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Forest Service
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UNITED STATES FOREST SERVICE

REGION 4

RECORD OF DECISION
NORTH MAYBE MINE
EAST MILL OPERABLE UNIT
OPEN PIT SUB-OPERABLE UNIT
SODA SPRINGS, IDAHO

April 17, 2024

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ABBREVIATIONS AND ACRONYMS

BERA	Baseline Ecological Risk Assessment
BHHRA	Baseline Human Health Risk Assessment
BLRA	Baseline Livestock Risk Assessment
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
CIP	Community Involvement Plan
COPC	Constituent (chemical) of potential concern
CSM	Conceptual Site Model
CSOU	Creeks Sub-Operable Unit
yd3	Cubic yard
ELCR	Excess lifetime cancer risk
EMDSOU	East Mill Dump Sub-Operable Unit
EMOU	East Mill Operable Unit
EPA	Environmental Protection Agency
EPC	Exposure point concentration
HI	Hazard index
HQ	Hazard quotient
IDEQ	Idaho Department of Environmental Quality
kg	Kilogram
L/day	Liter per day
MCL	Maximum contaminant level
µg/L	Microgram per liter
mg	Milligram
mg/kg	Milligram per kilogram
mg/kg-day	Milligram per kilogram per day
mg/L	Milligram per liter
MCOU	Maybe Creek Operable Unit
MOE	Measure of Effect
MW	Monitoring well
NCP	National Oil and Hazardous Substances Pollution Contingency Plan
NPL	National Priorities List
NMM	North Maybe Mine
OU	Operable Unit
OPSOU	Open Pit Sub-Operable Unit
OPOU	Open Pits Operable Unit
PRP	Potentially responsible party
ROD	Record of Decision
RfD	Reference dose
RI	Remedial Investigation
RI/FS	Remedial Investigation and Feasibility Study
SARA	Superfund Amendments and Reauthorization
SMCM	South Maybe Canyon Mine
TCLP	Toxicity Characteristic Leaching Procedure
USDA	United States Department of Agriculture
USEPA	United States Environmental Protection Agency
USFS	United States Forest Service
USFWS	United States Fish and Wildlife Service
UAO	Unilateral administrative order
WROU	West Ridge Operable Unit

PART 1: THE DECLARATION

1.0 SITE NAME AND LOCATION

The North Maybe Mine (NMM) Site (CERCLIS ID: IDN001002956) is located in Soda Springs, Idaho (Caribou County).

To facilitate site management, the site is divided into two operable units: the West Ridge Operable Unit (WROU) and the East Mill Operable Unit (EMOU). The East Mill Operable Unit is further subdivided into three sub-operable units: the Open Pits Sub-Operable Unit (OPSOU), East Mill Dump Sub-Operable Unit (EMDSOU), and the Creeks Sub-Operable Unit (CSOU). This Record of Decision (ROD) is for the OPSOU. The Interim ROD for the EMDSOU was issued in September 2022. The ROD for CSOU is expected to be issued after the EMDSOU Interim Remedy is complete and will address remaining contamination at NMM EMOU.

2.0 STATEMENT OF BASIS AND PURPOSE

This ROD presents the No Action decision for the NMM OPSOU site **(**Figure 1). The No Action was chosen in accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 United States Code §9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), and, the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, as amended. The United States Forest Service as the lead agency, in agreement with Idaho Department of Environmental Quality (IDEQ) has determined that No Action is necessary to protect human health and the environment.

This ROD is based on the Administrative Record for NMM OPSOU, which was developed in accordance with Section 113 (k) of CERCLA, 42 United States Code §9613(k). This Administrative Record file is available for review at the USFS Soda Springs Ranger District office in Soda Springs, Idaho. The Administrative Record Index (Appendix C) identifies each of the items comprising the Administrative Record upon which the selection of the Remedial Action is based. The IDEQ, as a support agency, provided assistance during development of the remedial investigation (RI). The State of Idaho concurs with the Selected Remedy.

3.0 DESCRIPTION OF THE SELECTED REMEDY

Based on the findings of the investigations and activities completed at the OPSOU, the Forest Service has decided No Action is the remedy for NMM OPSOU. This decision is based on the Forest Service determination that this site does not pose a significant threat to human health or the environment.

The No Action is the response action in which the site is left “as is,” and no provisions are made for removal, monitoring, control, or contamination cleanup.

4.0 STATE CONCURRENCE

IDEQ forwarded to the Forest Service a letter of concurrence regarding the decision of No Action at NMM OPSOU. This letter of concurrence is in Appendix A.

5.0 DECLARATION

The Forest Service has determined that No Action is required for NMM OPSOU. Future land use for NMM OPSOU will be unrestricted because risk assessments document no risks to human health and the environment. Therefore, five-year reviews are not required. As this is a decision for No Action, the statutory requirements of CERCLA Section 121 for remedial actions are not applicable. The public participation requirements of CERCLA §117(a), 42 U.S.C. §9617(a), and the NCP, 40 CFR §300.430(f)(3), have been met. This remedy was selected by the USFS with the concurrence of the IDEQ (Appendix A). The Regional Forester (USFS, Region 4) has been delegated the authority to approve and sign this ROD.

U.S. Forest Service

KELLY ORR Digitally signed by KELLY ORR Date: 2024.05.02 16:06:51 -06'00'

Date 5/2/2024

Mary Farnsworth
Intermountain Regional Forester
Region 4

PART 2: THE DECISION SUMMARY

6.0 SITE NAME, LOCATION, AND BRIEF DESCRIPTION

The North Maybe Mine (NMM), East Mill Operable Unit (EMOU), Open Pit Sub-Operable Unit (OPSOU) is a former open-pit phosphate mine located about 26 road miles northeast of Soda Springs, Idaho (Caribou County, CERCLIS ID# IDN001002956) (Figure 1). The site is the location of a former phosphate ore mine. Operation of the mine generated waste rock enriched with various inorganic contaminants, including selenium, arsenic, uranium, and other elements. Contaminants were released in soils, surface water, groundwater, sediment, and vegetation. NMM includes an open pit approximately 2.5 miles long (the subject of this ROD), reclaimed haul roads, and is surrounded by 10 overburden piles.

The Site is not listed on the National Priorities List (NPL). The Remedial Investigation (RI) followed the structured process established by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the National Oil Pollution and Hazardous Substances Contingency Plan (NCP) to guide the cleanup of contaminated sites. As discussed in the Proposed Plan for the Site (USFS, 2021), the process includes various steps leading from discovery of a site through investigation, remedy selection, and implementation of a remedy. The NCP includes procedures, expectations, and program management principles to guide the process.

The USFS is the lead agency for the Site. The IDEQ, U.S. Fish and Wildlife Service (USFWS), and the Shoshone-Bannock Tribes are support agencies. The Potentially Responsible Parties (PRPs) identified for the Site did participate in the development of the RI for OPSOU.

7.0 SITE HISTORY AND ENFORCEMENT ACTIVITIES

This section of the ROD provides the history of the Site and a brief discussion of the USFS removal, remedial, and enforcement activities.

7.1 History of Site Activities

The mine operational history is summarized from A History of Phosphate Mining in Southeastern Idaho (Lee 2000) and other available historical documents, as follows:

1950: The North Maybe Mine is part of Federal Lease I-04 (Lease), which was originally issued by the United States to Western Fertilizer Association (WFA) in 1950.

1950 – 1959: WFA conducted exploration and underground mining. Underground mining was completed in 1951 at the bottom of Maybe Canyon. A tunnel was excavated nearly 200 feet to the north of the portal, from which more than 1,000 tons of phosphate rock were removed. Exploration across the lease continued until early 1959.

1959 to 1967: In 1959, WFA assigned the Lease to Central Farmers Fertilizer Company. Central Farmers Fertilizer Company assigned the Lease to El Paso Natural Gas Products Company in 1964. El Paso Natural Gas Products Company conducted mining operations beginning in 1965 and ending in 1967. Records indicate that Wells Cargo, Inc. was the mining contractor for El Paso Natural Gas Products Company.

1968 to 1969: The North Maybe Mine was idle.

1970 to 1971: El Paso Natural Gas Products Company assigned the Lease to a related entity, El Paso Products Service Company. The North Maybe Mine was idle during 1970 and 1971.

1972: El Paso Products Service Company conducted mining operations and assigned the Lease to Agricultural Products Corporation (APC).

1972 to 1977: APC operated the North Maybe Mine using Washington Construction as the mining contractor. APC merged into Beker Industries in 1974 and Beker Industries continued to mine the property through 1977. Reclamation of the south end of the North Maybe Mine began in 1976. Operations at North Maybe Mine ceased in 1977.

1978: Beker Industries assigned 50 percent of the lease to Western Co-Operative Fertilizer-U.S. Inc. (WCFL). Beker Industries and WCFL created the entity known as the Conda Partnership and each party assigned its 50 percent interest in the lease to the Conda Partnership. Beker served as the managing partner and WCFL was the sole non-operating partner.

1979 to 1984: Mining operations were conducted by the Conda Partnership using Washington Construction as the mining contractor. The Alternative 1982-84 Plan for Maybe Canyon Phosphate Lease I-04 (Conda Partnership 1981) proposed to complete

mine operations from 1982 to 1984.

1985 to 1992: The North Maybe Mine was idle. In 1987, Nu-West purchased Beker's assets and obtained a 50 percent interest in the Conda Partnership. The new partnership returned North Maybe Mine to full production by 1988.

1992: Nu-West purchased all of the WCFL stock, which included the other 50 percent of Conda Partnership.

1993: The Conda Partnership mined the North Maybe Mine Open Pit to completion. Conda Mining, a subsidiary of Washington Construction, was the mining contractor.

1994 to 1995: In 1995, the Conda Partnership disbanded, and all mine properties were transferred to Nu-West, who completed the North Maybe Mine reclamation.

During the life of the NMM, approximately 15 million wet tons of ore and 52 million bank cubic yards of overburden were mined.

The Maybe Canyon shop and office complex operated from 1964 to 1993 and was shared by the operations of both the NMM and the South Maybe Canyon Mine. The facility was located off-lease on Nu-West property, just west of the NMM (Figure 2) and has since been removed.

