

## MEMORANDUM

**TO:** Mr. Steve Kozel, U.S. Forest Service  
Ms. Jeanette Timm, U.S. Forest Service

**CC:** Mr. Bruce Harlan, Newmont Mining Corp.

**FROM:** Ms. Michele Lefebvre, Enviroscientists, Inc.

**DATE:** December 22, 2008, revised January 27, 2009

**SUBJECT:** Summary of Public Comments on the Draft Sundance Exploration Project EA

The purpose of this memorandum is to summarize the 14 public comments received on the Draft Newmont Mining Corp.'s (NMC) Sundance Exploration Project (Project) Environmental Assessment (EA). The comments have been reviewed and the table includes a column regarding how each comment will be addressed in the National Environmental Policy Act (NEPA) process for the Project.

Two of the 14 comment letters were identical to others. These letters have been grouped together. Therefore, there are 12 separate comment letters that have been labeled A through J and are presented below.

### List of Letters

A = Jeff Moberg, Bearlodge Snowmobile Association, December 1, 2008  
B = Nancy Hilding, Prairie Hills Audubon Society, November 30, 2008  
C = Wayne Prindle, Biodiversity Conservation Alliance, December 3, 2008 (and an identical letter from Bonnie Gestring, Earthworks, December 5, 2008)  
D = John Emmerich, Wyoming Game and Fish Department, November 25, 2008  
E = Nancy Hilding, Prairie Hills Audubon Society, December 5, 2008  
F = Nancy Hilding, Prairie Hills Audubon Society, December 5, 2008  
G = Brian Kelly, United States Department of the Interior Fish and Wildlife Service, December 5, 2008  
H = Les Heiserman, December 5, 2008  
I = Kelly Dennis, Crook County Land Use Planning & Zoning Commission, December 2, 2008 (and an identical letter from Harold Burch, Crook County Board of Commissioners, December 4, 2008)  
J = Donald McKenzie, Wyoming Department of Environmental Quality, Land Quality Division, December 2, 2008  
K = John Etchepare, Wyoming Department of Agriculture, November 25, 2008  
J = Alan J. Ver Ploeg, Wyoming State Geological Survey, November 18, 2008

Letter	Comment Number	Comment Summary	How Comment Will Be Addressed
A	1	Any decisions made regarding the project which do not specifically address the December 15 road closure could obviously have a detrimental impact on traditional snowmobile and related winter recreation across the Bearlodge trail system and we strongly support and appreciate the added language within alternative 2 which maintains the closure.	Alternative 2, Section 2.2.1 of the EA states on page 2-16 that Project activities would be restricted between December 15 and March 31 for winter recreation activities.
A	2	We do have one area of concern regarding the language included in alternative 2 which states: "...At the USFS District Ranger's discretion, an authorization may be issued to continue exploration activities if sufficient snowfall for winter activities has not been received by December 15." We would ask that the District Ranger give significant consideration to such decisions including, if possible, working in concert with representatives of our club and/or the Wyoming State Trails program prior to authorizing any activities in the area.	Comment noted.
A	3	We fully understand that snow levels may not be adequate to support winter recreation at any given point early in the season and we understand it may be reasonable to allow certain activity during that period under specific circumstances. However, we also realize snow pack can quickly build in the area and is often difficult to forecast. Should work be allowed to continue beyond the December closure, it is certainly foreseeable that equipment could easily become stranded due to unexpected snowfall, necessitating plowing or other measures for retrieval. Obviously plowing or otherwise compromising snow cover on primary trails could effectively adversely affect the entire system for a significant timeframe, particularly in low-snow years.	Comment noted.
B	1	As I remember it, there was once fine scale dace in Ogden Creek. Was that true and are they (dace) still there. It's a Wyoming species of concern – it's on their version of the state T and E list.	Potential impacts to finescale dace are discussed in Section 3.11.1.2 on page 3-49, and 3-63 through 3-65 as well as the BE/BA and wildlife report.
B	2	As I remember it there are thorium deposits up there and thorium is radioactive. The thorium deposits can occur in blue rock resembling turquoise. Also there was a nuclear reactor at Warren Peak once, that was I think removed, but lots of old nuclear facilities leak radiation. I don't see any section on radioactivity either impacts from mining exploration or existence on the land. Is it there in text and I am missing it?	<p>The Warren Peak PM-1 site is protected from mineral entry, P.L. 0.3078 and has a restrictive notice of a ½ mile radius to preclude mining and the use of explosives. In addition, the Forest Service issued an executive order to prohibit the use of explosives around the site. With these protective measures, no impacts to the site would occur.</p> <p>Although thorium occurs naturally in the Project area, there are no quantifiable data on existing levels of radiation due to the presence of thorium in the Project area or</p>

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			regarding radiation levels and public safety. The State of Wyoming has regulatory authority over the management of radioactive materials; therefore, any such issues would be handled by the State of Wyoming's Department of Environmental Quality.
C	1	Various bird species identified to inhabit the area should be monitored and potential/actual nest locations should be flagged and avoided. Reynolds (1983) stated that uncut nest buffers of at least 8 ha should be preserved around goshawk nest sites. Such species as goshawk, flammulated owl, black backed woodpecker, three toed wood pecker, sharp-shinned hawk, cooper's hawk, broad-winged hawk, northern saw-whet, black warbler, and white warbler are sensitive to disturbance. Management Indicator Species (MIS) such as brown creeper and black backed woodpecker should be monitored to gauge the health of the forest system, simply avoiding a nest when it is encountered while in active exploration phase does nothing to help protect various bird species that do not tolerate disturbance. The minimum buffer of a ½ mile mentioned in the EA should be required around goshawk nest sites, and snag habitat should be cut as a last resort only in matters of safety.	Wildlife species analyzed in the EA, BE/BA, and wildlife report were identified in the Black Hills Forest Plan. Based on Forest Plan direction, goshawks are the only species that require a no disturbance area around the nest. The buffer for goshawk nest sites is included as a design feature for Alternative 2 of the EA in Section 2.2.2 is based on the buffer size outlined in the Forest Plan. The design feature for snag removal, page 2-15 of the EA, was identified for safety concerns.
C	2	Compliance standards in accordance with 36 CFR 228.8 (a-g) in reclamation of sites and site conditions should be strictly followed.	All applicable regulations as identified in Section 2.1.8.1 beginning on page 2-7 and 2.1.7 beginning on page 2-6 will be followed.
C	3	Phased exploration over a time table of 4 years with up to a total of 200 acres of surface disturbance at any one time should be followed, and before future exploration is started the first phase of exploration should be fully reclaimed. This is a reasonable alternative and should be fully considered in detail, then implemented because phased development done correctly in this case would have a lesser impact on the landscape.	This alternative is being considered under Alternative 2. An annual accomplishment is being requested to track the disturbance and ensure areas are properly reclaimed. See design feature on page 2-11.
C	4	Potential drill sites in perennial drainages must be avoided.	In Section 2.1.1 of the EA, the Proposed Action states that the Project would avoid drill site construction within perennial drainages (i.e., stream and creek beds) whenever feasible.
C	5	All potential water quality impacts that would violate the Clean Water Act must be mitigated and appropriate permits should be in place. There should be a complete evaluation done of this in the NEPA analysis.	In Section 3.11.1.2 on page 3-61, the EA states that all water sources and their associated riparian areas are protected under the Clean Water Act. Design features on page 2-13 of the EA were created to address protection to water quality and Appendix D was added to address the Watershed Conservation Practices that will be utilized

