

DECISION MEMO

Stillwater Mining Company's February 2012 Blitz Ridge – 2012 Surface Exploration Drilling Plan of Operations for Mineral Exploration Portal and 23.0 drill sites

United States Department of Agriculture, Forest Service
Custer National Forest, Beartooth Ranger District
Stillwater County, Montana
Township 5S, Range 16E, Sections 20 and 30, PMM
June 2012.

BACKGROUND

The Stillwater Complex is a large mineral deposit containing iron, copper, nickel, chromium, gold, silver, and platinum group elements. Numerous mineral exploration projects have been conducted in the Stillwater Complex since the late 1800's, including mining and extensive exploratory mapping and drilling in the Little Rocky Creek area (Czamanske and Zientek 1985). T.C. Benbow first developed this area for chromite in the early 1900's. During World War II, the Benbow area was mined to supply chrome. Prior mining efforts included development of a mine, a camp, and a concentration plant in the Benbow area. Since that time, several companies have conducted surface geologic mapping, soil sampling, geophysical data collection, and drilling in this portion of the Stillwater Complex.

The Benbow area is approximately four miles southwest of Dean, Montana. In August 2011, Stillwater Mining Company (SMC) submitted the Blitz Project Surface Exploration Drilling Plan of Operations for exploratory drilling at two locations in this area. The August 2011 plan of operations was not approved due to inability to complete heritage resource surveys and accomplish exploration work prior to fall 2011 snows. In February 2012, SMC submitted the Blitz Ridge - 2012 Surface Exploration Drilling Plan of Operations for Mineral Exploration, which is an updated plan that included exploratory drilling at four additional locations. The February 2012 plan of operations replaced the August 2011 plan of operations. Due to delays in plan approval, SMC submitted April 5, 2012 and June 13, 2012 amendments to continue exploration operations for a one year period following completion of the approval and appeals process, which would result in operations occurring for up to one year beginning in fall 2012.

The areas where SMC's activities are proposed are in 1986 Custer National Forest Land and Resource Management Plan (*Custer Forest Plan*) Management Area E. The Management Area E goal is "*To facilitate and encourage the exploration, development and production of energy and mineral resources from the National Forest System lands.*"

PROPOSED ACTION

SMC's February 2012 Plan of Operations is included as Decision Memo Appendix A. SMC's Plan of Operations proposes exploratory core drilling at six drill sites with up to five separate drill holes at each location. Due to timeframes for consultation with the US Fish and Wildlife Service associated with prolonged helicopter use in grizzly bear habitat, this Decision Memo is specific to consideration and approval of exploration activities at two of the six proposed drill sites, the Portal drill site and drill site

23.0. The Portal and 23,0 drill sites would be accessed by primarily ground-based equipment with minimal helicopter support. Other proposed drill sites will be approved through a separate decision at a later date upon completion of consultation with US Fish and Wildlife Service.

Each drill site would require use of a water drafting site in adjacent drainages. Up to two drill locations would be operated concurrently. Operations would occur 24 hours per day, 7 days a week, requiring up to 10 persons working in the area through an approximately one year period, including winter operations. SMC proposes to begin work in 2012, pending approval of this Plan of Operations.

Depending on site characteristics and drilling equipment utilized, minor clearing and tree removal may be necessary to accommodate proper orientation of the drill rig and provide for safe operation of the helicopter. The Forest Service Representative would review sites prior to site preparation and pre-approve all large trees to be removed. Any excavated topsoil and organic matter would be stockpiled separately from the mineral soil and utilized for site reclamation. All disturbed areas would be reclaimed upon completion of exploration work. No mining, milling, or permanent facilities are proposed. No new roads or trails are proposed for construction with this Plan of Operations.

Drill site 23.0 is immediately adjacent to Forest Service Road #2414 (Benbow Road), which would be used to access the site. Depending on weather and snow conditions, some snow plowing of FS 2414 is proposed. To facilitate continued public usage, drilling operations would be set-up within a 40 by 80 foot excavation (0.07 acres) into the road cut slope. Erosion control measures would be applied to the excavated area during drilling operations and it would be reclaimed upon drilling completion.

The Portal drill site may be as large as 80 by 80 feet (0.14 acres) due to the shallow drilling angle. Access to the proposed Portal drill site would be via an existing route that is not designated for public motorized use. Some limited helicopter support would also be utilized. Use of this existing route may require some minor tree removal, trimming of trees (branch removal), removal of dead-fall, and grading/leveling within the confines of the existing trail to provide safe track-mounted drill rig access to the site. Because this route is closed to public motorized use, signs indicating authorization of motorized use only for mineral exploration purposes would be placed at the beginning of the route near the Benbow Millsite. The route would be reclaimed upon completion of operations and remain closed to public motorized use.