No ore processing occurred at the Site. Ore was hauled by rail to a processing plant near the town of Soda Springs. The key features of the Site are presented in Figure 2.

7.2 History of Enforcement and Investigation Actions

Investigations to assess the impacts of phosphate mining in southeastern Idaho on human health and the environment began after several horses were diagnosed with selenosis (i.e., selenium poisoning) in 1996 and were subsequently euthanized.

In 2001, DEQ assumed leadership of an area-wide investigation of contamination from phosphate mining, with participation by other state and federal agencies and the mining companies with operations in southeast Idaho. These area-wide investigations led the agencies to conclude that site-specific investigations were warranted on the larger historic and active open-pit mines located in the mining district, including the NMM and others.

These conclusions subsequently led to negotiations with Nu-West to conduct site-

specific investigations at the historical mines, including the NMM. In October 2013, IDEQ, U.S. Fish and Wildlife Service (USFWS), the Forest Service, the Shoshone-Bannock Tribes, and Nu-West (the latter as Respondent) entered into a mine-specific legal agreement calling for Nu-West to conduct investigations and develop a Remedial Investigation (RI) report for the NMM East Mill Operable Unit (EMOU) site. The Forest Service was designated the lead agency to oversee this work.

The majority of the area disturbed by mining is owned by United States and administered by the Forest Service. Nearby adjoining lands are privately owned ranching and farming properties and a small piece of State land.

This Site is divided into two operable units. The WROU and the EMOU as follows:

- WROU - lies west of the NMM pit and consists of the West Mill Dump (Dump 2 and 4), Dump 5 North and South, Dump F, the El Paso Dump, Big Draw Dump, Dump 6, and Dumps 7 and 8.

- EMOU – consists of all portions of NMM not included in the WROU. NMM EMOU is subdivided into the following sub-operable units as follows:

    - Open Pit Sub-Operable Unit (OPSOU) – Area encompassing the open pit on NMM.

    - East Mill Dump Sub-Operable Unit (EMDSOU) – Area encompassing the extent of the East Mill Dump and the sediment control structure.

    - Creeks Sub-Operable Unit (CSOU) – The areal extent of contamination from the EMOU that is not located within OPSOU or EMDSOU including East Mill Creek.

8.0 COMMUNITY PARTICIPATION

This section of the ROD describes the USFS community involvement activities. The USFS has been engaged in dialogue and collaboration with the affected community and strived to advocate and strengthen early and meaningful community participation during the remedial activities at the Site. These community participation activities during the remedial investigation process meet the public participation requirements in CERCLA and the NCP.

8.1 Community Involvement Plan

The Community Involvement Plan (CIP) for the Site was updated in February 2021. This CIP specifies the community involvement activities that the USFS has undertaken, and will continue to undertake, during the remedial activities planned for the Site (USFS 2021).

8.2 Community Meeting for the Proposed Plan for NMM OPSOU

An online virtual community meeting was held on July 18, 2023. No members of the public attended the virtual public meeting. At this meeting, representatives from the USFS presented the No Action Proposed Plan for the Site. The virtual public meeting had six attendees, all of which were USFS staff. The meeting was recorded and transcribed. The transcript is included in the Administrative Record file for the Site, which is maintained at the Information Repository located at the Soda Springs Ranger District office located at 410 E Hooper Ave, Soda Springs, Idaho.

Paid notices were placed in the Caribou County Sun (the Soda Springs newspaper) and the Idaho State Journal (the Pocatello newspaper) in July 2023 to announce issuance of the Proposed Plan and provide information on public involvement opportunities.

The RI Report (NuWest 2023c), Baseline Human Health Risk Assessment (NuWest 2022), Baseline Ecological Risk Assessment (NuWest 2020b), Baseline Livestock Risk Assessment (NuWest 2020a), and the Proposed Plan (USFS 2023a) for the Site were made available to the public during the public comment period for the OPSOU Proposed Plan. These documents are currently located in the Administrative Record file for the Site. A public comment period was held from July 9, 2023 to August 9, 2023. Responses to the comments received during this period are included in the Responsiveness Summary (Appendix C) of this ROD.

8.3 Fact Sheets

Numerous fact sheets were prepared during the planning and implementation of the RI. These fact sheets were placed at the Site's repository and distributed to those community members on the mailing list.

8.4 Local Site Repository

The purpose of the local Site Repository is to provide the public a location near the

community to review and copy background and current information about the Site. The Site's repository is located at:

Soda Springs Ranger District
410 East Hooper Ave.
Soda Springs, ID 83276-1496
Telephone: (208) 547-4356

9.0 SCOPE AND ROLE OF THE OPERABLE UNIT

In 2013, USFS entered into a settlement agreement with Nu-West calling for the production of an RI/FS for NMM EMOU.

As with many Superfund sites, the problems at the NMM are complex. As a result, USFS has organized the Site into two operable units (OUs):

- West Ridge Operable Unit: WROU includes the dumps to the west of the NMM open pit and includes the former shop area, tipple, and haul roads. The RI and associated human health and ecological risk assessments are approved. The Feasibility Study (FS) is currently being drafted by a different PRP.

- EMOU comprises the open pit and areas east of the open pit. East Mill Operable Unit was further subdivided into three Sub-Operable Units:

    - Open Pits Sub-Operable Unit: Comprises the NMM open pit. The RI is complete and the RI Report and associated human health and ecological risk assessments are approved. The OPSOU is the subject of this ROD.

    - East Mill Dump Sub-Operable Unit: Comprises the East Mill Dump and its associated sediment control structure located east of the NMM open pit on the headwaters of the East Mill Creek. The Remedial Investigation/ Focused Feasibility Study is complete for EMDSOU and an Interim ROD selecting a cap and cover remedy was signed in September 2022. Negotiations are underway for a Consent Decree to implement the remedy for EMDSOU.

    - Creeks Sub-Operable Unit: Comprises all areas not associated with WROU, EMDSOU, and OPSOU including East Mill Creek. Remedial Investigation work is on hold pending construction of the EMDSOU Interim Remedy.

A map of the Site showing the location and size of the EMOU, WROU, OPSOU, and EMDSOU relative to each other is shown in Figure 2.

9.1 Response Action For EMDSOU

An Interim ROD selected an Interim Remedy for the NMM EMOU EMDSOU in September 2022. The Selected Remedy for NMM EMDSOU is a combination of engineered source controls, treatment technologies, and other approaches and components that will work together to achieve the remedial action objectives. A key element of the remedy is controlling the release of contaminants from EMDSOU. This will be accomplished by consolidating, grading, and shaping the waste rock and constructing a two-foot-thick engineered cover system over approximately 70 acres of EMDSOU. Isolating the waste rock by constructing the cover system addresses direct contact risks with contaminants and vegetative uptake, reduces deep infiltration of water, and minimizes release of contaminants to surface water and groundwater. Negotiation of a Consent Decree to implement the selected remedy for NMM EMDSOU is underway.

9.2 Response Action for CSOU

A final remedy for NMM EMOU CSOU is not being selected in this ROD because the RI/FS is not complete for this sub-operable unit. The Remedial Investigation for CSOU is still underway. The risk assessments and RI/FS Report will be developed once conditions in East Mill Creek have stabilized after the interim remedy is constructed for EMDSOU.

9.3 Response Action For WROU

A final remedy for WROU is not being selected in this ROD. The Remedial Investigation Report, Human Health Risk Assessment, and Ecological Risk Assessment are complete for WROU. A Feasibility Study and Proposed Plan will be developed for this portion of the Site and a final remedy selected in a separate ROD.

10.0 SITE CHARACTERISTICS

This section of the ROD provides a brief comprehensive overview of the Site's soils, geology, surface water hydrology, and hydrogeology; the sampling strategy chosen for the Site; the Conceptual Site Model; and the nature and extent of contamination at the Site. Detailed information about the Site's characteristics can be found in the RI Report for NMM

OPSOU (Nu-West 2023c).

10.1 Overview of the Site

NMM is subdivided into two Operable Units; EMOU and the WROU. NMM EMOU is further subdivided into three sub-operable units: OPSOU, EMDSOU, and CSOU.

10.1.1 Site Geology and Hydrogeology

The Site is located on Dry Ridge, a prominent topographic feature associated with the upper Meade overthrust plate, formed during eastward tectonic compression occurring in the Cretaceous Period and Paleocene Epoch and resulting in an area of significant thrust compression, faulting, and folding. These forces resulted in generally northwest- to southeast-trending anticlines and synclines that dominate the area. The resistant beds of the Rex Chert Member generally form the top of a secondary hogback ridge on which the North Maybe Mine is located. The summit of Dry Ridge is east of the North Maybe Mine and formed by Thaynes Formation and Dinwoody Formation bedrock.

The Site is underlain by colluvium, Dinwoody Formation, and Cherty Shale Member bedrock. Groundwater is present in each stratigraphic unit, although flow magnitude and direction vary widely among units as a function of recharge and discharge locations and magnitude, hydraulic conductivity, and geologic structure such as faulting, folding, and plunging. Bedrock groundwater flowing along bedding planes may move along strike to the north and down dip to the east. However, significant down-dip flow is not expected due to decreasing hydraulic conductivity that occurs at depth. Instead, groundwater flow through weathered bedrock and fractures, including fractures that enable flow across units, are likely the more significant flow paths.