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			to protect water quality.
C	6	All required permits to conduct the planned exploration activities as well as reclamation of surface disturbance should be acquired from the State of Wyoming.	One alternative did consider the required permits from the State of Wyoming, page 2-11. The State of Wyoming does regulate plugging and abandonment of drill holes, which is included in the EA, page 2-8. All other reclamation of surface disturbance is regulated by the land management agency and addressed in Section 2.1.7, page 2-6 of the EA.
C	7	Bulk sampling and suction dredging should be avoided because of the increased ecological footprint on the landscape.	Dredging is not part of the Proposed Action. Bulk sampling, if conducted, could occur from trenches. Trenching is a known activity that has been conducted in the vicinity before and is analyzed in Section 3 of the EA.
C	8	Avoidance of wetland and riparian areas is recommended due to potential impacts on species such as the black hill red-belly snake, Cooper's mountain snail, finescale dace, mountain sucker, and Bear Lodge meadow jumping mouse a rare species of the Black Hills. An important MIS in the black hills is beaver and potential habitat should be avoided.	In the EA Sections 2.1.8.6 on page 2-8, both Alternatives 1 and 2 state that wetlands and riparian areas would be avoided in order to reduce potential impacts on special status species. These species were analyzed in the BA/BE, wildlife specialist report, and/or the wildlife section of the EA, page 3-40.
C	9	Air quality including the control of fugitive dust should be remedied by requiring decreasing speed of vehicles and spraying the roads in highly dry areas with non-potable water.	The environmental protection measures outlined in the EA (Section 2.1.8) on page 2-7 state that dust from the use of existing roads would be minimized by using BMPs and prudent speed limits (15 miles per hour).
C	10	The cutting of snag habitat should be cleared with the appropriate Forest Service official in case the snag has an identified sensitive species. Snags over 20 inches should be cut as a last resort only for safety reasons. But in the event the snag can be temporarily brace and the exploration path averted, this option should be considered first.	The design features in Alternative 2 of the EA (Section 2.2.2) on page 2-15 state that snags would be marked before cutting. The Forest Service would be notified prior to the cutting of snags in order to inspect the snag and determine if an alternate route or drill location may be utilized.
C	11	Alternative 2 with design features should be in full compliance with the goals of the Phase II amendment of the Black Hills National Forest Management Plan. The National Forest Management Act (NFMA) requires that forest management actions comply with land and resource management plans, 16 USC § 1604(i), making it clear that plans must in turn demonstrate and ensure compliance with the substantive provisions of the NFMA. Taken together, the NFMA requires plans to be developed that ensure forest management protects the diversity of wildlife, fish, and plants on National Forest lands.	The EA as stated in Section 1.3 on page 1-1 is consistent with the Phase II Amendment to the 1997 Revised Land and Resource Management Plan for the Black Hills National Forest. In addition, design features, pages 2-11 thru 2-18, were added to Alternative 2 for clarity and to maintain consistency with the Forest Plan.
C	12	Regulations implementing the NFMA provide additional direction for how to protect the diversity of plants and animals. In particular, the regulations	The 1982 planning rule has been superseded and is no longer in effect. The Forest Service is implementing this project under

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		<p>require the USFS to: Maintain viable populations of existing native and desired non-native vertebrate species in the planning area. 36 CFR § 219.19. A viable population is defined under 36 CFR § 219.19 as, “one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area.” <u>Id.</u> To fulfill this requirement, and consequently the diversity mandate of NFMA, the USFS is required to, among other things, provide habitat in sufficient abundance and distribution to ensure viable populations, select and monitor population trends of management indicator species, maintain or improve habitat for management indicator species, and assess the impacts of pest and fire management to fish and wildlife populations. 36 CFR § 219.19(a). The USFS is also required to inventory and assess quantitative data to evaluate diversity, which is defined as “The distribution and abundance of different plant and animal communities and species within the area covered by a land and resource management plan,” in terms of its prior and present condition. 36 CFR § 219.26. The regulations referred to in these comments are the rules promulgated in 1982. Newer regulations implementing the NFMA, published in the federal register on January 5, 2005, do not apply to the Phase II Amendment. See, 36 CFR § 219.14 (2005). In addition, the Settlement Agreement in Civil Acton No 99-N-2173, the Chief’s 1999 Decision on Appeals of the 1997 BHNF Revised LRMP, the Phase II Amendment and FEIS, and the Regional Forester’s ROD make clear that the applicable planning regulations are those promulgated in 1982.</p>	<p>the 2008 Planning Rule (73 FR 21468).                       Sections 3.7, 3.9, and 3.11 of the EA discuss the vegetation and wildlife resources in the Project Area and potential impacts to those resources. In addition, the wildlife BE/BA, wildlife specialist report, and botanical BE/BA also discuss impacts to species within the Project area.                       Monitoring of MIS is disclosed in the Monitoring Approach section of individual MIS discussions on pages III-224 to III-299 of the Phase 2 FEIS. Monitoring strategy is described in Chapter 4 of the amended Forest Plan. Specific protocols are located in the Forest Plan Monitoring Implementation Guide.                       The viability of MIS that are also sensitive species is disclosed in the Phase 2 Amendment BE (FEIS Appendix C). The viability of MIS that are not sensitive species is disclosed in the Phase 2 Amendment FEIS.</p>
C	13	<p>The road width should be kept around 12 ft. wide and should not go over 15 ft. for any turn around created.</p>	<p>The Project analyzed a variable road width between 12 and 18 feet to address safety for multiple vehicle passage and account for variability in terrain.</p>
C	14	<p>The insurance bond reclamation estimation for disturbed vegetation path of 4 feet is inadequate and must be at least 12-15 feet if there is going to be overland travel with heavy equipment.</p>	<p>Insurance bond calculation for reclamation activities will be determined by the State of Wyoming and the Forest Service using established estimations.</p>
C	15	<p>Being that the project area is categorized as having high soil erosion hazard, it is advised that any stream crossings have a constructed culvert or small bridge to cross to lessen any erosion and downstream sedimentation.</p>	<p>Design features were added to Alternative 2 to address stream crossings. See page 2-11 of the EA for roads and Appendix D for watershed conservation practices.</p>
C	16	<p>The 60 miles of new roads seems excessive, if new roads need to be constructed they should be temporary and reclaimed immediately after they are used. It is recommended that preexisting roads be used in the first phase of exploration and if need be</p>	<p>Alternative 1 analyzed new roads as arterial and temporary roads, pages 2-1 and 2-2, and Alternative 2 analyzed new roads as temporary, pages 2-10 and 2-12, with full reclamation. Existing established roads</p>