At each drill site, drilling fluids and water would be contained in portable plastic tanks. Water for drilling purposes would be supplied and pumped from water sources in the Little Rocky Creek watershed. Water use would occur in compliance with applicable State of Montana water law. Drillings supplies, additives, fuels, etc. would all be maintained in secondary containment facilities to prevent spills or releases. A cascading system of multiple cuttings sumps, the largest being approximately 8' wide by 10' long by 5' deep, would be constructed down-gradient of each drill pad elevation for water recycling/clarification and for the containment and eventual disposal of drill cuttings and sludge. Excess clarified water not recycled back into the drilling process or infiltrated would overflow and percolate into the forest floor and/or into the subsurface under controlled circumstances that do not result in soil erosion or direct discharge into streams, wetlands, or other surface waters. In the event cuttings sump(s) cannot be constructed due to shallow bedrock or large cuttings volumes, Stillwater would use portable tanks for fluid recirculation and to contain drill cuttings. If portable tanks are used, Stillwater would transport drill cuttings back to the Stillwater Mine for disposal in existing tailings impoundments. The proposal includes interim and final reclamation of disturbed lands.

All areas disturbed by operations (drill sites, water drafting sites, equipment storage areas, helispots, roads, etc.) would be reclaimed to prevent or control environmental damage and return the areas to a stable configuration similar to the original condition. As required by the State of Montana, drill hole collar pipe or casing would be removed or cut off below ground level and drill holes would be plugged. Excavated sumps would be buried and reclaimed per USFS and State of Montana Department of Environmental Quality (MDEQ) requirements. Other specific reclamation measures would depend on site conditions, but could include loosening compacted areas, re-contouring, installing waterbars, installing biodegradable erosion matting, distribution of woody debris and organic matter, revegetation, monitoring, and noxious weed treatment.

Reclamation at disturbed sites would commence as soon as exploration activities cease at each site. In the event that weather or snowfall precludes complete reclamation, SMC would fill in surface voids and conduct necessary interim reclamation on these sites to address any potential spring runoff/erosion issues. Final reclamation would then be completed the following summer. Reclaimed areas would be annually monitored by SMC in conjunction with the USFS and MDEQ for successful re-establishment of native vegetation and erosion control effectiveness.

To financially ensure that reclamation and monitoring occur, SMC would be required to post a reclamation bond calculated by the USFS and MDEQ that is specific to all reclamation items required for this project. This would include bond specific to noxious weed treatment and monitoring. This bond would be held in trust by MDEQ and the USFS until SMC completes all required reclamation and monitoring items.

PURPOSE AND NEED

The purpose for action is SMC's February 2012 submission of the Blitz Ridge - 2012 Surface Exploration Drilling Plan of Operations for Mineral Exploration as amended (referred to hereafter as Plan of Operations). The need for action is the Forest Service's responsibility to approve or require modifications to the Plan of Operations in accordance with Federal mining and environmental law. SMC has proposed to use National Forest System lands in connection with operations authorized by the United States Mining laws (30 USC 21-54) which confer a statutory right to enter public lands to search for minerals. In accordance with the Code of Federal Regulations (CFR) at Title 36, Part 228a, the Forest Service is required to analyze the Plan of Operations in determining the reasonableness of requirements for surface resource protection.

DECISION

I have decided to approve exploration activities at the Portal and 23,0 drill sites on the Custer National Forest, as described above under the "Proposed Action" and further detailed in SMC's Plan of Operations (Decision Memo Appendix A) with modifications. The modifications in my Decision are mitigation measures that are considered "Conditions of Approval" for this Plan of Operations. Conditions of approval are categorized as general conditions or by resource area. The conditions of approval listed in this Decision Memo are required changes/modifications/special mitigations that are hereby incorporated into Section VI.A. of the Plan of Operations.

General Conditions of Approval:

1. **Approved drill sites:** Exploratory drilling and related support activities are approved for the Portal and 23.0 drill sites as described in the Plan of Operations. Approval of other proposed drill sites and related support activities will be completed at a later date.
2. **Project Timing:** Total length of program implementation will not exceed one year from initiation of approved activities.
3. **Modifications:** Any proposed modifications to operations proposed by SMC must be reviewed by a Forest Service representative and approved in advance by the District Ranger prior to such modifications occurring. On-site review will be conducted by a Forest Service Representative to ensure ground disturbance, such as site-leveling and tree-felling, is minimized and sensitive areas, such as wetlands and riparian habitat, are avoided whenever possible. The intent of the site preparation and access procedures prescribed in the Plan of Operations and this Decision Memo is to minimize surface disturbance and facilitate timely reclamation of the sites. In the event that a Forest Service representative and the District Ranger determine that these procedures cannot be effectively applied, the District Ranger will not approve the proposed modifications.

