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### Concerned Citizens

On May 28, 2006 and again on June 8, 2006, the Forest Service published a notice of availability of an Engineering Evaluation/Cost Analysis (EE/CA) J.R. Simplot Company (Simplot) prepared to evaluate potential hazardous substance removal actions at the Smoky Canyon Phosphate Mine (Site), under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). As indicated in the EE/CA, a primary area of concern at the site is the 30 million cubic yard Pole Canyon Overburden Disposal Area (ODA). The Forest Service preferred alternative identified for the ODA includes diversion of Pole Canyon Creek around the ODA, an infiltration gallery, and installation of run-on controls. Implementation of this action is expected to produce an immediate improvement in both surface and groundwater quality in Sage Valley and downstream in Crow Creek.

During the public comment period, which ended July 24, 2006, the Forest Service received over 52,000, mostly e-mail, comments from people across the country. Most expressed concern that the alternatives listed in the EE/CA were not sufficiently comprehensive, but rather provided a partial solution to the hazardous substance problem at the site. The Forest Service agrees that the proposed removal action will only partially address hazardous substance releases at the Site. However, the Forest Service expects the diversion to complement future comprehensive actions selected after additional study and testing to evaluate feasibility and effectiveness.

The Forest Service regrets that some people misunderstood the presentation of the EE/CA. The Forest Service initially contemplated that this document would provide a comprehensive cleanup plan. However, upon review of the draft EE/CA, the Forest Service determined that further work was needed before selecting CERCLA response actions at the site, with the notable exception of the Pole Canyon ODA water diversion. Thus, the Forest Service has accepted the Simplot EE/CA as a final EE/CA only for the purpose of evaluating and selecting a non-time-critical removal action related to the diversion of water from the Pole Canyon ODA. As discussed above, further analysis is required before the selection of additional response actions. This selection process will include additional opportunities for public involvement.

In accordance with CERCLA guidance, the Forest Service often uses CERCLA removal authority at contaminated sites where there is an immediate need to achieve quick results that are protective of human health and the environment. Since removal actions are intended to address an immediate need, sites often require further analysis and response to achieve a final comprehensive cleanup. Remedial actions are designed to provide this more comprehensive response. When the release of hazardous substances from the Smoky Canyon and other phosphate mines was discovered, the Forest Service assumed that the needed response would be relatively straightforward, and proceeded using its removal authority. However, as investigation work has revealed highly complex contamination issues at the site, the Forest Service determined that a transition to a comprehensive cleanup plan through the CERCLA remedial process is appropriate. The transition from the removal to the remedial process under these circumstances is specifically contemplated in the regulations implementing CERCLA. 40 C.F.R. 300.415(g).



The Smoky Canyon Phosphate Mine is large and the issues associated with the contamination at the Site are complex. The proposed action will only address, in part, contamination associated with the Pole Canyon ODA. The Forest Service intends to conduct a remedial investigation and feasibility study (RI/FS) to ascertain what additional response actions are appropriate for the Site, as a whole. It is also the Forest Service's intent to negotiate an agreement with Simplot, where Simplot would conduct the additional work (the RI/FS) needed to select a comprehensive remedial action at the Site. The Forest Service's intent is to expand the existing draft Engineering Evaluation/Cost Analysis and to evaluate, comprehensive site-wide remedies. It is the Forest Service's objective that the resulting RI/FS document will meet the requirements for evaluating and selecting remedial actions, as provided by CERCLA and its implementing regulations, the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. Part 300..

Diverting Pole Canyon Creek around the Pole Canyon ODA, an evident contaminant source, can be addressed in a relatively straight-forward manner through a removal action, prior to selecting other, site-wide remedies. Our ability to quickly reduce the selenium contamination at the Pole Canyon ODA is complicated by the relatively short field season available for construction activities at the mine. The Forest Service recognizes that requiring Simplot to modify its draft EE/CA to address only the Pole Canyon ODA would have allowed the public to better focus on the removal action proposed, without the distraction of other possible response actions which require further development and analysis. Because it is important to begin reducing selenium contamination from the Pole Canyon ODA, as soon as possible, the Forest Service chose to move forward to retain the opportunity to initiate the diversion during the 2006 field season. The RI/FS will evaluate additional actions to be taken at the Pole Canyon ODA, as well as the rest of the site.

As intended by CERCLA and the NCP, the Forest Service will continue to integrate removal and remedial processes at cleanup sites to achieve protective results as efficiently as possible. Even when the remedial process is used to address complex contamination issues, it is appropriate to use removal authority to address areas where an immediate response is needed. Future CERCLA response actions at the phosphate mines may include removal actions and/or remedial actions.

The Forest Service will strive to provide the public with an opportunity for meaningful participation in the CERCLA process at the Smoky Canyon Mine Site and other phosphate mines in southeast Idaho, where the Forest Service is the lead response agency. The Forest Service understands the importance of public involvement in the CERCLA process. The Forest Service recognizes the high level of public interest, as evidenced by the 52,000+ comments received, in the CERCLA responses at the Smoky Canyon Mine Site and other phosphate mines in southeast Idaho.

Sincerely,



JEFFREY L. JONES  
Remedial Project Manager/On-Scene Coordinator

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