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		after sampling near the road and gathering more geologic data. New areas may be explored after the plans are premeditated with credible data gathered on what direction to continue in.	would be utilized to the maximum extent possible, followed by overland travel, and new construction. A work plan would be required prior to implementation that would outline where and what access needs are required to reach drilling locations, page 2-11 of the EA.
C	17	There should be a least a ½ mile buffer around northern goshawk nests. Reynolds (1983) stated that uncut nest buffers of at least 8 ha. should be preserved around goshawk nest sites.	The buffer for goshawk nest sites of one half mile discussed in Alternative 2 of the EA in Section 2.2.2 is based on the buffer size outlined in the Forest Plan.
C	18	The disturbance limitations between April-August 15 around active nesting goshawks should be in place for this sensitive species.	These restrictions would be in place under Alternative 2 as stated in Section 2.2.2 on page 2-14.
C	19	A noxious weed monitoring and mitigation plan must be in place during each phase of development.	As stated in design features in Section 2.2.2 of the EA, NMC would prepare a prevention plan for noxious weed control that would include a weed treatment schedule and method of treatment.
C	20	A WDEQ Spill Response Team must be in place for any accidental spills of hazardous spills. Also all drill mud and fluids used should be non-toxic and environmentally friendly.	As stated in the EA in Section 2.1.8.2 (page 2-8), a Spill Prevention Plan is included in the Plan of Operations for the Project and would be adhered to in order to control hazardous or regulated material spills. Drilling muds consist of water mixed with clays (principally bentonite) and possibly minor amounts of nontoxic polymers, gels, minerals (e.g., gypsum, salts, etc.), and organic fibers (e.g., tree bark).
C	21	Project activities in potential habitat for sensitive and rare plant species must be minimized.	Sensitive and rare plant habitat was analyzed in the EA, page 3-88 as well as in the botany BA/BE.
C	22	Cumulative impacts from proposed activities and any current timber and vegetation management projects within the project area must be studied.	Cumulative impacts are discussed in the EA in Sections 2.5 and in Chapter 3 under each resource.
C	23	Project activities should not hamper or disrupt the on-going monitoring of the nuclear site at Warren Peak or significantly impact that site in any way.	As stated in the EA in Section 1.7.3 on page 1-10, the Project would occur outside of the 0.5 mile radius around the site and NMC would coordinate with DOD during development of the Project.
C	24	All prairie dog towns in the project area must be protected for their value to the prairie ecosystem and their value to future black-footed ferret reintroduction.	As stated in Section 3.11.1.2 on page 3-48 of the EA, there is no suitable prairie dog habitat in the Project Area.
C	25	All potential sage grouse and mountain plover habitat should be avoided within the project area.	The species analyzed in the EA were identified in the Black Hills Forest Plan. As stated in Section 3.11.1.2 on page 3-48 of the EA, there is no suitable mountain plover habitat in the Project Area.
D	1	White-tailed deer are not covered in the wildlife section (3.9) of AFFECTED ENVIRONMENT, ENVIRONMENTAL CONSEQUENCES, AND CUMULATIVE IMPACTS, while mule deer and	The EA is formatted so that special status species are analyzed together in Section 3.11, while other wildlife species are discussed in Section 3.9. White-tailed deer

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		<p>elk are. However, white-tailed deer are mentioned in relation to Management Indicator Species in Appendix F. As major component of the cervid population in this portion of the Black Hills, we feel this species should be addressed within section 3.9 as well.</p>	<p>are MIS and, therefore, discussed in Section 3.11.</p>
D	2	<p>Mule deer are mentioned in section 3.9; but the hunter participation figures are in error and misleading. First, deer hunters in the Black Hills are not partitioned by regulation or license issuance for the purpose of take between mule deer and white-tailed deer. Rather, both species may be hunted under the same general deer license. Secondly, hunter participation and harvest are not tracked via county, but by hunt area and herd unit. Third, and resident, general deer license holder, or any of the 5,000 non-resident Region A deer license holders who have not filled their tag may hunt in the BHNF during the regular deer season. Consequently, it is difficult to estimate the exact number of deer hunters in the Black Hills. We estimate in excess of 8,000 deer hunters pursue deer in the Black Hills annually. Of that number, an undetermined percentage hunts on the BHNF. Based on hunter contacts, WGFD field personnel estimate at least one-third to perhaps greater than one-half of these hunters hunt on the National Forest at some time during the season. Approximately 20% of the statewide, annual deer harvest in Wyoming comes out of the Black Hills. Consequently, we feel it is very important to properly consider and address impacts any proposed project may have upon both deer species and deer hunters in the area.</p>	<p>Comment noted. The revised information regarding hunting in Section 3.9.1 will be included in the final EA.</p>
D	3	<p>Given the economic importance of the Black Hills mule deer and white-tailed deer herds to the hunting public of the local area and state as a whole, consideration should be given to minimizing conflicts with hunters and activities that would interfere with hunting during the deer season.</p>	<p>Section 3.2.2 of the EA addresses potential impacts to recreation and access including hunting.</p>
D	4	<p>The hunt area boundary description for elk are 116 is incorrect. This hunt area boundary was modified in 2008. The hunt area is currently described as: Area 116. <u>Bear Lodge</u>. Beginning at the junction of Wyoming Highway 111 and Interstate Highway 90; westerly along Interstate highway 90 to U. S. Highway 14 at the town of Sundance; northwesterly along said highway to Wyoming Highway 24; northerly and easterly along said highway to Wyoming Highway 111; southerly along said highway to Interstate Highway 90.</p>	<p>Comment noted. The revised information regarding Hunt Unit 116 in Section 3.9.1 will be included in the final EA.</p>
D	5	<p>No mention is made of project area overlap with big game winter ranges as delineated by the</p>	<p>Shapefiles provided for another project have been reviewed. The attributes indicating</p>

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		WGFFD. The project should be analyzed as to the extent of, and potential impacts to, big game on their delineated winter range, not via overlap with USFS management area 5.4. Mitigation measures should be implemented to reduce disturbance of big game on winter ranges, including seasonal closures, minimization of motor vehicle use, and noise reduction measures. Similar evaluation and considerations should be given to areas delineated as parturition range.	winter range (CRUWIN) or year-long winter range (CRUWYL) do not occur within the Project area for either mule deer or whitetail deer as delineated by WGFFD. Forest Plan delineation of big game winter habitat (MA 5.4) has been included for timing restrictions in the design features for Alternative 2, page 2-15.
D	6	Loggerhead shrikes may be present in the project area. Our personnel have observed them within the historic Sundance burn, specifically along the eastern border of the BHNF in the area of Tent and Ogden Canyons. As such, it should be determined if in fact this species occurs in the project area and appropriate analysis of impacts to this species should be considered.	At this time, no occurrences of loggerhead shrikes have been noted within the Project area. The observance cited in the comment is outside of the project area. The best available information was used to analyze this species in the EA, BE/BA, and wildlife specialist report.
D	7	Off-highway vehicle (OHV) users in the Black Hills have found it relatively easy to circumvent many traditional road closure devices. Design of road closures needs to be sufficient to prevent the majority of OHV users from pioneering ways around closure devices. We recommend installing permanent closure devices with sufficient rock or other material placed strategically to prevent circumvention.	Design features for Alternative 2, page 2-12 in the EA was created to address opportunities to discourage travel on closed roads by piling slash. Boulder placement as well as tree planting and fencing are acceptable methods to discourage travel on roads and would be considered during a site-specific review. Reclamation of roads, page 2-6, provides additional opportunities to discourage travel through recontouring.
D	8	Goshawk restrictions on all operations: From April 1 through August 15, minimize additional human-caused noise and disruption beyond that occurring at the time of nest initiation (e.g., road traffic, timber harvests, construction activities, drilling) within one half mile of all active goshawk nests up until the nest has failed or fledglings have dispersed (Forest Plan Standard 3111). In addition, any new goshawk nests located during Project implementation should be protected in accordance with the Forest Plan.	This design feature is included in Alternative 2 of the EA on page 2-14.
D	9	Known bat day and night roosts should be protected in order to maintain bat habitat, which includes nurseries or hibernacula (Forest Plan Standard 3102).	This design feature is included in Alternative 2 of the EA on page 2-14.
D	10	Traffic routes should be restricted to established roads in the SW¼ SW¼ of Section 17, T52N, R63W, to protect wildlife habitat for bats unless authorized by USFS Project Manager or District Ranger (Forest Plan Standard 3102).	This design feature is included in Alternative 2 of the EA on page 2-14.
D	11	Newmont Mining Corporation (NMC) should avoid creating barriers (e.g. new open roads) between redbelly snake hibernacula and wetlands and riparian areas. Whitelaw Creek drainage has a known redbelly snake hibernacula and leopard frog	This design feature is included in Alternative 2 of the EA on page 2-14.