10.1.2 Site Surface Water Hydrology

The North Maybe Mine OPSOU and South Maybe Canyon Mine OPOU are closed hydrologic basins with no surface water flow leaving the basins. The only surface water inputs to the basins are direct precipitation and limited surface water runoff. Most of precipitation at the Sites occurs as snow, which preferentially accumulates on flat portions within the open pits and along the pit rims (see RI Report; NuWest 2023c). Greater amounts of snow accumulate on the east-facing west rims than the west-facing east rims. Ephemeral mine pit wall runoff has been observed coming off the east and west ridges of the open pits during spring snowmelt. Only ephemeral surface water flows occur within the open pits as

water flows toward topographic lows during spring snowmelt and rain events. Surface water that enters the basins that is not evaporated or sublimated infiltrates directly into the ground or accumulates to form intermittent and ephemeral ponds, which typically form at the bottom of the mine pit during spring snowmelt. Intermittent ponds remain at least partially filled throughout most of the summer, but frequently dry in the fall, and ephemeral ponds usually dry more immediately following completion of the spring snowmelt. At the Sites, both intermittent and ephemeral ponds form and dissipate seasonally, with intermittent ponds being larger, more persistent, and more supportive of aquatic habitat (see BERA Report; Arcadis 2020b) than ephemeral ponds. No perennial surface water features are present at the Site. Three shallow intermittent and ephemeral ponds are observed within the NMM OPSOU (Figure 2).

10.2 Conceptual Site Model

A hydrogeological conceptual site model for NMM OPSOU was developed to show the relationship between the sources of contaminants at the Site, mechanisms for release of contaminants, and surface water and groundwater transport pathways to various environmental media and receptors (Figure 3). The model provides a framework to assess relative risks from contaminants and develop more detailed site investigations and cleanup strategies. The following information describes elements of the conceptual site model.

10.2.1 Nature and Extent of Soil Contamination

Selenium is observed to have significant uptake into vegetation growing on waste rock dumps. Generally, this occurs through the uptake from soil or waste rock through the root system and into plant tissue.

NMM OPSOU comparison levels were exceeded in at least one sample in soil, sediment, and beef for: aluminum, antimony, arsenic, barium, boron, cadmium, chromium, cobalt, copper, iron, lead, manganese, mercury, molybdenum, nickel, selenium, silver, thallium, uranium, vanadium, and zinc (NuWest 2023c).

10.2.2 Nature and extent of Surface Water Contamination

Intermittent and ephemeral ponds are influenced and affected by mine waste and associated with contamination. Dissolution or leaching (from contact with rain or snowmelt) of contaminants from center waste shales are present in source areas, and the subsequent migration (movement) of dissolved constituents in surface water (runoff).

NMM OPSOU comparison levels were exceeded in at least one sample in surface water for: aluminum, antimony, arsenic, beryllium, cadmium, chromium, hexavalent chromium, cobalt, iron, lead, manganese, molybdenum, nickel, selenium, silver, thallium, uranium, vanadium, and zinc (NuWest 2023c).

10.2.3 Nature and Extent of Ground Water Contamination

Shallow groundwater directly under OPSOU is influenced and affected by mine waste and associated with groundwater contamination. Dissolution or leaching (from contact with rain or snowmelt) of contaminants from center waste shales is present in source areas, and the subsequent migration (movement) of dissolved constituents in groundwater has been observed.

NMM OPSOU comparison levels were exceeded in at least one sample in groundwater for: arsenic, cobalt, iron, manganese, molybdenum, nickel, selenium, vanadium, and zinc (NuWest 2023c).

10.2.4 Nature and Extent of Sediment Contamination

Sediments in the NMM OPSOU are influenced and affected by mine waste and associated with contaminants. Erosion of contaminated particles from waste rock dumps, transport off the dump(s), and subsequent deposition in ephemeral and intermittent ponds, results in impacts to sediment in ponds downgradient of source areas.

NMM OPSOU comparison levels were exceeded in at least one sample in sediment, for: antimony, beryllium, boron, cadmium, chromium, cobalt, manganese, molybdenum, nickel, selenium, silver, thallium, uranium, vanadium, and zinc (NuWest 2023c).

11.0 CURRENT AND POTENTIAL FUTURE LAND AND WATER USES

This section of the ROD discusses the current and reasonably anticipated future land uses, and current and potential ground water and surface water uses at the Site. This section also discusses the basis for future use assumptions.

11.1 Current and Potential Future Land Uses

The NMM Site is located in a rural and sparsely populated area. The nearest town is

Soda Springs, located about 26 miles away. Seasonal ranching is the dominant land use in the vicinity of the Site. There are many active and inactive phosphate mines in the area. The surrounding area is also used for public recreation, including hunting on private and public lands, and fishing on the Upper Blackfoot River.

The NMM Site includes the former mine area and contaminated portions of adjacent properties. Currently, access is restricted to NMM. Current land uses of the adjoining private properties include seasonal ranching (grazing of sheep and cattle). There is likely some limited recreational and Tribal use (hunting, gathering, and ceremonial use) of the lands at the Site as well. There are no residences at, or near, the NMM EMOU.

The reasonably anticipated future uses of the land at the Site include seasonal ranching (grazing of sheep on EMDSOU), recreation, and Tribal use. Residential use of the land at the Site is unlikely because residential use is not allowed on Forest Service lands.

11.2 Current and Potential Future Use of Surface Water and Groundwater

Current uses of the surface water on and adjoining the Site include seasonal ranching (watering of sheep on adjacent East Mill Creek), recreation, and Tribal use of the surface water at the Site as well. No groundwater uses at or adjacent to NMM OPSOU are currently present.

The reasonably anticipated future use of surface water at the Site include seasonal ranching (watering of sheep on East Mill Creek), recreation, and Tribal use. Residential use of the surface water and groundwater at the Site is unlikely because residential use is not allowed on National Forest System land.

12.0 SUMMARY OF SITE RISKS

This section of the ROD provides a summary of the Site's human health and ecological risks. A Baseline Human Health Risk Assessment (BHHRA)for the Site was completed in 2022 (Nu-West 2022). A Baseline Ecological Risk Assessment (BERA) for the Site was completed in 2020 (Nu-West 2020b). A Baseline Livestock Risk Assessment (BLRA) for the site was completed in 2020 (Nu-West 2020a).

12.1 Summary of Baseline Human Health Risk Assessment

A BHHRA was performed to estimate the probability and magnitude of potential

adverse human health effects from exposure to contaminants associated with the Site. The risk assessment followed a four-step process:

1. Contaminant identification, which identified those hazardous substances which, given the specifics of the site were of significant concern.

2. Exposure assessment, which identified actual or potential exposure pathways, characterized the potentially exposed populations, and determined the extent of possible exposure.

3. Toxicity assessment, which considered the types and magnitude of adverse health effects associated with exposure to hazardous substances.

4. Risk characterization, which integrated the three earlier steps to summarize the potential and actual risks posed by hazardous substances at the site, including carcinogenic and non-carcinogenic risks.

The risk assessment estimates what risks the site poses if No Action is taken. The results of the Human Health Risk Assessment for the NMM OPSOU are discussed below followed by the conclusions of the risk assessment.

Human health risks were estimated for various exposure scenarios, based on current and reasonably anticipated future land uses, including current and future Native Americans (for example, elk hunting and harvesting vegetation by the Shoshone-Bannock Tribes), current and future maintenance or Forest Service workers, current and future recreational users, and grazing permittees. These scenarios evaluated the exposure to mining-related contaminants in environmental media (soil, sediment, vegetation, surface water, and groundwater) at the Site (Figure 4).

Under current USEPA guidelines, the likelihood of carcinogenic and non-carcinogenic effects due to exposure to site-related contaminants are considered separately. Non-carcinogenic risks were assessed by calculation of a Hazard Index (HI), which is an expression of the chronic daily intake of a contaminant divided by its safe or Reference Dose (RfD). A HI that exceeds 1.0 indicates the potential for non-carcinogenic effects to occur. Carcinogenic risks were evaluated using a cancer Slope Factor, which is a measure of the cancer-causing potential of a chemical. Slope Factors are multiplied by daily intake estimates to generate an upper-bound estimate of excess lifetime cancer risk (ELCR). For known or suspected carcinogens, USEPA has established an acceptable cancer risk range of 10-4 to 10-

6 (one-in-ten thousand to one-in-one million).

The primary finding of the BHHRA is that the estimated non-radionuclide and radionuclide cancer and noncancer risks associated with NMM OPSOU are within or below the allowable USEPA CERCLA risk criteria of concern for cancer effects and non-cancer effects. This finding is applicable for current and future onsite receptors.

12.2 Summary of Baseline Ecological Risk Assessment

Ecological risk estimates were calculated for the most plausible ecological exposure pathways based on contaminant release and transport, available habitat, biota types present, and available food sources (Figure 5).

Risks were estimated for these exposure areas by calculating hazard quotients (HQs) for each receptor group. HQs are the ratio of the dose to a toxicity reference value appropriate for the assessment endpoint (AE). The HQ is not a predictor of risk. An HQ less than 1 suggests that there is little potential for ecological risk for a given constituent of potential concern (COPC) receptor combination, and it may be excluded from further consideration. If an HQ is equal to (unity) or greater than 1, then there is potential for ecological risk for the given receptor-AE. HQs between 1 and 10 present a small potential for environmental effects, HQs between 10 and 100 present a significant potential that effects could result from greater exposure, and HQs greater than 100 indicate the highest potential for expected effects.

The BERA evaluated two lines of evidence as Measures of Effect (MOEs) for each assessment endpoint, including, in most cases, both numerical HQs or ratios and community metrics, to assess the potential for risk to birds, mammals, amphibians, plants, and invertebrates. In the Baseline Ecological Risk Assessment (BERA) risks to plants and animals were assessed through two MOEs:

- MOE 1 compared measured exposure estimates (based on COPC concentrations) for a receptor group to a literature-based toxicity value generating a HQ. If the HQ is greater than 1 but less than 10, there is a small potential for adverse effects to ecological receptors.

- MOE 2 evaluated site-specific community metrics from multiple years of plant and animal surveys at NMM & SMCM.

The primary findings of the BERA at NMM OPSOU & SMCM OPOU are:

- Unacceptable risk to bird, mammal, and amphibian communities from site mining-related contaminants is not expected.

- No widespread adverse effects were observed for lower trophic level receptors (vegetation and invertebrate communities). They are part of an ecosystem functioning as expected that provides food for healthy mammal and bird communities.

