must meet the appeal content requirements at 36 CFR 215.14. Appeals must be submitted in writing, in one of the following ways:

- By U.S. mail, hand-delivery, or express delivery to:
  Forest Supervisor, c/o Ann Fink,
  Okanogan-Wenatchee National Forest,
  215 Melody Lane
  Wenatchee, WA 98801

- By FAX to Forest Supervisor, Okanogan-Wenatchee National Forest, (509)-664-9289

- By electronic mail (email) to appeals-pacificnorthwest-okanogan-wenatchee@fs.fed.us

The business hours for those submitting hand-delivered appeals are 7:45am to 4:30pm, Monday through Friday, excluding holidays. Electronic appeals must be submitted to the email address above in one of the following formats: as part of an email message, or as an attachment in portable document format (.pdf), rich text format (.rtf), or Microsoft Word (.doc or .docx). Electronic appeals submitted in other formats, or containing viruses, will not be considered. In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification.

Appeals, including attachments, must be filed within 45 days from the publication date of the legal notice of this decision in the Ellensburg Daily Record, the newspaper of record. The publication date in the Ellensburg Daily Record is the exclusive means for calculating the time in which to file an appeal. It is the responsibility of all individuals and organizations to ensure that their appeals are received in a timely manner. For an electronically mailed appeal, the sender should normally receive an automated electronic acknowledgement from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgement of the receipt of the appeal, it is the sender’s responsibility to ensure timely receipt by other means. Appeals or attachments postmarked or hand delivered after the 45-day appeal period will be not considered.

Implementation Date

If no comments are filed, or only positive comments are filed, then implementation of this project may proceed immediately following after the final decision.

If other comments are filed, then a 45-day appeal period will ensue. If no appeals are filed within the 45-day appeal period, implementation of the decision may occur on, but not before, 5 business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before the 15th business day following the date of the last appeal disposition.

Contact Person
For additional information concerning the Golden Eagle Mine Head frame Replacement Project, contact JoAnne Homuth, Minerals Administration (509-852-1031), at the Cle Elum Ranger District, 803 West Second St., Cle Elum, WA 98922.

JUDY E. HALLISEY
District Ranger