Reclamation Conditions of Approval:

4. **Reclamation Bonds:** Required reclamation bonds as determined by the Forest Service and MDEQ for specific work items under this Plan of Operations will be posted and obligated with the MDEQ prior to commencement of any activities described in this Plan of Operations. No work may be performed until the reclamation bond(s) are received and deemed acceptable by the Forest Service and MDEQ.
5. **Sump reclamation:** Backfill drill site sump pits with salvaged soil and organic material; soil first then organic materials; or subsoil material first followed by topsoil. When filling excavated sumps, compact fill material as each lift is placed in the sump. To prevent future settling, mound available fill to an approximately 2 to 3 inches above the surrounding surface for 2 to 3 foot deep sumps. If sumps are deeper, mound soil material 3 to 6 inches above the surrounding surface.
6. **Reclamation monitoring:** In the event of observed post-reclamation noxious weed or site stability problems, the monitoring period will be re-started after corrective actions have been taken.

Recreation Conditions of Approval:

7. **Recreation:** Forest Service signing, new releases and field level contacts will be used to inform and educate the public regarding exploration operations or restrictions. SMC will allow for utilization of roads, dispersed recreation sites and public access in the project areas to the extent possible while not compromising safety of the public or workers. SMC will minimize helicopter over flights of dispersed recreation sites to the extent possible to reduce impacts to recreational users in the area. During the summer use season (Memorial Day to Labor Day weekends), limit operations to week days to the extent possible to reduce impacts during evening hours and weekends.

Water and Soil Conditions of Approval

8. **Erosion from track mounted equipment travel:** Ensure travel by track mounted equipment occurs in areas where erosion and subsequent sediment delivery will not reach streams or riparian areas. Ensure that impacts of track mounted equipment travel are immediately reclaimed or that erosion control measures are applied until reclamation can occur.
9. **Off-route ATV travel:** ATV travel to the Portal drill site should be minimized by limiting the number of ATVs and the number of trips to that which is absolutely necessary.

10. **State of Montana Water Rights:** Water rights should be filed as necessary by SMC for the USFS, as the USFS is the property owner that allows the diversion and use of the water on the Custer National Forest. If ground-water sources are used, SMC should submit a Notice of Completion Form 602 and a well record upon completion of the installation of ground-water sources to the Montana Department of Natural Resources and Conservation.
11. **Water diversion:** If surface water rights are utilized, instead of excavating seeps and springs, create a small impoundment with tarps and rocks sufficient to pump from. Reclaim disturbed sites as necessary to prevent sediment delivery to streams.
12. **Drill site 23,0 Culverts:** SMC will ensure that the Benbow Road 2414 culvert and ditch system at drill site 23,0 are functional both during and after operations at this site.

Wildlife Conditions of Approval:

13. **Helicopter flight restrictions:** To minimize wildlife disturbance and relocation, SMC will limit daily helicopter flights at elevations less than 500 meters above ground surface and limit the number of helispots. The following route requirements would apply for flights less than 500 meters above ground surface:
 - a) From June 1 to July 1 and September 15 to October 15, route helicopter flights to follow topographic highs and to avoid following drainages;
 - b) From June 1 to July 1 and September 15 to October 15, select helicopter staging areas that will not necessitate flight paths over Horseman Flats or the Picket Pin hay meadows;
 - c) From November 1 to June 1, route helicopter flights to avoid flying over bighorn sheep travel routes and wintering areas located in the Main Fork and West Fork of the Stillwater River; and
 - d) adhere to other designated flight paths as described in the Aviation Plan.
14. **Helicopter staging and landing areas:** To further minimize wildlife disturbance and relocation, all helicopter landing sites and staging areas that are on National Forest lands will be pre-approved by the Forest Service representative and located in areas that minimize flight time and distance.
15. **Goshawk Protection:** To prevent adverse impacts to Northern goshawk during the breeding/fledging season, avoid conducting ground-disturbing activities within the Primary Foraging Area (see map in Wildlife Report Appendix 1) from April 15 to August 15.
16. **Aquatics Protection:** Consider installing silt/drift fences immediately down slope of cleared drill sites and infiltration galleries to prevent sediment delivery to aquatic habitats in the event of an intense precipitation event or infiltration gallery failure.

