

1.0 INTRODUCTION

Pursuant to Section 107(f) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9607(f) and other applicable federal, state, and tribal laws, designated federal, state, and tribal officials may act on behalf of the public as trustees for natural resources under their management authority to recover damages for injuries to such resources resulting from releases of hazardous substances. Designated natural resource trustees may pursue claims under CERCLA against parties liable under Section 107 of CERCLA, 42 U.S.C. § 9607, for damages for injury to, destruction of, or loss of natural resources under their trusteeship resulting from a release of hazardous substances. Sums recovered must be used to restore, replace, or acquire the equivalent of resources injured, destroyed, or lost. Parties liable for natural resource damages under CERCLA include current owner and operators of land/facilities from which there is a release of hazardous substances and prior owners and operators of land/facilities at times when hazardous substances were discharged or disposed into the environment.

Regulations have been promulgated under CERCLA, 43 C.F.R. Part 11, to guide trustees in the assessment of natural resource damages resulting from releases of hazardous substances. The regulations are optional; however, trustees following the regulations receive the benefit of a rebuttable presumption in court for “any determination or assessment of damages.”¹ Before beginning a natural resource damage assessment trustees following the regulations must first undertake a preliminary assessment screen (PAS). The purpose of a PAS is to review available information rapidly and determine whether or not there is a reasonable probability of making a successful natural resource damage claim. Trustees must determine that a site meets the criteria set forth at 43 C.F.R. § 11.23(e) before proceeding with an assessment.

The Department of Agriculture, through the U.S. Forest Service (Forest Service), has been designated as a federal trustee for natural resources located on, over, and under national forest lands with authority to pursue natural resource damage claims under CERCLA.² Consistent with its trustee responsibilities, the Forest Service commissioned this PAS to determine whether or not the Blue Ledge Mine has released hazardous substances into the environment and whether or not such releases are potentially causing injuries to the natural resources of the Rogue River National Forest. More specifically, this PAS addresses whether the regulatory criteria found in 43 C.F.R. § 11.23(e) for a natural resource damage assessment have been met; in particular, whether:

- 1) A release of hazardous substances from the Blue Ledge Mine Site has occurred,
- 2) Natural resources under the trusteeship of the Forest Service and/or other natural resource trustees have been or are likely to have been affected by releases from the Blue Ledge Mine Site,
- 3) The quantity and concentration of released hazardous substance is sufficient to cause injury to natural resources,

¹ 42 U.S.C. § 9607(f)(2)(c).

² See Exec. Order No. 12,580, 3 C.F.R. 193 (1987), and Subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. § 300.600.

- 4) Data sufficient to pursue an assessment are readily available or likely to be obtained at a reasonable cost, and
- 5) Response actions, if any, carried out or planned do not or will not sufficiently remedy the injury to natural resources without further action.

Section 2 of this report presents summary information regarding the location and characteristics of the Blue Ledge Mine Site and the resources in the area under the trusteeship of the Forest Service. Section 3 addresses site history and information regarding the release of hazardous substances. Section 4 presents a preliminary identification of resources potentially at risk and includes a discussion of exposure pathways, exposed areas, and resources potentially at risk. Section 5 identifies potentially responsible parties for the Blue Ledge Mine Site. Section 6 applies required pre-assessment screen criteria found in 43 C.F.R. § 11.23(e). As explained in Section 6, the Forest Service has concluded that all the regulatory predicates for a natural resource damage assessment have been met.