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		colonies around the riparian area adjacent to USFS road 851 (Forest Plan Standard 3116).	
D	12	NMC should avoid snail colonies in wetland and riparian areas in order to minimize impacts to sensitive and species of local concern snail colonies identified by Fest and Johannes (1992, 2000, 2002). NMC would retain sufficient overstory and ground litter in order to maintain moisture regimes, ground level temperatures, and humidity. In addition, NMC should control invasive weeds when snails are not on the surface by treating individual plants rather than conducting a broadcast application (Forest Plan Standard 3103).	This design feature is included in Alternative 2 of the EA on page 2-14 and 2-15.
D	13	Snags should be cut only for safety reasons and when necessary for Project activities.	This design feature is included in Alternative 2 of the EA on page 2-15.
D	14	Overland travel routes should be scarified and reseeded to reduce compaction and promote revegetation at the completion of the Project.	This design feature is included in Alternative 2 of the EA on page 2-11.
D	15	NMC should revegetate areas where operations, including use of otherwise closed roads, have disturbed soil by broadcasting a certified weed-free, USFS-approved seed mix and lightly covering the seed by dragging or hand-raking when the ground is not frozen or snow covered within two years of cessation of activities.	This design feature is included in Alternative 2 of the EA on page 2-12.
D	16	While any projects resulting from this analysis are taking place, all gates would be kept closed except to allow administrative traffic to pass unless specifically authorized by the USFS Project Manager or District Ranger. Gates would be closed again immediately after traffic passes.	This design feature is included in Alternative 2 of the EA on page 2-12.
D	17	A comprehensive weed control program should be developed and implemented.	As stated in design features in Section 2.2.2 of the EA, NMC would prepare a prevention plan for noxious weed control that would include a weed treatment schedule and method of treatment.
D	18	The EA states that the proposed project will avoid conducting activities in wetlands or riparian areas. As long as these conditions are adhered too, we have no aquatic concerns pertaining to this project.	Comment noted.
E	1	Provide more information on the background (natural) radioactivity and radio-nuclides naturally occurring in the area. Thorium, one of the minerals to be explored for, is radioactive. Discuss the radioactivity within the ores being sought and within the geologic layers or aquifers to be penetrated/disturbed during exploration. Please discuss the physical appearance of any radioactive ores or residue? Is any radioactive ore blue or otherwise attractive to humans, once disturbed and excavated?	The Proposed Action is the exploration for precious metals, not radio-nuclides. Therefore, thorium exploration is not part of the Proposed Action.  The Warren Peak PM-1 site is protected from mineral entry, P.L. 0.3078 and has a restrictive notice of a ½ mile radius to preclude mining and the use of explosives. In addition, the Forest Service issued an executive order to prohibit the use of explosives around the site. With these protective measures, no impacts to the site

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			<p>would occur.</p> <p>Although thorium occurs naturally in the Project area, there are no quantifiable data on existing levels of radiation due to the presence of thorium in the Project area or regarding radiation levels and public safety. The State of Wyoming has regulatory authority over the management of radioactive materials; therefore, any such issues would be handled by the State of Wyoming's Department of Environmental Quality.</p> <p>Although thorium occurs naturally in the Project area, exploration would consist of drilling a hole in the ground, removing the material from the hole to a location off-site for detailed chemical analysis, and plugging the hole. Trenching could also encounter naturally occurring thorium, however it is unlikely that any thorium encountered in the drill hole or trenches would be result in additional exposure compared to naturally occurring background rates for thorium.</p>
E	2	Provide more information on the history of the defunct DOD nuclear reactor, including its dismantling, containment and the history of monitoring for leaks/contamination in surrounding area, air and waters. Provide more information on the man-made radio-nuclides and radiation levels and any other issues brought about by the defunct DOD nuclear reactor. Discuss whether a half mile circle is adequate restriction on blasting or mining.	The dismantling, containment, and history of the monitoring of the Warren Peak PM-1 site is handled by the Department of Defense and not part of this exploration project. The Department of Defense reviewed the exploration proposal. The restriction on blasting and mining are adequate to protect the site.
E	3	Discuss the history of monitoring for radio-nuclides in the area, and review the adequacy of applicable law about radionuclide monitoring. Develop a monitoring plan to establish background radiation levels in ground water, surface water, air and soils throughout the project. After the project commences develop a plan for monitoring such levels during and after exploration. Develop a plan for proper containment, disposal, burial or treatment if problems occur. Discuss the health risks from the radioactivity and radio-nuclides in the area before and after mining.	See comment response on E-1 and E-2.
E	4	Please discuss the regulatory divisions and overlap between DOD, EPA, NRC & DEQ with respect to nuclear facilities & radiation. Please consider making the DOD and/ or NRC and/or EPA a collaborating agency.	Department of Defense has been informed of the Project proposal.
E	5	Make sure the bond is adequate to handle radiation containment problems/cures.	Bonding requirements are handled by the State of Wyoming and the Forest Service

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			based on Project activities. Also see comment response E3.
E	6	<p>The 3.32 area is a Backcountry Non-motorized Recreation emphasis. This management area has a Recreation Opportunity Spectrum (ROS) Class of Semi-primitive Non-Motorized ROS (SPNM). Semi-Primitive Non-Motorized ROS class has these following criteria (from "ROS Users Guide"):</p> <p>Remoteness Criteria: "An area designated at least 1/2 mile but not further than 3 miles from all roads, railroads or trails with motorized use: can include the existence of primitive roads and trails if usually closed to motorized use,"</p> <p>Size Criteria: "2,500 acres" * "(may be smaller if contiguous to Primitive Class)"</p> <p>Evidence of Humans Criteria: "Natural setting may have subtle modifications that would be noticed by not draw the attention of an observer wandering through the area." "Little or no evidence of primitive roads and motorized use of trails and primitive roads." "Structures are rear and isolated."</p> <p>Social Setting Criteria: "Usually 6 - 15 parties per day encountered on trails and 6 or less visible at campsites."</p> <p>Managerial Setting Criteria: "On-site regimentation and controls* present but subtle" * "Controls can be physical (such as barriers) or regulatory (such as permits)"</p>	Comment noted.
E	7	Please make sure all exploration and reclamation within the 3.32 Management area meets the criteria set out for the ROS class, especially the "evidence of human" criteria. In SPNM areas, constant & effective road closure should be maintained, both during exploration, before & after reclamation	Any reclamation activities within the Management Area 3.32 will be consistent with Forest Plan direction.
E	8	Please discuss and map all areas without roads within the project and contiguous areas. How many acres exist without roads? What are the "evidence of human" values in the "roadless" area(s) – how pristine or wild appearing is the landscape?	The Project is not located within a designated roadless area.
E	9	Please discuss how effective re-contouring of roads & planting the former road/drill pad templates with grass will be against ATVs. Please consider replanting with shrubs and saplings. Only native species of plants should be used for reclamation.	Design features for Alternative 2, page 2-12 in the EA, were created to address opportunities to discourage travel on closed roads by piling slash. Boulder placement as well as tree planting and fencing are acceptable methods to discourage travel on roads and would be considered during a site-specific review. Recontouring is effective in areas of new construction, particularly along side slopes to remove the evidence of a road bed.
E	10	Please include an appendix from the Forest	As stated in Section 3.17.2 of the EA, the