Wilderness Conditions of Approval:

17. **Helicopter Landings:** No helicopter landings in or flights within 2,000 feet of the ground surface will occur in the Absaroka-Beartooth Wilderness Area.

Plants and Forest Vegetation Conditions of Approval:

18. **Rare and Sensitive Plant Protection:** In the event that any previously undiscovered rare and sensitive plants are discovered, measures to remove, reduce or mitigate effects to any such resources will be taken at that time as directed by a Forest Service Representative.
19. **Sensitive Plants Protection:** To prevent potential adverse impacts to sensitive plants and sensitive soils, refrain from any operations in moist meadow, riparian, and wetland habitats unless these areas have been previously surveyed and it has been determined by the Forest Service that no sensitive plants will be impacted.

20. **Whitebark Pine Protection:** Prior approval must be received from the U.S. Forest Service before cutting any cone-bearing whitebark pine trees. In the event that numerous trees need to be felled to accommodate safe operations, a Forest Service representative may require SMC to propose an alternate drill site, access route, or access method.

Noxious Weeds Conditions of Approval:

21. **Noxious Weed Locations:** SMC will notify a Forest Service Representative of type and location of noxious weeds encountered on National Forest System lands in the project area.
22. **Noxious Weed Site Inspections:** Prior to approval of ground disturbing activities or selection of drill sites or off-road travel routes, a Forest Service Representative will inspect such areas for presence of noxious weeds. If noxious weeds are present, SMC will either a) choose a different location or b) treat the weeds. If a different location is chosen, Forest Service crews will treat the weeds.
23. **Noxious Weed Prevention:** To prevent weed introduction/spread on the National Forests, SMC will be responsible to ensure that staging areas or helispots on private lands are free of noxious weeds and noxious weed seed. This will occur prior to transport of materials or personnel from these locations to Forest Service lands. This could be accomplished by either selecting staging areas or helispots that are free of noxious weeds or mechanically or chemically treating such areas prior to use.

Cultural and Paleontologic Resources Conditions of Approval:

24. **Cultural Resource Protection:** In the event that any previously undiscovered heritage resources are discovered, measures to remove, reduce or mitigate effects to any such resources will be taken at that time as directed by the District Ranger in consultation with the Forest Archaeologist.
25. **Paleontologic Resource Protection:** Should any vertebrate fossil be found during construction or drilling in the upper five feet of rock encountered at a drillsite, work will be halted and the Forest Service representative would be notified immediately. The Forest Service Representative would make any decisions pertaining to mitigation measures after consulting with appropriate agencies. No operations would resume in the immediate area of the discovery until written authorization to proceed is issued by the USFS or appropriate agency.

My decision is based on findings from review of the analysis presented in this Decision Memo; review of the desired future condition described in the Forest Plan; review of Forest Plan goals and objectives: Forest-wide standards, applicable management area standards; regulations; experience with similar past projects; best available science; as well as public and technical specialist input to the planning and analysis process.

SCOPING AND PUBLIC INVOLVEMENT

The Forest Service conducted public involvement and environmental analysis for this Plan of Operations. Field review and environmental analysis of SMC's proposal was completed by MDEQ personnel and a Forest Service interdisciplinary team familiar with the proposed action and project area.

Scoping consisted of both internal and external efforts to identify substantive issues and/or concerns related to this Plan of Operations. The "Public Involvement Plan" identified scoping activities for this Plan of Operations (see Project Record). Scoping consisted of direct mailing and e-mailing of scoping

letters to approximately 77 potentially interested parties, including adjacent landowners, Forest Service permittees, and individuals that previously commented on minerals projects.

As part of initial scoping efforts, a 30 day public comment period from August 20 to September 20, 2011 was initiated per the Public Involvement Plan. Six responses with meaningful input were received during the 2011 scoping comment period (see project record). In response to the February 2012 updated plan (see above), an additional March 1 to March 31, 2012 scoping comment period was initiated. This included a March 21, 2012 public informational meeting hosted by the Forest Service and MDEQ at Nye, MT. Approximately 50 people attended this meeting. A copy of the meeting sign-in sheet and presentation materials are in the project planning record. Thirty-two responses with meaningful input were received during March 2011 scoping comment period (see project record).