Specifically, for birds and mammals, HQs were low, ranging from less than 1 to 3, and the community metrics that evaluate the site-specific condition of local populations indicate the presence of healthy populations consistent with what would be expected in similar habitats that are unaffected by mining COPCs. For amphibians, the results of the three lines of evidence evaluated (surface water concentrations, prey tissue concentrations, and literature evaluations) indicate unacceptable risk from selenium and other COPCs to the amphibian population is not expected. For vegetation and invertebrate communities, multiple lines of evidence evaluated together (background concentrations, toxicity benchmarks, critical tissue values and survey data), considering the underlying uncertainties, indicated no evidence of widespread adverse effects for COPCs. Although unacceptable risk to the vegetation community from vanadium cannot be excluded, the amount of vegetation is naturally low, consistent with what would be expected based on the poor rocky soil, disturbance (rockfalls and landslides), early stage of vegetation succession, and any adverse effects are likely of low magnitude when compared to natural stressors and natural low productivity of vegetation in the ecosystem.

12.3 Summary of Livestock Risk Assessment

The LRA for the Sites was conducted in two main parts: (1) Livestock Human Health Risk Assessment (LHHRA), which characterized risk to human receptors who may ingest the livestock (sheep) grazing at the Sites; and (2) Livestock Ecological Risk Assessment (LERA), which characterized risk to sheep, cattle, and horses that may be exposed to COPCs at the Sites.

For human consumption of livestock the results of the LHHRA for the Sites indicate that receptors are within or below the USEPA (1992b) allowable risk range of 1E-06 to 1E-04 and HIs are below the noncancer USEPA criterion of 1.

For risks to livestock the LRA evaluated two independent MOEs to ensure the protection of growth, reproduction, and survival of livestock receptors:

- MOE 1 evaluated risk to livestock using spatially weighted Exposure Point Concentrations (EPCs) based on the area of the Sites within the grazing allotments and compared those to vegetation screening levels protective of livestock to determine potential risk to livestock from the Site. All comparisons resulted in HQs less than 1, indicating no unacceptable risk to livestock from site COPCs.

- MOE 2 consisted of a foodweb analysis. The foodweb analysis for sheep, cattle, and horses estimated a daily dose exposure concentration in site media and developed an HQ. These comparisons resulted in HQs less than or equal to 1 for all COPCs at North Maybe Mine OPSOU and South Maybe Canyon Mine OPOU.

Based on the consistent results of both MOEs, there is high confidence in the finding of no unacceptable risk of adverse effects to livestock grazing on the Sites.

13.0 EXPLANATION OF SIGNIFICANT CHANGES

The Forest Service presented the No Action Proposed Plan to the public on July 10, 2023. A public comment period was held from July 10, 2023 to August 9, 2023 during which the Forest Service held a virtual public hearing on July 18, 2023. No public comment was received during the virtual public hearing. The transcript for the July 18, 2023 public hearing is included in Appendix B. Six letters of support for the No Action Decision were received by the Forest Service from the City of Soda Springs, local citizens and Itafos, Inc. As such, no changes were made to the action included in the Proposed Plan based on community comments.

14.0 STATE ROLE

The IDEQ, on behalf of the State of Idaho, has reviewed the No Action Proposed Plan and has indicated its support for the Selected Remedy. The State has also reviewed the NMM OPSOU and SMCM OPOU RI (NuWest 2023c), BHHRA (NuWest 2022), BLRA (NuWest 2020a), and BERA (NuWest 2020b), to determine if the No Action Proposed Plan complies with State environmental laws and regulations. No comments from the State of Idaho were received during the public comment period. IDEQ comments on the RI, BHHRA, BLRA, and BERA were resolved. The State of Idaho concurs with the Selected Remedy for the Site (Appendix A).

PART 3: RESPONSIVENESS SUMMARY

15.0 RESPONSIVENESS SUMMARY

The Responsiveness Summary (Appendix B) summarizes information about the views of the public and the support agencies regarding both the Proposed Plan and general concerns about theSite submitted during the public comment period. This summary also documents, in the record, how public comments were integrated into the decision-making process.

The Administrative Record file for the Site (Appendix C), located at the Soda Springs Ranger District office, contains all of the information and documents supporting this ROD. This Administrative Record file includes a transcript of the virtual public meeting held by the USFS on July 18, 2023, to describe the Proposed Plan (USFS 2023b).

The Forest Service held a Staff to Staff meeting with the Shoshone-Bannock Tribes (SBT) on September 26, 2023 and a Government to Government meeting on November 16, 2023 to receive and answer questions and comments. The Tribes followed up with a letter dated December 20, 2023.The letter and meeting summaries are attached in the Responsiveness Summary (Appendix B).

Tribal concerns centered on the NMM OPSOU Tribal use frequency used in the calculations to support the HHRA. The SBT questioned the Tribal use frequency contained in the HHRA and requested that Tribal use frequency be revised to “as many days as the site is accessible”. This use frequency does not represent the Reasonable Maximum Exposure (RME) for Tribal members per CERCLA guidance. Therefore, the Forest Service used 28 days as a conservative estimate of Tribal exposure that represents SBT RME at NMM OPSOU.

Additionally, the US Forest Service received six letters of support during the public comment period for the Proposed Plan. Community acceptance on the Proposed Plan was considered in the selection of No Action as the Selected Remedy for the Site. The Responsiveness Summary (Appendix B) summarizes the comments received and the US Forest Service's responses to these comments.

16.0 REFERENCES

Key Guidance Documents:

The Revised Forest Plan for the Caribou National Forest (February 2003)

The National Contingency Plan regulations, found at 40 CFR Section 300, and the statutory requirements of CERCLA—especially Section 121 of CERCLA, 42 U.S.C. Section 9621—are the mandatory requirements that the Forest Service must follow in selecting a remedy.

"Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA," Interim Final, OSWER No. 9355.3-01 (EPA October 1988)

"A Guide to Selecting Remedial Superfund Actions," OSWER No. 9355.0-27FS (EPA April 1990)

"Incorporating Citizen Concerns into Superfund Decision Making," OSWER No. 9230.0-18 (EPA January 1991)

NMM EMD investigation activities and reports include:

Forest Service 2023a. Proposed Plan, North Maybe Mine, Open Pit Sub-Operable Unit and South Maybe Canyon Mine, Open Pits Operable Unit. Prepared by U.S. Forest Service.

Forest Service 2023b. Public Meeting, North Maybe Mine, Open Pit Sub-Operable Unit and South Maybe Canyon Mine, Open Pits Operable Unit. Prepared by the U.S. Forest Service

Nu-West. 2023c. Final Remedial Investigation (RI) Report, North Maybe Mine, Open Pit Sub-Operable Unit and South Maybe Canyon Mine, Open Pits Operable Unit. Prepared by Arcadis.

NuWest 2022. Final Baseline Human Health Risk Assessment (BHHRA), North Maybe Mine, Open Pit Sub-Operable Unit and South Maybe Canyon Mine, Open Pits Operable Unit. Prepared by Arcadis.

Forest Service, 2021. Community Involvement Plan (CIP), North Maybe Mine. Prepared by U.S. Forest Service.

Forest Service, 2021a. Community Involvement Plan (CIP), South Maybe Canyon Mine. Prepared by U.S. Forest Service.

NuWest 2020a. Final Livestock Risk Assessment (BLRA), North Maybe Mine, Open Pit Sub-Operable Unit and South Maybe Canyon Mine, Open Pits Operable Unit. Prepared by Arcadis.

NuWest 2020b. Final Baseline Ecological Risk Assessment (BERA), North Maybe Mine, Open Pit Sub-Operable Unit and South Maybe Canyon Mine, Open Pits Operable Unit. Prepared by Arcadis.