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		Landscape Architect. Please disclose the existing SIO for the area. Scenic Integrity Objectives (SIO) are guidelines not standards and can be changed during an EA. Please have the Architect review the SIO set in 1996 via the Forest Plan, to verify that they were properly set or have stayed the same in the last 12 years and to change them if needed. Please disclose a map of variety classes and sensitivity levels, as determined in 2008.	Project is consistent with SIOs in the Project Area. The SIOs in the Project area range from the low to high, with the majority of the Project area classified as moderate. The locations classified as high are limited and occur in the eastern and southern portions of the Project area. A map showing SIOs in the Project area is included in the Project record.
E	11	Please have the architect review the exploration and reclamation plans to make sure the SIOs (which he/she has reviewed & approved or changed) are complied with. Please consider protecting visuals as a significant issue. Please identify all locations of high scenic value.	As stated in Section 3.17.2 of the EA, the Project is consistent with SIOs in the Project Area.
E	12	The Biological assessment and sections on plants and wildlife should include in their review, species that the state of Wyoming is concerned about due to their rarity in Wyoming (i.e Wyoming's lists, as opposed to federal or in Region 2 FS lists.)	The Black Hills Forest Plan provides the lists to evaluate on projects within the BA/BE, wildlife specialist reports, and EA.
E	13	The finescale dace, is an extremely rare native fish. In Wyoming. This fish is ranked NSS1 (Native Species Status) by Wyoming Game and Fish Department (hereafter WGFD) and is assigned a mitigation category of "vital" by the Wyoming Game and Fish Commission, an explicit eligibility criterion of the Rare and Uncommon rule, (A designation that if it were applied to an area by the EQC, would make mining within that area more difficult). We think Ogden Creek has or at one time had finescale dace. Please check with WGFP to verify if the dace or other <u>rare or at risk</u> species that are of special concern to WGFP are present on the project or in downstream waters. Discuss threats to them & plans to protect them. Visit <a href="http://gf.state.wy.us/wildlife/CompConvStrategy/Species/index.asp">http://gf.state.wy.us/wildlife/CompConvStrategy/Species/index.asp</a>	Potential impacts to finescale dace are included in Section 3.11.1.2 on pages 3-63 through 3-65 of the EA.
E	14	Do the Native Americans have any spiritual, treaty rights, biodiversity, recreation or other concerns, different from preservation of historic sites or graves?	Consultation between the Forest Service and tribes was conducted. The tribes did not identify any significant issues with the Project.
E	15	Nature Study - please add bird and wildlife watching, nature study, scenic hiking trips and photography as recreational uses.	Comment noted. These activities will be added to the final EA in Section 3.2.1 on page 3-2.
E	16	Inadequate Range of Alternatives Alternative 1 & 2 are too similar and don't provide a meaningful choice of alternatives, don't adequately address issues & are thus not consistent with CEQ regulations, NEPA and numerous court decisions.	The alternatives presented in the EA do provide an adequate range of reasonable alternatives. The Proposed Action (Alternative 1) would require a Forest Plan amendments, page 2-10; Alternative 2 was developed to comply with Forest Plan direction, thus eliminating the need for an amendment, and Alternative 3 is the no-action alternative. Also, pages 2-18 and 2-

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			19 address alternatives eliminated from consideration.
F	1	We request a topographical map, in which we can clearly see the topographical contours within the project area. On the maps the topographic contours are lightened or partially obscured due to color overlays. We also request that geographic points to be discussed in the EA text, like "Ogden Ridge" or "Four Corners" be referenced on a map.	GIS layers to produce topographical maps are available at the Black Hills website <a href="http://www.fs.fed.us/r2/blackhills">www.fs.fed.us/r2/blackhills</a> . Laydown areas are located on ½-mile beyond the gate on FS 899.1A (Ogden Ridge) and 100 meters north of junction of FS 838, 851, and 847 (Four Corners).
F	2	We are very concerned about the backcountry non-motorized recreation area and don't know where on the map those places are.	Figure 1.5.1 in the EA illustrates the location of this management area. Also, Section 1.5 of the EA includes a discussion of use of this management area.
F	3	On page 1-10, the EA indicates that the old reactor is not a key issue. We disagree, we believe it is a very key issue.	See comment responses E-1, E-2, E-3, and E-4.
F	4	On page 2-1, we object to the "phased manner" and multiple year time period of project.	Comment noted.
F	5	The EA indicates that the project activities would be implemented in a phased manner over a four year period, with up to 200 acres of surface disturbance. However exact locations of the temporary new roads (59.4 acres), use of closed and existing roads (29.14 acres), overland travel (25.58 acres), drill sites 70.10-70.88 acres), laydown areas (5 acres) and trenching and bulk sampling (8.26-9.96 acres) are not disclosed. We thus believe the disclosure of the alternatives and their impacts to environment to be inadequate and do not meet the requirements of NEPA and the CEQ regulations.	A design feature was added under Alternative 2 that requires a work plan, page 2-11, to identify all the site-specific activities for mineral exploration, including roads, drill sites, trenching, etc. The Forest Service would review the work plan in conjunction with resource information and on-the-ground review of Project activities. Work plans would be adjusted if the proposed site-specific location is inappropriate to protect resources. Design features and monitoring activities were added to protect resources.
F	6	We believe that more specific information about the location of activities is needed to be placed before the public and the decision maker before the decision is made. Without knowing where the roads and pads and trenches will be placed, how can we effectively evaluate this?	See response to comment F-5.
F	7	We believe an annual EA with more specific locations would be better, rather than a vague document with generic four year permission. In a water quality NPDES terms/analogy this EA is like a "general permit" rather than a "individual permit". We question how much drilling and activity can take place in the winter weather, especially as you close off exploration from Dec 15 <sup>th</sup> to March 15 <sup>th</sup> , or when snow is too deep. -- thus each winter for the next 4 years --- the next year's EA could be done. We are especially concerned about proximity to waters and scenic areas or the disturbance created by roads of relatively roadless or pristine areas.	Potential impacts to recreation, water resources, and scenic areas are discussed in Sections 3.2, 3.5, and 3.17, respectively. There are no designated roadless areas in the Project Area. As outlined in the Proposed Action, NMC will submit annual work plans to the Forest Service.
F	8	We wonder if 4 years of activity permitted in one very vague EA is designed to accommodate the	As outlined in the Proposed Action, NMC will submit work plans to the Forest