In a March 19, 2012 judicial ruling (*Sequoia ForestKeeper v. Tidwell*), the U.S. District Court, Eastern District of California found that Forest Service regulations exempting project decisions from notice, comment, and appeal when categorically excluded from further analysis under the National Environmental Policy Act are in violation of the Appeals Reform Act and enjoined the FS from following these regulations. March 29, 2012 direction from the Chief of the Forest Service states that the Forest Service will offer notice, comment and administrative appeal opportunities for categorically excluded decisions as provided for in the District Court's Order. A legal notice initiating the thirty day comment period was published on April 9, 2012 in the Billings Gazette, which is the Custer National Forest's paper of record. A project update letter detailing notice, comment, and appeal opportunities and providing preliminary environmental information was sent via e-mail or postal mail to all people that previously provided response or otherwise expressed interest in the Blitz Project Surface Exploration Drilling Plan of Operations or other recent projects implemented by Stillwater Mining Company in the Benbow area. This update letter was also posted on the Custer National Forest's website. Seven responses were received during this thirty day comment period.

Content analysis of public comment identified several preliminary issues (see project record). A Forest Service and MDEQ interdisciplinary team and the responsible official reviewed the project, identified issues and concerns, analyzed potential effects, and responded to public issues and concerns. Content analysis results, issue resolution, and responses to public comment are summarized in Appendix B of this Decision Memo.

FINDINGS AND REASONS FOR CATEGORICALLY EXCLUDING THIS ACTION

The Council on Environmental Quality (CEQ) regulations at 40 CFR 1507.3 provide that agencies may adopt categories of actions that do not normally have significant impacts on the human environment and that do not require preparation of an environmental assessment (EA) or environmental impact statement (EIS). Pursuant to direction provided in 36 CFR 220.6, a proposed action may be categorically excluded from further analysis and documentation in an EIS or EA only if there are no extraordinary circumstances related to the proposed action and if: (1) The proposed action is within one of the categories established by the Secretary at 7 CFR part 1b.3; or (2) The proposed action is within a category listed in 36 CFR 220.6(d) and (e).

Based on environmental analysis of this mineral exploration project, public scoping comments, and requirements at 36 CFR 220.6, my Decision is to approve Stillwater Mining Company Plan of

Operations – Benbow Exploration Portal - Environmental Characterization with modifications and additions. I find that this mineral exploration project:

- is a routine action that fits within categories listed in 36 CFR 220.6 (e): *(3) Approval, modification, or continuation of minor special uses of NFS lands that require less than five contiguous acres of land and (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.*
- will not result in uncertain or significant direct, indirect, or cumulative effects;
- will not have a cause-effect relationship between the proposed action and the degree of potential effects on specific resource conditions listed at 36 CFR 220.6(b), that will result in extraordinary circumstances that warrant further analysis and documentation in an EA or an EIS.

This locatable mineral exploration project was analyzed under the NEPA. In making my Decision, I considered interdisciplinary analysis of past, present, and reasonably foreseeable actions in and adjacent to the drilling area that are potentially relevant to reasonably foreseeable significant adverse impacts. Per regulations at 40 CFR 1508.7 and 36 CFR 220.4(f), the aggregate effects of other past, present, and reasonably foreseeable future actions were also specifically considered. Actions considered and analyzed include past, present, and reasonably foreseeable mining, mineral exploration, oil and gas leasing, recreation use, vegetation management, grazing, water quality impacts, invasive species management, and road use and maintenance activities (see Specialist Reports in Project Record). My Decision is based on analysis that considered the effects of similar past mineral exploration projects on the Custer National Forest’s Beartooth District. Several mineral exploration projects have been completed by SMC and other operators since 1985. These operations consisted of operations with mitigation and reclamation measures similar to those authorized by my Decision. As documented in the administrative files for past exploration projects (on file at the Beartooth Ranger District), operations and subsequent reclamation of impacts were successfully completed to prevent or control environmental effects and forest surface resources and return areas disturbed by operations to a stable configuration that approximates the original condition to the extent possible. Recent past exploratory drilling resulted in minimal and insignificant impacts and no existence of effects resulting in extraordinary circumstances. Based on analysis in the Project Record, past experience with similar projects, and rationale provided in this Decision Memo, I find that my Decision will not result in significant direct, indirect, or cumulative effects.

Forest Service procedures related to categorical exclusions require a review of “extraordinary circumstances” relating to specific resource conditions (36 CFR 220.6(b)). The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion (CE). It is the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions, and if such a relationship exists, the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist. Based on specific direct, indirect, and cumulative effects analyses (see Project Record), past experience with similar projects, and rationale provided in this Decision Memo, I find that the degree of potential effects of my Decision will not result in extraordinary circumstances. The conclusions of extraordinary circumstances review are as follows:

Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species

The Biological Assessment (see Project Record) reviews and discloses the possible effects to threatened, endangered, and proposed species and their habitats. Implementation of the proposed Federal action **MAY EFFECT, IS NOT LIKELY TO ADVERSELY AFFECT** the grizzly bear. Habitat for Canada lynx is not present in the project area. Thus, there would be no impacts to Canada lynx or critical lynx habitat and the species. The wolverine has been proposed for Federal listing and was addressed as a Sensitive species (see below).