Figures

Figure 1 Site Location

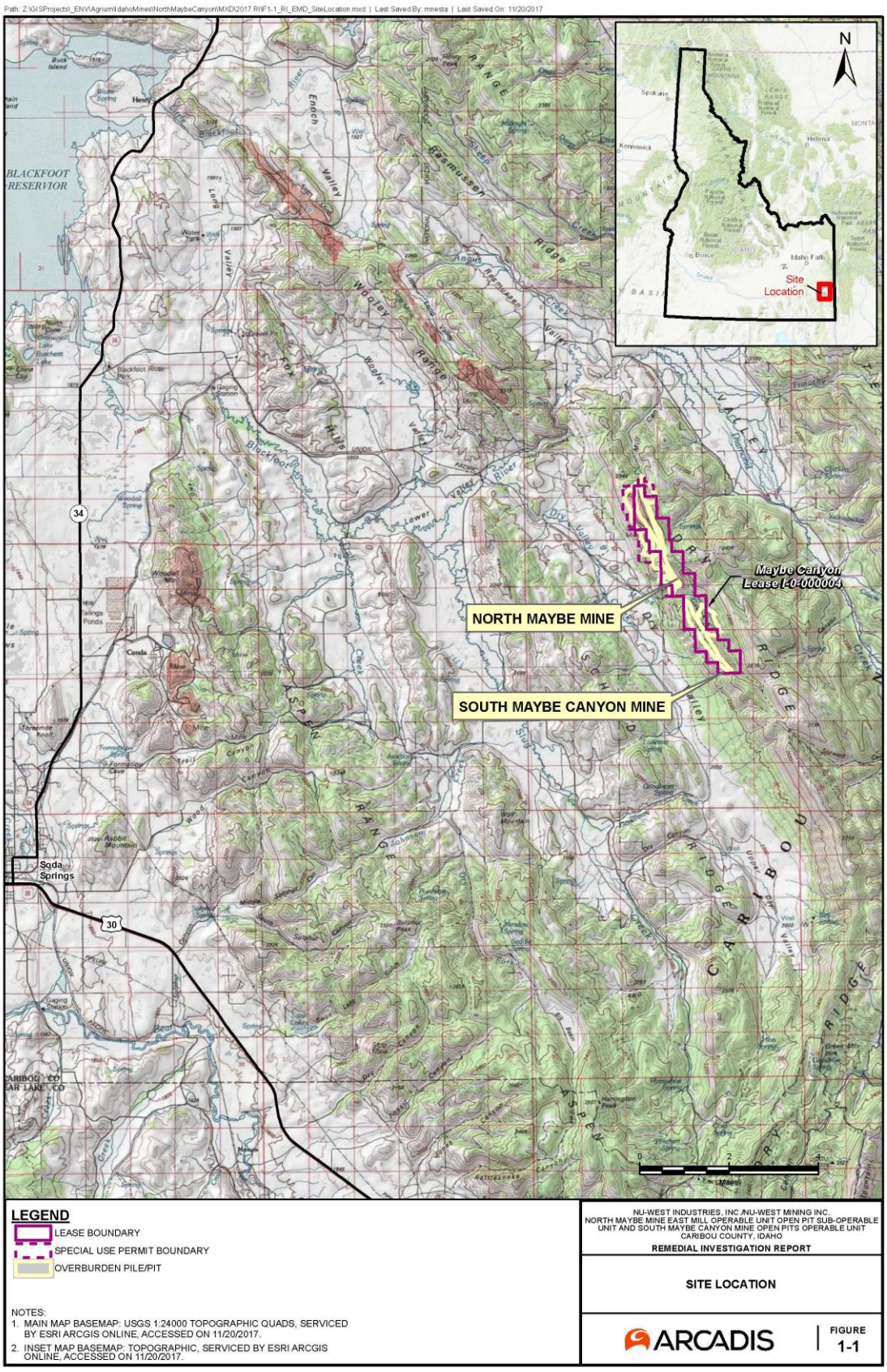


Figure 2 NMM Site Features

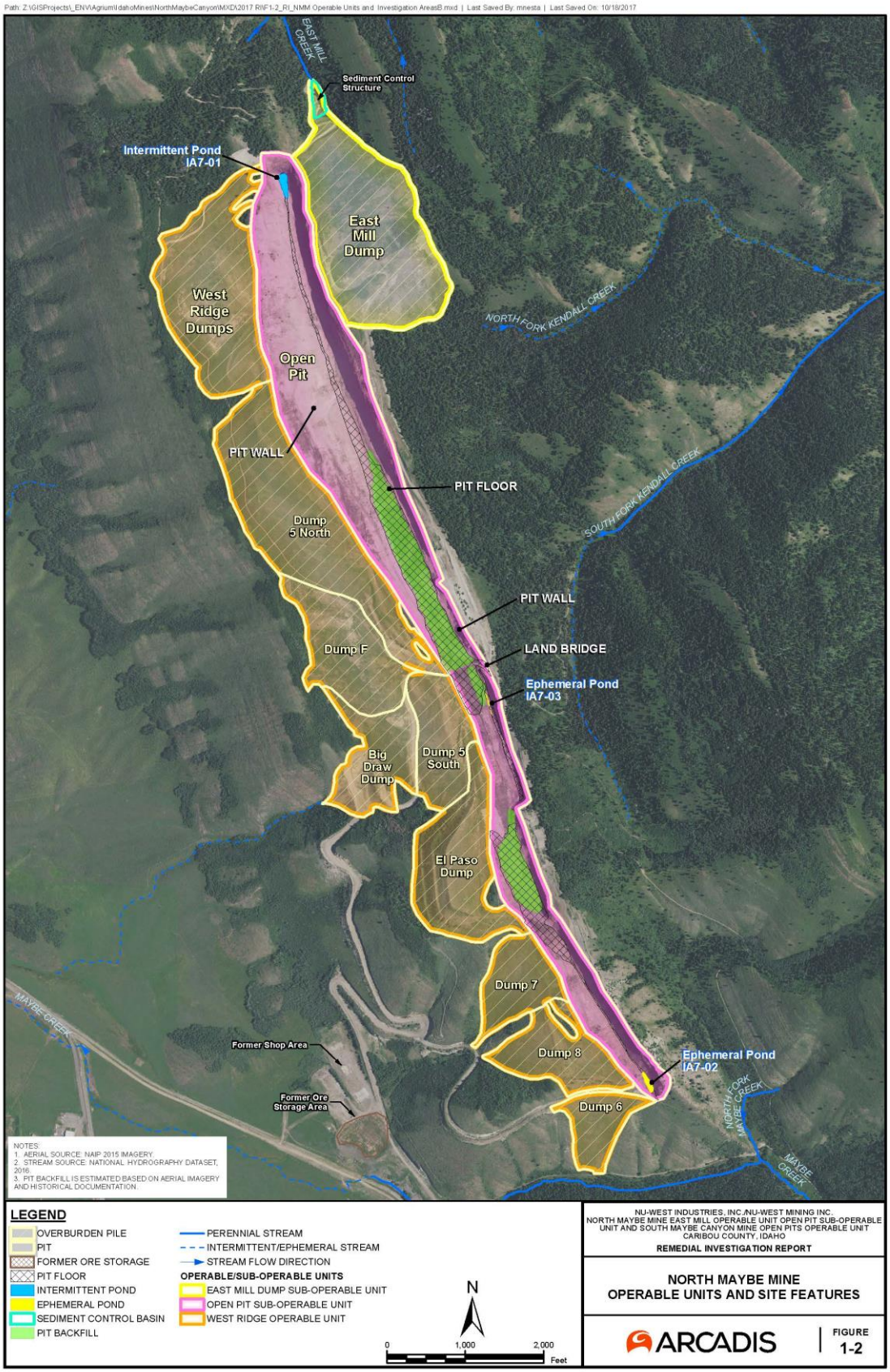


Figure 3 Hydrogeological Conceptual Site Model

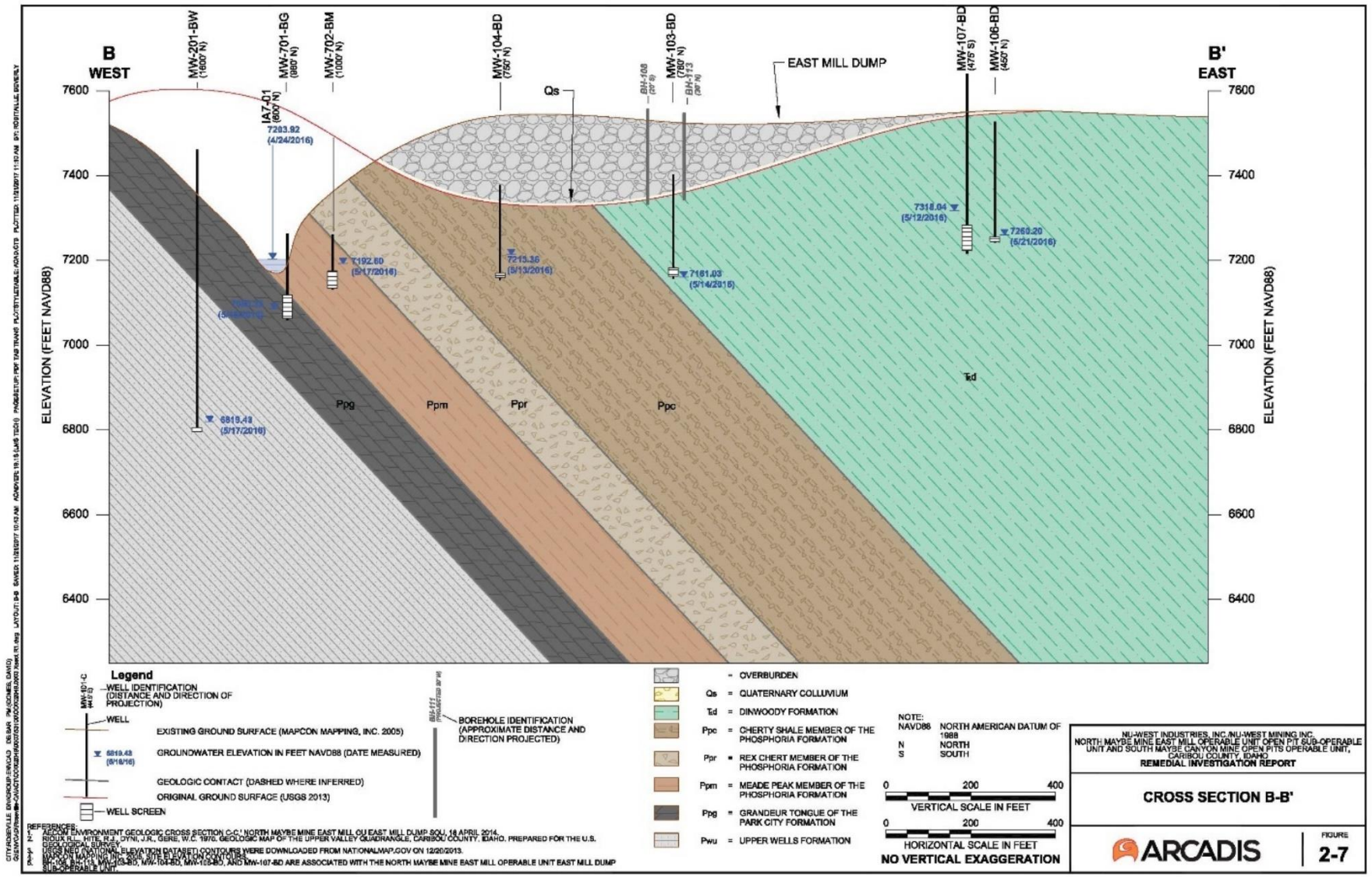


Figure 4 Baseline Human Health Risk Assessment Conceptual Site Model

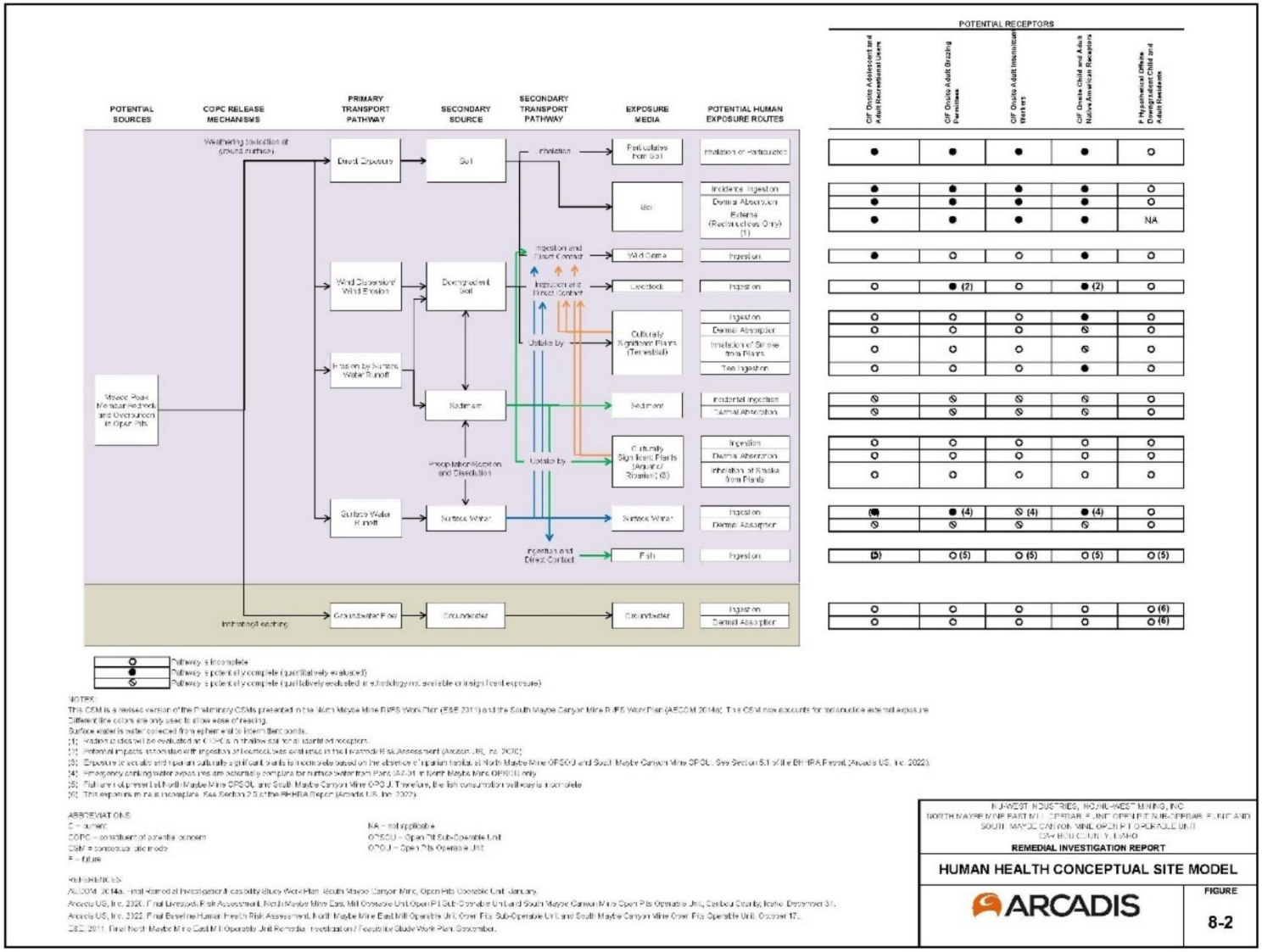
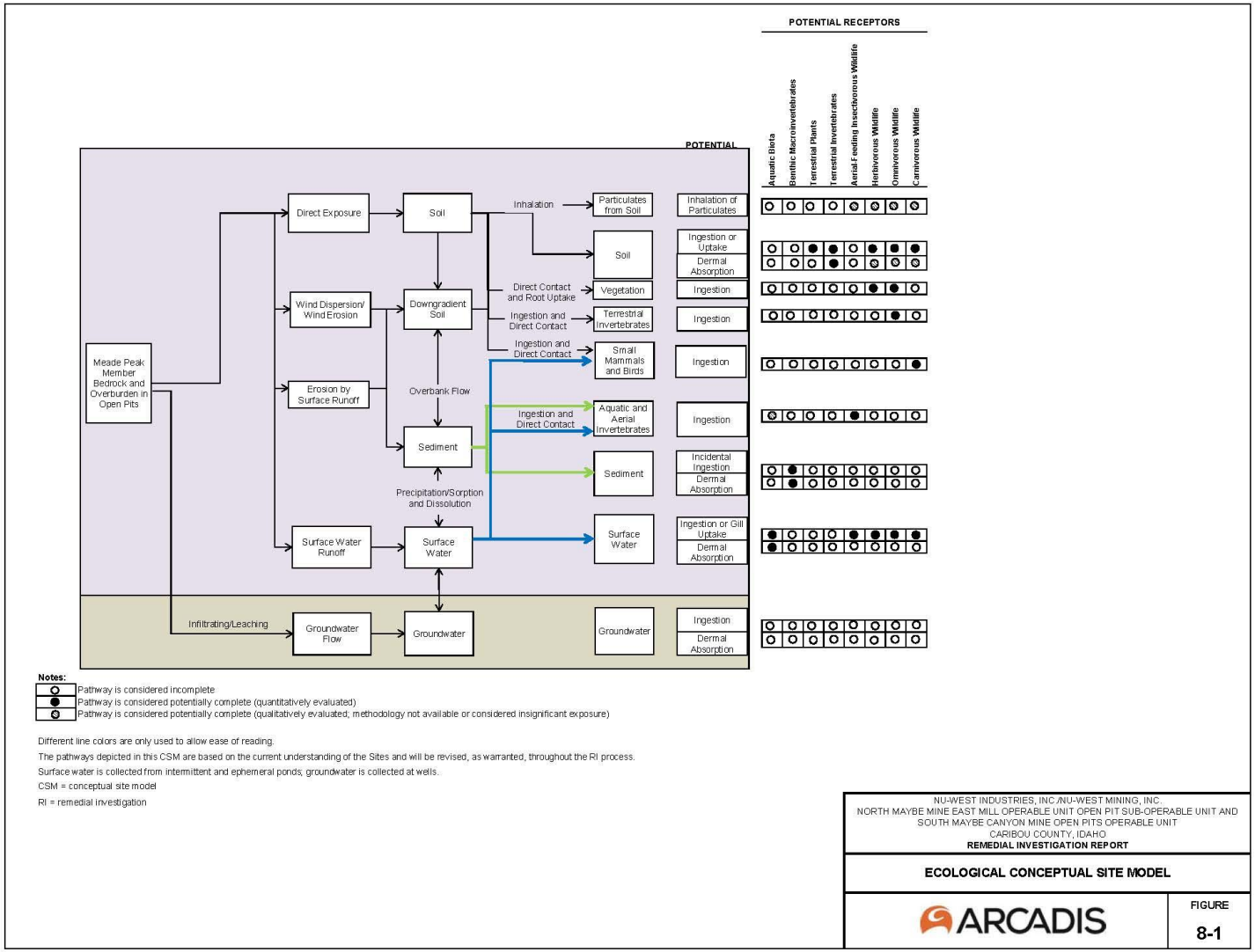


Figure 5 Baseline Ecological Risk Assessment Conceptual Site Model



APPENDIX A

Idaho Department of Environmental Quality Concurrence with the Selected Remedy

444 Hospital Way #300
Pocatello, ID 83201 • (208) 236-6160

Brad Little, Governor
Jess Byrne, Director

March 15, 2024

Electronic Delivery: Brian.Deeken@usda.gov

Mary Farnsworth, Intermountain Regional Forester
United States Forest Service Region 4
324 25th Street
Ogden, UT 84401

RE: Concurrence with the Record of Decision, North Maybe Mine, East Mill Operable Unit, Open Pit Sub-Operable Unit, Soda Springs, Idaho, January 11, 2024.

Dear Ms. Farnsworth,

The Idaho Department of Environmental Quality has reviewed the Record of Decision, North Maybe Mine, East Mill Operable Unit, Open Pit Sub-Operable Unit, Soda Springs, Idaho, January 11, 2024, issued by the United States Forest Service, Region 4 representing the selected remedy for the North Maybe Mine (NMM) East Mill Operable Unit (EMOU) Open Pit Sub-Operable Unit (OPSOU).

The NMM ENOU OPSOU site, consisting of pit highwalls and pit bottom, are the focus of this selected remedy, while other operable units within the historical mine footprint are currently in various phases of the Remedial Investigation and Feasibility Study process, are not being considered in this Record of Decision.

The Idaho Department of Environmental Quality, on behalf of the State of Idaho, has reviewed the United States Forest Service decision of No Further Action for the NMM EMOU OPSOU and concurs with this decision.