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		mining company – to give them a 4 year “go ahead” without having to repeat NEPA and risk being stalled. It may be comforting to Newmont, but the public is short changed of NEPA process. The 1872 Mining Law gives away our public lands, but we should be able to know more specifics due to NEPA.	Service. The Forest Service will approve the work plan prior to NMC conducting Project-related surface disturbance.
F	9	On page 2-2, We believe 15 feet is too wide for an average template for roads.	See response to comment C14.
F	10	We are concerned about the visual quality and “evidence of humans” impact by the stacking of wood debris in the old road beds. This wood debris can be quite ugly and take a long time to disappear in the landscape, especially if debris are highlighted by placement on historic road template. We think they should be burned and the remnants after burning then raked and reburned, until the evidence of the slash disappears or looks natural.	Comment noted.
F	11	Page 2-3, we are concerned about the no-culvert rule and would like to know why this option is chosen. Maybe in some instances “no culverts” might lessen impacts and in others “no culverts” would make impacts worse. We suggest this rule be variable and don’t like an absolute “no culvert” rule. But the page 2-3 rule on “no culverts” directly contradicts page 2-12 that requires culverts.	“No culverts” was part of the proposal for Alternative 1. In contrast, a design feature was added to Alternative 2 (Section 2.2.1 of the EA) that includes the construction of culverts in order to minimize impacts as well as inclusion of Watershed Conservation Practices that address stream crossings and culverts.
F	12	Snow removal – removed snow should not be deposited in floodplains or drainage bottoms – to prevent silt/mud from getting in waters of the state. Replacement of trees with grass and reshaping landscape can have an effect on wind in the area and the impacts of wind & snow drifts. Changes in placement of snow drifts could effect plant and small animal habitat.	Snow removal activities were included in both alternatives. Alternative 1 proposal is in Section 2.1.1 of the EA on page 2-3. Alternative 2 added watershed conservation practices, Appendix D, which includes direction on snow removal to protect roads and resources, including water resources (measure 11j).
F	13	Water well intersection – what happens if drillers intersect an aquifer and water comes pouring out?	As stated in Section 2.1.1 on page 2-4, all drilling activities would be conducted in accordance with Wyoming Land Quality Rules and Regulations, Chapter 8, Section 2 for plugging and abandoning drill holes.
F	14	Noise – Please discuss the noise from the drilling and noise impacts to wildlife species, recreation and spiritual worship if such actions happen in the area.	Impacts to wildlife are analyzed in Chapter 3 on pages 3-2, 3-4, 3-42, 3-43, 3-53 through 3-56, and 3-80 through 3-86.
F	15	Page 2-6, Solid and Hazardous materials. Thorium will be released at drill site refuse pads. Its radioactive. Does that make its refuse/debris piles a low level rad waste? You need a section on low level radioactive waste.	See response comments E1, E2, E3, and E4.
F	16	There should be restrictions on the storage of hazardous materials in or near water bodies. There should be requirements that trucks and heavy equipment don’t leak oil, especially when near or in water bodies.	As stated in the EA in Section 2.1.8.2 (page 2-8), a Spill Prevention Plan is included in the Plan of Operations for the Project and would be adhered to in order to control hazardous or regulated material spills.

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F	17	Page 2-8, Well capping and registration. Please discuss how wells will be capped, registered and recorded so as to insure that they can be found again. Future monitoring can find some future problems. While you claim all wells will be plugged on page 3-9, plugging does not always work – capped/plugged wells can and do leak. We could have acid mine drainage problems due to sulfides in ore and/or radioactive problems with leakage between aquifers that have been artificially connected by a man made wells that are not properly closed and plugged. We may need to be able to find the wells again to fix problems created by the poorly closed/plugged wells. These problems could develop after mining occurs, especially if types of leach mining occur. Is there a section in the EA on monitoring or policing the wells or well plugging?	As stated in Section 2.1.1 on page 2-4, all drilling activities would be conducted in accordance with Wyoming Land Quality Rules and Regulations, Chapter 8, Section 2 for plugging and abandoning drill holes. Please note that the Proposed Action is for precious metal mineral exploration only. Mining is not proposed.
F	18	We think drill pads should also avoid intermittent streams, bogs, fens, wetlands and any feature that has flowing or standing water , where water exists on the land longer than an ephemeral water.	In the EA, both Alternatives 1 and 2, pages 2-8 and 2-15, respectively, state that wetlands and riparian areas would be avoided in order to reduce potential impacts on special status species.
F	19	Reducing impacts to scenery should not be limited to acting in a timely manner --- the landscape architects should review the reclamation requirements and require Newmont to provide other mitigation of visual impacts.	Potential impacts to visual resources are addressed in Section 3.17.2 of the EA.
F	20	Page 2-12, We are concerned about the effects of slash in old/closed roads on visual quality and the natural appearance of the landscape. It will be ugly and unnatural in appearance and contrary to a SPNM ROS class criteria. In the back-country recreation area.	Comment noted. If reclamation activities occur within the SPNM ROS area, appropriate measures would be taken to ensure that the activities fulfill the criteria for SPNM class.
F	21	Page 2-17, Consideration should be given to changes to roads during winter. It can be a safety issue to change roads and road closure in deep snow, where there may not be adequate turn around space in deep snow. Any changes to roads that exist in winter should have adequate signage in advance of any road changes that could effect winter safety.	Comment noted. Section 2.1.8.9, page 2-9, was included for both alternatives to address traffic safety and signage issues. Under Alternative 2, design features were added for winter activities to restrict travel during snowmobile activities from December 15 to March 30, page 2-16 and big game winter range from December 1 to April 30, page 2-15
F	22	Page 2-23, A RFFA should be --- mining for gold and other minerals, using heap leach mining. You need to think about the type of mining that could follow this exploration, when considering mitigations you chose, -- this is especially important for well capping/plugging.	There are no proposed mining projects for gold or other minerals in the Project Area. It is not reasonable to expect an RFFA for a mine in the Project area when no plan of operations has been received.
F	23	Page 3-2, Recreation impacts begins on pages 3-2 & scenery impacts on page 105. These two sections are interdependent and should not be separated by over 100 pages. Part of what determines an SIO	Comment noted.

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		assigned to an area, are concern levels, which are a function of recreation use. So the SIO are dependent on perception and type of use/user of the area, which is mostly dependent on recreation.	
F	24	The whole discussion of SIO is inadequate, roads, drill pads, flat spots can have tremendous impacts on scenery or not, it depends on where they are built -- which this EA refuses to tell us. There don't appear to be any restrictions on road and drill pad sighting to mitigate scenery or "evidence of human" impacts – the impacts to the landscape-- so how can anyone conclude what the impacts to scenery and recreation will be. Recreation is not just about access, it is also about how pretty and wild and natural the landscape appears. As some folks go to view wildlife, plants, or hunt, the impacts to biodiversity also effect recreation. Noise and dust also effects recreation.	The Project is consistent with the SIO for the area. The SIOs in the Project area range from the low to high, with the majority of the Project area classified as moderate. The locations classified as high are limited and occur in the eastern and southern portions of the Project area. A map showing SIOs in the Project area is included in the Project record.
F	25	We request that the landscape architects be given authority to provide some guidance to this project and to the mitigations and placement of roads and drill pads.	As outlined in the Proposed Action, NMC will submit annual work plans to the Forest Service. The Forest Service will approve the work plan prior to NMC conducting Project-related surface disturbance.
F	26	Impacts created by recreational use (recreations effects on other values) should be added to cumulative impacts to area.	Recreation is identified as a cumulative activity in Section 2.5.
F	27	Page 3-4, The discussion of impacts to recreation is inadequate.	Comment noted.
F	28	Page 3-9, On page 3-9 you disclose that sulfides exist and could produce acid rock drainage. Could we have hydrogen sulfide gas being generated at any wells?	Drill holes would only be open for a few days prior to plugging. This is generally associated with active geothermal areas.
F	29	This section sounds like it was written by the mining company; it alleges that all the wells will be plugged and all the trenches filled in and no acid mine drainage problems will occur. We don't know if this is true, but later on, on page 3-17 you mention that trenches could expose sulfide material and if drilling occurs near waters sediment and drilling fluids could enter water.	As stated in Section 2.1.1 on page 2-4, all drilling activities would be conducted in accordance with Wyoming Land Quality Rules and Regulations, Chapter 8, Section 2 for plugging and abandoning drill holes. Please note that the Proposed Action is for precious metal mineral exploration only.  As described in Section 3.4.1 of the EA, mineralization in the Project area includes sulfides. If there was continually flowing water over the sulfide bearing rocks over a long time then acid rock drainage could occur. However, only exploration drilling (not mining) is proposed and sumps will be constructed next to drill holes to ensure any potential overflow water and sediments from the drill hole are captured. Due to the short duration of drilling at any particular hole, it is extremely unlikely for acid rock drainage to occur even if sulfide bearing