Impacts to Region One Forest Service Sensitive terrestrial and aquatic species and rare plants are disclosed in the Biological Evaluation and in the fisheries input for this project (see Project Record). For Forest Service Region 1 Sensitive Species with suitable habitat or that have been documented in the cumulative effects area, effects determinations are as follows: **May impact Individuals or habitat but will not likely contribute to a trend towards federal listing or loss of viability to the population or species** for the American peregrine falcon, Bald eagle, gray wolf, Fringed Myotis, Long-eared myotis, Long-legged myotis and bighorn sheep; **No Impact** for the wolverine, Yellowstone cutthroat trout, Northern Leopard frog and Western (Boreal) Toad. Based on site-specific surveys of the area, it was determined that there are no Forest Service Region 1 Sensitive plant species in areas potentially affected by project implementation. Therefore, there would be no impact to Forest Service Region 1 Custer National Forest Sensitive Plant Species.

Based on the Biological Assessment, Biological Evaluation, Fisheries input, project-specific plant surveys, and past experience with similar projects, I find that the potential degree of effects of my Decision will not result in significant adverse effects to or extraordinary circumstances associated with these species or their habitats.

Flood Plains, Wetlands, or Municipal Watershed

Based on the hydrogeology specialist report (see project record), proposed drill sites/pads are not located within floodplains, wetlands, or municipal watersheds. The risk of affecting water quality, water quantity or physical stream characteristics from surface water diversions is low. No significant ground-disturbing activities are proposed in floodplains or wetlands within the project area. No municipal watersheds exist immediately downstream from the proposed activities within the Stillwater River drainage. Therefore, no significant adverse impacts are anticipated for floodplains, wetlands, or municipal watersheds.

The Water and Soils Conditions of Approval (see above) should further mitigate any potential impacts to wetlands or floodplains. Based on the hydrogeology specialist report, fisheries input, and prior experience with similar project implementation using similar mitigations and design features, I find that the degree of effects of my Decision will not result in extraordinary circumstances associated with Flood Plains, Wetlands, or Municipal watersheds.

Congressionally Designated Areas, such as Wilderness, Wilderness Study Areas, or National Recreation Areas

Because mineral exploration activities authorized by my Decision will not occur in a Wilderness, Wilderness Study Area, or National Recreation Area, I find that the degree of effects of my Decision will not result in extraordinary circumstances associated with these areas or their related wilderness characteristics.

Inventoried Roadless Area or Potential Wilderness Area

Because no Inventoried Roadless Area or Potential Wilderness Area will be affected by or lies in the vicinity of the mineral exploration activities authorized by my Decision, I find that the degree of effects of my Decision will not result in extraordinary circumstances associated with Research Natural Areas.

Research Natural Areas

Because no Research Natural Area, existing or nominated, will be affected by or lies in the vicinity of the mineral exploration activities authorized by my Decision, I find that the degree of effects of my Decision will not result in extraordinary circumstances associated with Research Natural Areas.

American Indian and Alaska Native religious or Cultural Sites

Cultural resource surveys have been completed for areas where activities for this decision are authorized and no impacts to these resources are predicted. No extraordinary circumstances associated with American Indian or Alaska Native religious or cultural sites are anticipated.

Archaeological Sites, or Historic Properties or Areas

Cultural resource surveys have been completed for areas where SMC's activities are authorized and no impacts to these resources are predicted. No extraordinary circumstances associated with archaeological sites or historic properties or areas are anticipated.

FINDINGS REQUIRED BY OTHER LAWS

National Forest Management Act of 1976 and the Custer Forest Plan

I find that my Decision is consistent with the *Custer Forest Plan* as required by the National Forest Management Act (NFMA). Forest-wide Minerals and Geology Management Standards include:

- *“The Forest will coordinate and cooperate with local, state, and other federal agencies, as needed, to facilitate the development of mineral resources occurring beneath lands administered by the Forest Service and to minimize the environmental and socio-economic impacts associated with the extraction and marketing of those resources.”*
- *“Exploration and development of minerals will be facilitated subject to the General Mining Law of 1872 and subsequent regulations in 36 CFR 228 developed by the Secretary of the Agriculture.”*

SMC's activities are authorized to occur in Forest Plan Management Area E. I find that my decision complies with the Management Area E goal *“To facilitate and encourage the exploration, development and production of energy and mineral resources from the National Forest System lands.”*

Per the NFMA, species identified as "Sensitive" that are known or suspected to occur on the Custer National Forest were analyzed as discussed above in the Extraordinary Circumstances section of this Decision Memo.

