

7.0 PRELIMINARY DETERMINATION REGARDING PREASSESSMENT SCREEN CRITERIA

43 C.F.R. § 11.2 (e) requires that a trustee preliminarily determine that five criteria set forth at 43 C.F.R. §11.2(e)(1)-(5) are met before proceeding with a natural resource damage assessment. The information and analysis presented in the preceding sections support a preliminary determination that such criteria are satisfied and that a natural resource damage assessment in conformity with the regulations can proceed.

Criterion 1. A release of a hazardous substance has occurred.

An understanding of geo-chemistry associated with the Blue Ledge Mine and AMD and water samples showing low pH at the mine and downstream of the mine, lead to the conclusion that sulfuric acid was and is being released from the Blue Ledge Mine and its associated waste piles. Similarly, water samples collected at and downstream of the mine document releases of metals characteristic of AMD including cadmium, copper, and zinc. Sulfuric acid, copper, cadmium, and zinc are CERCLA listed hazardous substances pursuant to 40 C.F.R. § 302.4.

Criterion 2. Natural resources for which the trustees may assert trusteeship under CERCLA have been or are likely to have been adversely affected by the release.

The Department of Agriculture, through the Forest Service, is a properly designated federal trustee for natural resources located on, over, and under national forest lands. This PAS documents that injury has occurred to resources under the trusteeship of the Forest Service associated with the Rogue River National Forest. Documented injuries include those to biological resources and aquatic resources of the Rogue River National Forest. The full nature and extent of this injury is not yet known. This PAS also documents that other resources under the trusteeship of the Forest Service are likely to have been adversely affected by the releases from the Blue Ledge Mine. Such natural resources potentially injured include, but are not limited to, injuries to geologic resources and terrestrial resources of the Rogue River National Forest.

Criterion 3. The quantity and concentration of the released hazardous substance is sufficient to potentially cause injury to natural resources.

Miles of adits and tons of waste rock have created a significant source of AMD, containing hazardous substances. Existing data document that the quantity and concentration of hazardous substances is sufficient to significantly lower the pH to make waters unsuitable for the survival of fish and benthics. In addition, releases of hazardous substances have produced concentrations of metals in excess of maximum contaminant levels set under the Safe Drinking Water Act (SDWA) in waters of the Rogue River National Forest. Moreover, metal concentrations are considered high enough to produce injury and death in fish and to seriously injure the benthic community in Joe Creek. In certain times of the year, as a result of releases of hazardous substances from the Blue Ledge Mine, the entire length of Joe Creek is devoid of benthics.

Releases of hazardous substances and transport of contaminated fine materials from the waste disposal areas at the mine has the potential to cause injuries in Elliott Creek and the Applegate River and Reservoir.

Criterion 4. Data sufficient to pursue an assessment are readily available or are likely to be obtained at a reasonable cost.

Readily available information has been assembled for this PAS. This information, the analysis contained in this PAS, and a body of literature on AMD and its deleterious effects on natural resources offer a strong basis to focus an assessment and obtain additional information at reasonable cost. There are no major impediments to the collection of samples likely to be useful in an assessment, including, but not limited to, water samples, sediment samples, and tissue samples. Additional information providing a base for a natural resource damage assessment can be collected without undue cost.

Criterion 5. Response actions carried out or planned do not or will not sufficiently remedy the injury to natural resources without further action.

The Blue Ledge Mine Site is a continuing source of AMD that has caused and will continue to cause natural resource injuries. No response actions have been undertaken nor are any planned by the US EPA or State of California for the site. Without further action, injured resources will not naturally restore themselves.