The State has also reviewed the NMM EMOU OPSOU Remedial Investigation Report (NuWest 2023), the NMM EMOU OPSOU Baseline Human Health Risk Assessment (NuWest 2022), the NMM EMOU OPSOU Livestock Risk Assessment (NuWest 2021), and the NMM EMOU OPSOU Baseline Ecological Risk Assessment (NuWest 2020) to determine if the Selected Remedy complies with applicable or relevant and appropriate State environmental and facility siting laws and regulations. The State of Idaho concurs with the Unites States Forest Service decision of no further action for the Site.

Sincerely,

Jess Byrne
Director
Idaho Department of Environmental Quality

SC

c: Michael McCurdy, DEQ State Office
Dana Swift, DEQ State Office
Katy Bergholm, DEQ Pocatello Regional Office
Douglas Tanner, DEQ Pocatello Regional Office
Sam Heinrich, Deputy Attorney General
Mel Boling, Forest Supervisor, USFS
Chris Campbell, Regional Director for Engineering, USFS

APPENDIX B

Responsiveness Summary

UNITED STATES FOREST SERVICE

Public Meeting on Proposed Plan for the North Maybe Mine, Open Pit Sub-Operable Unit and the South Maybe Canyon Mine, Open Pits Operable Unit Sites

Online Virtual Public Meeting

Tuesday, July 18, 2023 – 6:00p.m.

PRESENT:

Brian Deeken, USFS

Bryan Fuell, USFS

Sarah Wheeler, USFS

Kathleen Gorby, USFS

Elizab eth Warton, USFS

Marshall Thompson, USFS

Transcriber:
Brian Deeken
Remedial Project Manager, USFS
brian.deeken@usda.gov
4350 Cliffs Drive
Pocatello, ID 83204
(208)236-7516 Fax(208)236-7555

C-O-N-T-E-N-T-S

Speaker	Page
Kathleen Gorby, PIO	2
Brian Deeken, RPM	3
Public Comment	
none	

MS. GORBY: Good evening and thank you for attending tonight's individuals from the Caribou-Targhee National Forest will be presenting a proposed remedial action for the North Maybe Mine and South Maybe Canyon Mine.