Impacts to Custer Forest Plan Management Indicator Species are disclosed in the Biological Evaluation and fisheries input (see Project Record). Management Indicator Species (MIS) and Key Wildlife Species with suitable habitat in the project area are Northern Goshawk, White-tailed deer, ruffed grouse, yellow warbler, ovenbird, Elk, Golden Eagle, and Mule Deer. The effects determination for these species is *Neutral*. Yellowstone Cutthroat Trout and Bighorn sheep are Forest Plan MIS and are addressed above as a Forest Service sensitive species.

I find that activities approved by my decision are consistent with applicable Forest Plan goals, objectives, and standards.

Endangered Species Act of 1973

In accordance with the Endangered Species Act (ESA), Forest Service Manual 2670, and Forest Service Region 1 Policy, this proposed action was analyzed for potential effects to Threatened, Endangered, and Sensitive wildlife and plant species (see above). A Biological Assessment for this project was completed (see project record). The Custer National Forest is not required to request written concurrence from US Fish and Wildlife Service (USFWS) with respect to the determination of potential effects on grizzly bears because the project was screened with the Programmatic Biological Assessment and met all criteria for the effects determination for this species. The USFWS has already concurred with this screening process. No additional informal consultation for this project will be conducted.

National Historic Preservation Act of 1966

The National Historic Preservation Act of 1966 as amended requires that areas held in Federal ownership must be surveyed for the presence of Cultural Resources prior to ground disturbance. Cultural resource surveys have been completed for areas where SMC's activities are authorized and no impacts to these resources are predicted.

OTHER LAWS OR REQUIREMENTS

Approval of this operating plan does not constitute recognition or certification of ownership by any person named as owner therein. Approval of this operating plan does not constitute now or in the future recognition or certification of the validity of any mining claim to which it may relate or to the mineral character of the land on which it lies.

Based on coordination with and review by the Montana Department of Environmental Quality, exploration activities authorized by my Decision will be in compliance with the Rules and Regulations governing the Montana Hard Rock Mining Reclamation Act (Annotated Rules of Montana 17.24.1 to 17.24.189) and the Montana Metal Mine Reclamation Act (Montana Code Annotated 2011, Title 82, Chapter 4, Part 3). Additionally, no specific exploration activities will occur until reclamation bonds are submitted for those specific activities to the Montana Department of Environmental Quality.

Based on potential effects disclosed in the hydrogeology report, I find that this Decision is consistent with requirements of the Federal Clean Water Act and State of Montana Water Quality Statutes and Administrative Rules.

I find that this Decision is consistent with all other applicable Federal, State, and local laws or requirements.

ADMINISTRATIVE REVIEW or APPEAL OPPORTUNITIES

In light of a recent court ruling (Sequoia ForestKeeper v. Tidwell, 11-cv-00679-LJO-DLB (E.D. Cal.)), the Forest Service is providing opportunity for administrative appeal for projects and activities

documented with a “Decision Memo” (36 CFR 220.6(e)). This decision is subject to appeal pursuant to 36 CFR 215. Only individuals or organizations who submitted comments or otherwise expressed interest by the close of the specified comment period may appeal this project (36 CFR 215.13). The 30 day comment period in which such comments needed to be submitted was initiated by an April 9, 2012 legal ad published in the Billings Gazette newspaper.

A written appeal of this decision must be submitted within 45 days following the publication date of a legal notice of decision in the Billings Gazette, Billings, Montana. It is the responsibility of the appellant to ensure their appeal is received in a timely manner. The publication date of this legal notice in the newspaper of record is the exclusive means for calculating the time to file an appeal. Appellants should not rely on date or timeframe information provided by any other source (36 CFR 215.15).