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			rocks are encountered during drilling.
F	30	Page 3-17, Indicates that Ogden Creek would be one of 3 watersheds that receives primary impact. As we have written earlier we are concerned about finescale dace and Ogden Creek.	Potential impacts to finescale dace are included in Section 3.11.1.2 on pages 3-63 through 3-65.
F	31	On page 3-17, it alleges that everything will be fine because all environmental regulations will be complied with. That is not necessarily true, even if that is the wish of EA writers. How will environmental compliance be policed?	Environmental compliance will be monitored through the requirement of a work plan prior to commencement of work, pages 2-1 and 2-11, an annual report of accomplishments, page 2-11, and monitoring of resources, page 2-18.
F	32	On page 3-18 it discusses DEQs regulations about well closure/sealing. If radioactive material such as thorium or radio nuclides near the reactor are discovered does DEQ or some federal agency have the regulatory authority?	See response comments E-1, E-2, E-3, and E-4.
F	33	3-19 says no direct impacts would be expected because riparian ecosystems would be avoided. But earlier it said perennial water systems would be avoided, not that intermittent water systems would be avoided. It is my experience that many forest water zones mapped as intermittent on the forest are really streams who alternate between perennial and intermittent over a section. You might have a mile of stream that is generally intermittent with 4 spots that always have water in small stretches. The maps and conclusion of the FS about where intermittent and perennial sections are can be very inaccurate. Maps of small wetlands can be very very inaccurate – you find the big ones and miss the little ones.	Comment noted. A work plan with site-specific location of project is being required prior to commencement of exploration activities. The Forest Service will review the work plan to further evaluate resources and ensure proper protection measures are in place. On-the-ground review of the work plan will also be conducted. See page 2-11.
G	1	Due to the exploratory nature of the project, surface disturbance may exceed the 200 acres currently anticipated (Section 2.1, page 2-1). If the 200 acre disturbance is reached, we encourage the Forest Service to cease all exploration activities until additional environmental review can be completed. Provisions for this additional review, including the opportunity for further public comment, should be identified at this time.	Comment noted. An annual report of accomplishments is being required to assist in tracking the proposed acres of surface disturbance, page 2-11. Exploration activities would cease when disturbance reaches the proposed 200 acres of surface disturbance.
G	2	We encourage the Forest Service to give more consideration to the potential indirect impacts that may result from this project. For example, construction of roads in forested areas has the potential to significantly change soil moisture in downslope areas (Tague and Band 2000). These changes in soil moisture can have significant impacts on biotic processes in the forest ecosystem including: decomposition, evapo-transpiration, nutrient uptake, reproduction, growth, and light penetration through a canopy (Pastor and Post 1986). The Forest Service should identify both short- and long-term consequences of any indirect	The Proposed Action proposes construction of temporary roads that would recontour to original conditions at the end of the Project. See effect analysis for soil and water, pages 3-25 and 3-10, respectively.

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		effects.	
G	3	Given the potential negative effects to migratory birds and their habitats that may result from the project, as described in the EA, the Service recommends that the Forest Service implement those strategies outlined under the Executive Order 13186 to the greatest extent possible.	Migratory birds were evaluated in Section 3.10, page 3-44 of the EA and the wildlife specialist report.
G	4	Riparian Ecosystems, Page 3-19, Section 3.5.2: More specific information should be provided regarding the direct and indirect impacts of drilling operations on aquifer degradation in the impact areas. Although drilling may have limited impacts on the hydrology in the disturbance area directly, any alteration to aquifer storage may affect groundwater availability, hence riparian ecosystems and associated terrestrial and aquatic wildlife in the surrounding area (Foster and Chilton 2003). The EA briefly states in this section that indirect impacts will only last until activities cease and reclamation occurs. If damages to the riparian areas are significant, simple cessation of activities and subsequent reclamation may not be sufficient for recovery (Kauffman et al. 1997). Due to the importance of riparian areas for water, fish wildlife, rangeland, and forest resources, especially in the west (Knopf et al. 1988), stronger consideration should be given to these indirect impacts.	As stated in Section 2.1.1 on page 2-4, all drilling activities would be conducted in accordance with Wyoming Land Quality Rules and Regulations, Chapter 8, Section 2 for plugging and abandoning drill holes.  See water effects analysis on pages 3-10 thru 3-25 for discussion on impacts to hydrology resources from drilling activities.
G	5	Migratory Birds, Page 3-46, Section 3.10.2.2.1, 1 <sup>st</sup> and 2 <sup>nd</sup> and 3 <sup>rd</sup> bullet points: Little detail is provided for the proposed protective measures for migratory birds. For example, northern goshawk ( <i>Accipiter gentilis</i> ) restrictions will be implemented during the nesting period (April 1 – August 15), but it is unclear to what degree “minimizing additional human-caused noise and disruption” will occur. In addition, limited information is provided regarding how new goshawk and known raptors nests would be protected and what protection closed gates will provide for migratory birds. More detail should be provided regarding these protective measures. In order to avoid destruction in order to identify nest sites prior to rather during project implementation.	Northern goshawk restrictions from April 1 to August 15 are determined by Forest Plan direction. Existing roads, open to public travel, within the ½-mile radius of a nest site would continue to be utilized. Any roads closed to public travel or any new disturbance outside of existing roads would be restricted during the Project. Any new goshawk nest sites or raptor nest sites found after the decision is signed would be protected per Forest Plan direction.
G	6	Migratory Birds, Pages 3-56-3-66, Section 3.11.1.2, Region 2 Sensitive Species: Although numerous sensitive species (e.g. – western yellow-billed cuckoo ( <i>Coccyzus americanus</i> ), flammulated owl ( <i>Onus flammeolus</i> ), black-backed woodpecker ( <i>Picoides arcticus</i> ) and American three-toed woodpecker ( <i>Picoides dorsalis</i> ) have been documented in the Black Hills, limited data are available regarding their occurrence in the Project Area (PA). Therefore, efforts should be made to inventory all sensitive species occurring in the PA.	The Section 3.11 of the EA includes information from the Forest Service database data regarding known occurrences of sensitive species in the Project Area.  A work plan, page 2-11 of the EA, is required to provide site-specific locations of Project activities. The Forest Service will evaluate the work plan to ensure sensitive areas are avoided or mitigated to protect resources.