My name is Katie Gorby and I'm the Public Affairs Officer for the Caribou-Targhee National Forest and I

will be your facilitator.

Brian Deeken, the Remedial Project Manager for the Caribou Targhee National Forest, will be your presenter, along with [inaudible] Sarah Wheeler, who is our Program Manager for the Caribou-Targhee National Forest, will be assisting the question and answer section.

Please enter your questions into the Q&A tab at any time. Members of the Caribou-Targhee National Forest and the Inter-Mountain Region Public Affairs Program will be reviewing and posting your questions throughout the presentation. After the presentation is completed, they will [inaudible] or we will ask your proposed questions to the panel members. Please ensure your questions are clear and appropriate.

We would also like to notify all attendees that this Teams live meeting will be recorded.

Thank you again for attending and let me introduce Brian Deeken. Take it away, Brian.

MR. DEEKEN: Good evening. I'm Brian Deeken and I will be presenting the Proposed Plan for the North Maybe Mine, Open Pit Sub-Operable Unit and the South Maybe Canyon Mine, Open Pits Operable Unit.

Tonight, I'm joined by Brian Fuel, acting CERCLA

Branch Chief.

Please note that the North Maybe Mine and South Maybe Canyon Mine are two separate sites. However, their site conditions, location, investigations, and decisions are very similar. So, they are presented together in the Proposed Plan.

Our agenda for today's presentation will be the following: First, we will present an overview of [inaudible] the cleanup process. Then we will provide a general location and description of North Maybe Mine and South Maybe Canyon Mine. Followed by the Remedial Investigation results, Risk Assessment results, the Forest Service decision, and last steps. In next and last next steps last we will discuss how to submit comments on the Proposed Plan and be available for any questions and comments you may have.

The cleanup process at the North Maybe Mine and South Maybe Canyon Mine is governed by the Comprehensive Environmental Response, Compensation, and Liability Act. Commonly referred to as CERCLA or Superfund.

The Forest Service is the lead agency overseeing the work conducted by New West Industries, Incorporated with the Idaho Department of

Environmental Quality, US Fish and Wildlife Service, and Shoshone-Bannock Tribes acting as Support Agencies.

The cleanup process for the North Maybe Mine and South Maybe Canyon Mine began with the Site Investigation to determine whether a full investigation of [inaudible] potential contamination from the mine was necessary.

This was followed by a Remedial Investigation, where samples of soil, vegetation, surface water, and groundwater were sent to a laboratory to see what areas were contaminated at North Maybe Mine and South Maybe Canyon Mine Open Pits.

This information was used in a Risk Assessment to determine if there was unacceptable risks to human health or the environment and reported in the Remedial Investigation Report.

The Proposed Plan summarizes the information from the Remedial Investigation and Risk Assessments for the North Maybe Mine and South Maybe Canyon Mine Open Pits.

The North Maybe Mine and South Maybe Canyon Mine are located in southeast Idaho, approximately 26 miles northeast of Soda Springs in on Dry Ridge in the Soda

Springs Ranger District.

As seen on the map the sites are [inaudible] located adjacent to each other with the North Maybe Mine to the north and the South Maybe Canyon Mine located to the south.

The South Maybe Canyon Mine is a northeast oriented open pit that is approximately 1.8 miles long. South Maybe Canyon Mine has one waste dump located here, called the Cross Valley Fill noted in yellow. And mine waste is also located in the middle of the open pit here in green.

Previous actions at the South Maybe Canyon Mine included a cap and cover Removal Action at the Cross Valley Fill. This Removal Action is achieving a 95 percent reduction in metals contamination in Maybe Creek.

The Forest Service recently completed the first Five Year Review of the South Maybe Canyon Mine Cross Valley Fill. The Forest Service is also investigating [inaudible] contamination in the Maybe Creek Operable Unit located here.

North Maybe Mine, Operable Open Pit Sub-Operable Unit is the open pit located here in the center of the mine. And it’s oriented also in a northeast general

direction. [inaudible] North Maybe Mine Operable Unit is 2 and a half miles long with external waste dumps in yellow and mine waste also located in the open pit noted here and here in green.

Previous actions at the North Maybe Mine include an Interim ROD or Record of Decision for a cap and cover Interim Remedy at the East Mill Dump. This remedy is similar to the Cross Valley Fill and is expected to achieve similar results for the East Mill Creek.

The Forest Service and NuWest are currently negotiating a Consent Decree for Remedial Design and Remedial Action work at East Mill Dump.

The Forest Service is currently investigating contamination downstream of East Mill Dump in the Creeks Sub-Operable Unit.

The Forest Service is also evaluating possible remedies in the Feasibility Study for contamination found on the West Ridge Operable Unit located here.

Contaminate concentrations in surface water, groundwater, sediment, and soil were compared against human health and ecological screening levels to determine whether further investigation was needed at the Open Pits.

Screening levels are based on conservative conservative generic assumptions about exposure and are not default cleanup levels. Exceedances of [inaudible] screening levels indicate areas that need further investigation and evaluation in a site-specific Baseline Risk Assessment.

Exceedances of screening levels were associated with surface water infiltrating through waste rock and accumulating in pit lake surface waters and affecting shallow groundwater under the pit lakes at both North Maybe Mine and South Maybe Canyon Mine. This information was then used in a site-specific Risk Assessment that is presented on the next slide.

Baseline Risk Assessments provide an understanding of the actual and potential risks posed to human health and the environment by the site and any uncertainties associated with the Risk Assessment. They provide the basis for determining whether or not remedial action is necessary. The Risk Assessments used as much site-specific data as possible to understand the actual and potential risks at North Maybe Mine and South Maybe Canyon Mine Open Pits.

For human health, the EPA risk criteria are less than 10 to the minus four for carcinogens and a Hazard

Index of less than one for non-carcinogens.

The EPA risk criteria or for ecological and livestock receptors are a Hazard Quotient of less than one.

The results of these site-specific baseline Risk Assessments showed risks are within or below allowable US EPA risk criteria for human health and livestock at North Maybe Mine and South Maybe Canyon Mine Open Pits.

The Ecological Risk Assessment at North Maybe Mine and South Maybe Canyon Mine Open Pits showed a low risk of less than one to three for small mammals and birds. However, alternate lines of evidence including bird and mammal surveys completed over multiple years indicate the presence of healthy populations of birds and mammals consistent with what would be expected in similar habitats that are unaffected by mining.

In the [inaudible] EPA document titled Role of Baseline Risk Assessment in Superfund Remedy Selection Decisions, it states: "for sites where the cumulative site risk to an individual based on reasonable maximum exposure for both current and future land use is less than ten to the minus four, actions generally is not

warranted."

Agencies do not believe the Open Pits at North Maybe Mine and South Maybe Canyon Mine require a remedial action because risks are within or below allowable US EPA risk criteria or alternate lines of evidence show adverse risk is not expected.

Therefore, [inaudible] it is the Forest Services' judgment that the open pits do not require remedial action to prevent, mitigate, or respond to prior mining contamination at North Maybe Mine Open Pit Sub-Operable Unit and the South Maybe Canyon Mine Open Pits Operable Unit.

We anticipate following this general list of activities upon completion of the public comment period: First, the Forest Service will consider and respond to all public comments received during this public comment period in a document called a Responsiveness Summary that will be part of the [inaudible] Record of Decision.

Two separate Records of Decision will be issued in fall 2023. One each for South Maybe Canyon Mine, Open pits [inaudible] Operable Unit and North Maybe Mine, Open Pit Sub-Operable Unit to document the Forest Service decision.

If you are interested in reading the Proposed Plan for the North Maybe Mine and South Maybe Canyon Mine Open Pits, please go online to www.fs.usda.gov/ctnf and download a copy of the Proposed Plan.

Please call the Soda Springs Ranger District office at (208)547-4356 to set an appointment if you would like to view the Proposed Plan or any of the administrative record documents that support the Proposed Plan.

The Forest Service will be accepting comments on the North Maybe Mine and South Maybe Canyon Mine Open Pits Proposed Plan through the end of the comment period ending on August 9th, 2023.

There are three ways to submit comments: First, by mail to the address on this slide. Second, via email to myself at brian.deeken@usda.gov. The third, is during this public meeting directly after this presentation.

The comments received during this public comment period will be reviewed to see if there are any community preferences on this decision or if there is any new site information we did not consider. We will provide responses to each comment received in the

Responsiveness Summary document for the North Maybe Mine and South Maybe Canyon Mine Records of Decision.

I would like to thank you for your time and participation in attending this public meeting. Please feel free to use the text box if you have comments or questions.

The time is now yours to ask any questions or provide comments for the Proposed Plan at the North Maybe Mine and South Maybe Canyon Mine Open Pits.

I'll now turn [inaudible] the time back over to Katie Gorby.

MS. GORBY: Thank you, Brian so much for your time and that wonderful presentation.

I see that we do not have any questions at this time.

I would like to thank everybody for attending and I hope you have a great evening. If you do have any follow up questions, please refer to the slides that Brian gave you as far as the email and the phone numbers that you can call.

We appreciate your time again and thank you so much from the Caribou-Targhee National Forest.

[END OF MEETING]

C E R T I F I C A T E

I, Brian Deeken, certify that the foregoing transcript of proceedings in the Public Meeting for the North Maybe Mine, Open Pit Sub-Operable Unit and South Maybe Canyon Mine, Open Pits Operable Unit is a true and accurate record of the proceedings.