The appeal must be filed with the Appeal Deciding Officer in writing. It is the appellant's responsibility to provide sufficient project or activity-specific evidence and rationale, focusing on the decision, to show why the decision should be reversed. At a minimum, the appeal must meet the content requirements of 36 CFR 215.14 and should include the following:

- The appellant's name and address, with a telephone number if available;
- A signature or other verification of authorship upon request. A scanned signature for electronic mail may be filed with the appeal;
- When multiple names are listed on an appeal, identification of the lead appellant and verification of the identity of the lead appellant upon request;
- The name of the project or activity for which the decision was made, the name and title of the Responsible Official, and the date of the decision;
- The regulation under which the appeal is being filed, when there is an option to appeal under either 36 CFR 215 or 36 CFR 251, subpart C.
- Any specific change(s) in the decision that the appellant seeks and rational for those changes;
- Any portion(s) of the decision with which the appellant disagrees, and explanation for the disagreement;
- Why the appellant believes the Responsible Official's decision failed to consider the substantive comments; and
- How the appellant believes the decision specifically violates law, regulation, or policy.

If an appeal is received on this project, there may be informal resolution meetings and/or conference calls between the Responsible Official and the appellant. These discussions would take place within 15 days after the closing date for filing an appeal. All such meetings are open to the public. If you are interested in attending any informal resolution discussions, please contact the Responsible Official or monitor the following website for postings about current appeals in the Northern Region of the Forest Service:

<http://www.fs.usda.gov/goto/r1/appeal-meetings>

Appeals may be:

Mailed to:
USDA Forest Service, Northern Region
ATTN: Appeal Deciding Officer
P.O. Box 7669
Missoula, MT 59807

Hand delivered to:
USDA Forest Service, Northern Regional Headquarters
ATTN: Appeal Deciding Officer
Federal Building, 200 East Broadway
Missoula, Montana
Business Hours: 8:00 AM to 4:30 PM

Faxed to:
(406) 329-3411
ATTN: Appeal Deciding Officer

E-mailed to:
appeals-northern-regional-office@fs.fed.us
Please put "APPEAL: Blitz Ridge Plan of Operations" in the subject line. An automated response should confirm your electronic appeal has been received. Electronic appeals must be submitted in MS Word, Word Perfect, or Rich Text Format (RTF).

IMPLEMENTATION DATE

If no appeal is filed within the 45-day time period, implementation of the decision may begin on, but not before, the 5th business day following the close of the appeal-filing period. If an appeal is filed, implementation may occur on, but not before, the 15th business day following the date of appeal disposition. Total length of program implementation will not exceed one year. Only activities for which reclamation bonds are posted and allocated with MDEQ are authorized to occur.

CONTACT PERSON

Any questions related to this project or decision should be directed to Dan Seifert, US Forest Service, 6811 US Highway 212, Red Lodge, MT. 59068, phone (406) 446-2103, e-mail comments-northern-custer-beartooth@fs.fed.us. A Project Record containing additional information supporting the environmental analysis and Findings in this Decision Memo has been prepared and is available for public review at the Beartooth Ranger District. Interested individuals may review the Project Record by scheduling a visit in advance with Mr. Seifert.

Barbara A. Pittman FOR

TRAUTE PARRIE
District Ranger

June 15, 2012

Date

REFERENCES CITED

36 CFR 215. Title 36 Parks, Forests, and Public Property, Part 215. Notice, Comment, And Appeal Procedures For National Forest System Projects And Activities. Available online at:
http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title36/36cfr215_main_02.tpl

36 CFR 220. Title 36 Parks, Forests, and Public Property, Part 220—National Environmental Policy Act (Nepa) Compliance. Available online at: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=1b36ca1352714676c863564eeeeeba5e&rgn=div5&view=text&node=36:2.0.1.1.9&idn=36>

36 CFR 228a. Title 36 Parks, Forests, and Public Property, Part 228, Subpart A. Locatable Minerals. Available online at: http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title36/36cfr228_main_02.tpl

40 CFR 1500. Title 40 Protection of the Environment, Council on Environmental Quality Regulations for Implementing NEPA. Available online at: http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=86baf4891a1e0bd9f318e23fd065d2ca&c=ecfr&tpl=/ecfrbrowse/Title40/40cfrv33_02.tpl#1500

Annotated Rules of Montana 17.24.101 to 17.24.189. *Rules and Regulations Governing the Montana Hard Rock Mining Reclamation Act*. Available online at: <http://deq.mt.gov/hardrock/LawsRules.mcpX>

Czamanske, G., Zientek, M., 1985. The Stillwater Complex, Montana: Geology and guide, Reprint 2002, Montana Bureau of Mines and Geology: Special Publication 92, 396 p., 4 sheet(s).

Montana Code Annotated 2011. Title 82, Chapter 4, Part 3. Metal Mine Reclamation. Available online at: <http://deq.mt.gov/hardrock/LawsRules.mcpX>

USDA 1986. *Custer National Forest Land and Resource Management Plan (Forest Plan)*. U.S. Department of Agriculture, Forest Service. Custer National Forest. Billings, MT.

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