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		Data from these inventories could be used to direct activities away from sensitive areas or used to develop potential mitigative measures for those sensitive areas that cannot be avoided.	
G	7	Appendix E, Sundance Exploration Project Wildlife Biological Evaluation (BE), Pages 21-23: Although Forest Service approval will be needed before removing snags, we also suggest modifying the guidelines so that operations avoid areas of older aged stands and high snag densities since these areas provide nesting and foraging habitat for sensitive species such as black-backed and American three-toed woodpeckers.	Section 2.2.2 includes a design feature that states that snags would be cut only for safety reasons and when necessary and that snags would be inspected by the Forest Service prior to being cut.
G	8	Several factors suggest that the potential for significant impacts may exist within the PA including the numerous effects suggested in the BE as well as to the many special category species (Region Two Sensitive Species (n=27), Species of Local Concern (n=21 and Migratory Birds (n=16)) that are present. In addition, several other factors may contribute to significant impacts including the (1) potential for destruction of nests or disturbance of breeding behavior for migratory birds; and (2) potential cumulative effects for northern goshawk.	The wildlife BA/BE, wildlife specialist report, and Section 3.11 of the EA analyzes potential impacts to special status species.
G	9	As you are aware, the MBTA prohibits the taking of any migratory birds, their parts, nests, or eggs except as permitted by regulations and does not require intent to be proven. Section 703 of the MBTA states, "Unless and except as permitted by regulations ... it shall be unlawful at any time, by any means or in any manner, to ... take, capture, kill, attempt to take, capture, or kill, or possess ... any migratory bird, any part, nest, or eggs of any such bird..." Therefore, if nesting migratory birds are present on, or near the project area, timing is a significant consideration and needs to be addressed in project planning.	Migratory birds are evaluated in Section 3.10, page 3-44 of the EA and the wildlife specialist report.
G	10	Based on the factors stated above and the suitability of the habitat within the PA for a wide variety of species, the Service has concerns about indirect and potential cumulative impacts of the project. If the project does move forward, the Service recommends the implementation of Alternative 2 as it provides more features to minimize impacts on wildlife and associated habitats. We are also concerned that the proposed action alternative will result in numerous avoidable direct, indirect and cumulative effects. In order to ensure the features outlined in Alternative 2 are implemented correctly, we also recommend more extensive species monitoring prior to project initiation.	Comment noted. A work plan, page 2-11 of the EA, identifying site-specific location of Project activities is required to have approval prior to commencement of exploration activities. As the work plan is evaluated, on-the-ground site-specific evaluations would be conducted to ensure protection of all resources. Monitoring activities have also been identified, page 2-18, to review resource protection measures. In addition, Forest monitoring reports for resource activities are available annually.
G	11	We encourage the Forest Service to ensure the conservation of endangered, threatened, and	Comment noted.

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		candidate species, and migratory birds and species of concern. If you have any questions regarding our comments or your responsibilities under the various authorities mentioned, please contact Mark Bellis of my staff at (307) 352-0377.	
H	1	I'm concerned about the amount and location of roads proposed for exploration for mining in the Bear Lodge. I hike quite a bit in the area, and appreciate the rugged, roadless terrain there. I think any new roads should be kept to a minimum, and be temporary. I think the primitive, remote, natural setting is what makes the area special, but could be disturbed by any more roads.	The Proposed Action in Section 2.1.1 on page 2-2 of the EA states that all roads constructed during the Project would be temporary and would be reclaimed to the original contour.
I	1	We feel that this proposed project will move the Forest toward meeting Forest Plan Goal 3 (providing for "sustained commodity uses in an environmentally acceptable manner") and Objective 308 (ensuring that "exploration, development, and production of mineral and energy resources are conducted in an environmentally sound manner so that they may contribute to economic growth and the national defense"). Overall, we support the proposed action with design features, Alternative 2, which incorporates some additional requirements not found in Alternative 1.	Comment noted.
J	1	Exploration drill holes require Wyoming Department of Environmental Quality (WDEQ), Land Quality Division (LQD) authorization through a drilling notice or a license to explore pursuant to Wyoming Statutes 35-11-404 and 35-11-414.	As stated in Section 2.1.1 on page 2-4 of the EA, all drilling activities would be conducted in accordance with Wyoming Land Quality Rules and Regulations, Chapter 8, Section 8 for plugging and abandoning drill holes.
J	2	Drill holes should be capped immediately and drill holes abandonment reports are due within 12 months of the project completion under Wyoming Statute 35-11-404.	Comment noted. All State of Wyoming regulations would be followed, page 2-11 of the EA.
J	3	LQD's Chapter 8 of the Non-Coal Rules describes the requirements of plugging exploration holes. The Sundance Exploration Project Draft EA reference to Chapter 11 of the WDEQ Water Quality Division Rules for the abandonment of wells is not the appropriate reference for the plugging exploration holes.	The reference will be revised in the final EA.
J	4	Prior to implementation of this project, it may be beneficial to the Forest Service to have LQD's Sheridan Office review the proposed work plan before implementation to clarify federal and state roles and expectations.	Upon receipt, the Forest Service will forward a copy of the work plan to the LQD's Sheridan Office for review.
K	1	The WDA has reviewed the Draft EA and supports the selection of Alternative 2 (proposed action with design features). Alternative 2 allows for more resource protection than Alternative 1, enhanced reclamation and monitoring, additional measures to	Comment noted.

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		decrease noxious weeds, and additional measures to protect and continue livestock grazing throughout the proposed project.	
K	2	Although total surface disturbance is minimal over the four years of phased development, there is an increased potential for the establishment and spread of invasive and noxious weeds with this surface disturbance. With the spread of weeds comes a decrease in forage and habitat for both livestock and wildlife. We strongly support the use of the Weed Management Plan (USFS 2003). In addition, Section 3.8.2.2 of the Draft EA discusses treating existing weed populations in project areas before implementation begins. The WDA encourages Forest Service officials to implement this action.	Section 2.2.2 of Alternative 2 in the EA states (1) that noxious weeds would be eradicated consistent with the Weed Management Plan during operation and for three years after disturbance and until noxious weeds are eliminated from disturbed areas or at pre-disturbance levels, and (2) where ground disturbing activities would occur in areas infested with weeds, weeds would be treated before Project implementation to reduce future spread and establishment of noxious weeds.
K	3	Although Animal Unit Months are not expected to drop at any point during the exploration process and other impacts to livestock grazing will be minimal, there may be some effects to livestock grazing during reclamation processes. We recommend that the Final EA address specific measures that will be taken to ensure successful and timely reclamation in regard to livestock and wildlife impacts. This includes a discussion of fencing areas undergoing reclamation and livestock grazing season-of-use.	Impacts to range resources are discussed in Section 3.12 of the EA.
J	1	The EA does not address the potential long term economic and strategic values for rare earth elements. Recent discussion and projects concerning rare earth elements indicate that roughly 95% of the world's rare earths are produced in China, and a major supply shortfall outside of China is expected by 2013. China has recently been limiting rare earth exports, which are used in a variety of high-tech and electronics applications. If new sources are not evaluated and brought to production, negative economic and strategic consequences may result for our country. Evaluation of the potential mineral resource in the Bear Lodge Mountains is a necessary step in this direction. The proposed exploration should go forward as proposed.	This project is for exploration to identify the mineral resources of the area. If exploration leads to production of the mineral resources, additional environmental evaluation would be required and would likely include discussions of the economic and strategic values for the mineral resources.