Signature _____

Date _____

City of Soda Springs

9 West Second South
Soda Springs, ID 83276
208-547-2600

Mitchell J. Hart, Council President

July 18, 2023

NMM SMCM Comments
Attn: Brian Deeken
USDA Forest Service
4350 Cliffs Drive
Pocatello, ID 83204

Sent via e-mail -- brian.deeken@usda.gov

RE: "Proposed Plan for No Action"
North Maybe Mine (NMM)
Open Pit Sub-Operable Unit (OPSOU) &
South Maybe Canyon Mine (SMCM)
Open Pit Sub-Operable Unit (OPSOU)

Mr. Deeken:

I support the USDA Forest Service's (USFS) "Proposed Plan of No Action" at the North Maybe Mine (NMM) Open Pit Sub-Operable Unit (OPSOU) and South Maybe Canyon Mine (SMCM) Open Pit Sub-Operable Unit (OPSOU under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Despite the extended length of time to reach this "Proposed Plan of No Action", I commend Nu-West Industries, Inc. (Nu-West) and the USFS for taking a comprehensive approach through the Remedial Investigation (RI) report, Baseline Human Health Risk Assessment (BHHRA), Baseline Ecological Risk Assessment (BERA), and Livestock Risk Assessment (LRA).

I support the conclusions of the RI and risk assessments and the USFS's determination that the Open Pits do not require remedial action to prevent, mitigate, or respond to impacts from prior mining activities at NMM OPSOU and SMCM OPOU and conclude that the Open Pits do not require remedial action.

Best Regards,

s:/*Mitch*

Mitchell J. Hart
Council President
City of Soda Springs, Idaho

Jon D. Goode, CPA
780 Pioneer Drive
Soda Springs, ID 83276

Submitted via email to: brian.deeken@usda.gov

July 19, 2023

U.S. Forest Service
Attn: Brian Deeken, Remedial Project Manager
4350 S. Cliffs Dr.
Pocatello, ID 83204

Re: North Maybe Mine and South Maybe Canyon Mine Open Pit Sub Operable Unit Comments

Dear Mr. Deeken:

Thank you for the opportunity to comment on the US Forest Service's (USFS) Proposed Plan of No Action for the North Maybe Mine (NMM) and South Maybe Canyon Mine (SMCM) Open Pit Sub Operable Units (OPSOUs). Being an Idaho native and long-time resident of Caribou County, I am encouraged by the No Action determination, and appreciate the effort expended by the involved parties.

In reviewing the extensive underlying documentation, it appears both Nu-West Industries, Inc. and the USFS were very thorough and diligent, as evidenced in the Remedial Investigation (RI) report, Baseline Human Health Risk Assessment (BHHRA), Baseline Ecological Risk Assessment (BERA), and Livestock Risk Assessment (LRA).

I fully support the conclusions of the RI, BHHRA, BERA, and LRA along with the USFS's determination that the Open Pits do not require remedial action to prevent, mitigate, or respond to impacts from prior mining activities at NMM and SMCM OPSOUs, and furthermore concur that the Open Pits require no remedial action.

Respectfully submitted,

Jon D. Goode, CPA

August 3, 2023

ATTN: Brian Deeken, Remedial Project Manager
USDA Forest Service
4350 Cliffs Drive
Pocatello, ID 83204

Re: Comment for North Maybe Mine and South Maybe Canyon Mine

To Mr. Deeken,

Regarding the Proposed Plan for the North Maybe Mine and South Maybe Canyon Mine Open Pits in Caribou County, Idaho, I would like to offer my comment in support of the US Forest Service's No Action plan.

I support the Forest Service's Proposed Plan due to the extensive research conducted by the Forest Service, NuWest Industries, Inc., and the numerous supporting agencies. I appreciate the quality and quantity of work that went into the Remedial Investigation (RI) and Risk Assessments. As a resident in Caribou County, I care about the safety of our community. Based on the details in the RI, I concur with the Forest Service's judgement that the Open Pits do not require remedial action from past mining activities.

I fully support the Forest Service's Proposed Plan of No Action for the North Maybe Mine and South Maybe Canyon Mine Open Pits.

Respectfully,

Braden Lott

Deeken, Brian - FS, ID

From: miller.carlyle@gmail.com
Sent: Monday, August 7, 2023 2:51 PM
To: Deeken, Brian - FS, ID
Subject: [External Email]NMM SMCM Comments

From: Carlyle Miller
P.O. Box 65
Soda Springs, ID 83276

To: Brian Deeken
USDA Forest Service
4350 Cliffs Drive
Pocatello, ID 83204

Dear Mr. Deeken,

Thank you for the opportunity to review the USDA Forest Service's (USFS) "Proposed Plan of No Action" at the North Maybe Mine (NMM) Open Pit Sub-Operable Unit (OPSOU) and South Maybe Canyon Mine (SMCM) Open Pit Sub-Operable Unit (OPSOU) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

I support the USFS's determination that the Open Pits do not require remedial action to prevent, mitigate, or respond to impacts from prior mining activities at NMM OPSOU and SMCM OPOU.

Regards, Carlyle

August 8, 2023

USDA Forest Service

Mr. Brian Deeken

4350 S. Cliffs Dr.

Pocatello, ID 83204

ATTN: NMM SMCM – Public Comments

Mr. Brian Deeken:

As a longtime resident of Caribou County, I want what is best for the people, environment, and wildlife of my southeastern Idaho community. I thank you and the Forest Service for accepting comments from the public regarding the North Maybe Mine (NMM) and South Maybe Canyon Mine (SMCM) Open Pits.

I am pleased to see the extensive work put into the research of the current and future state of the NMM and SMCM Open Pit sites by NuWest Industries, Inc., the Forest Service, and the supporting agencies of the Idaho Department of Environmental Quality, the U.S. Fish and Wildlife Service, and the Shoshone Bannock Tribes. It is important to consider the possible impacts prior mining activities can have on humans and wildlife in the area. With that being said, I am in complete support of the results from the Remedial Investigation report, as well as the Baseline Human Health, Ecological, and Livestock Risk Assessments.

These reports provide clear evidence that the Forest Service and NuWest Industries, Inc. conducted thorough investigations before the final referral for no remedial action needed to the Open Pits to prevent, mitigate, or respond to prior mining activities. I am in support of the Proposed Plan of No Action and urge you to move forward with this for the Record of Decision.

Thank you for your time,

Mick McCullough

Deeken, Brian - FS, ID

From: Travis Naef <Travis.Naef@itafos.com>
Sent: Tuesday, August 8, 2023 1:57 PM
To: Deeken, Brian - FS, ID
Subject: [External Email]No Action Decision Support - North Maybe & South Maybe Canyon Mine Sites

Brian,

This letter is in support of the "No Action" proposal plan decision for the North Maybe Mine and South Maybe Canyon Mine. From reading/reviewing the USDA Forest Service summary, I feel that this is a good decision. I have reviewed the Remedial Investigation (RI), Baseline Human Health Risk Assessment (BHHRA), Baseline Ecological Risk Assessment (BERA) and Livestock Risk Assessment (LRA) and concur that no remedial action is required. Therefore, I support the conclusions of the RI and risk assessments and determination of the USFS that these open pits do not require remedial action to prevent, mitigate or respond to impacts from prior mining activities at the North Maybe Mine, South Maybe Canyon Mine.

Thank you,

Travis Naef
Local Caribou County Citizen/Resident/Outdoor Enthusiast

North Maybe Mine, Open Pit Sub-Operable Unit

and

South Maybe Canyon Mine, Open Pits Operable Unit

Proposed Plan Staff to Staff Meeting Summary

September 26, 2023

A Staff to Staff meeting for the North Maybe Mine (NMM), Open Pit Sub-Operable Unit (OPSOU) and South Maybe Canyon Mine (SMCM), Open Pits Operable Unit (OPOU) Proposed Plan was held on September 26, 2023 at 10:00 am MST to discuss comments by the Shoshone-Bannock Tribes (SBT).

Attendees included:

Brian Deeken, USFS
Bryan Fuell, USFS
Susan Hanson, SBT
Candon Tanaka, SBT
Sarah Wheeler, USFS
Alan Jones, USFS
Kelly Wright, SBT

The agenda items, questions, and comments covered during the September 26, 2023 meeting are listed below.

Agenda Item: Opening Remarks

Opening remarks from the SBT included introductions and that the SBT intent is to protect Treaty Rights and ensure the safety of Tribal members at the sties. Tribal members should not be evaluated similar to a recreationist as exposures are different. Further, due to recent events at the Simplot Slurry line the SBT would like to ensure timely notification of events, meetings, and emergencies for sites on Forest Service lands in order to protect Tribal members and Treaty Rights.

Opening Remarks from the Forest Service included introductions and that the purpose of the meeting was to receive comments and answer questions regarding the Proposed Plan for the NMM OPSOU & SMCM OPOU.

Agenda Item: NMM OPSOU & SMCM OPOU Proposed Plan

Brian Deeken provided a presentation on the NMM OPSOU & SMCM OPOU Proposed Plan. The presentation covered the location of the sites, previous actions at the sites, Remedial Investigation (RI) results, Risk Assessment results, the proposed Forest Service No Action decision, next steps, and an opportunity for SBT questions and comments.

Agenda Item: SBT Questions and Comments

SBT representatives asked the following questions during and after the presentation. Forest Service responses are provided after each question or comment.

- SBT: Did the Forest Service evaluate sidewalls during the RI?
  Forest Service: The Pit Sidewalls are naturally occurring rock that does not fall within the CERCLA definition of waste and therefore were not required for investigation in the RI.
- SBT: Did the Forest Service evaluate scree and erosion from sidewalls?
  Forest Service: Yes, surface water samples from sidewalls during snowmelt and soil samples of scree from the sidewalls were sampled during the RI to better understand the open pits.
- SBT: Is surface water in the pit lakes connected to groundwater?
  Forest Service: No, surface water was above the groundwater elevation in two wells adjacent to the NMM OPSOU pit lake. Transducer measurements documented that pit lakes infiltrated more than evaporated at the sites.
- SBT: Where does pit lake water go?
  Forest Service: We conducted tracer studies, major ion analysis, and deuterium analysis at NMM OPSOU and nearby surface waters, springs, and groundwater at NMM East Mill Dump Sub-Operable Unit and Creeks Sub-Operable Unit. Based on the results of these studies no connection of pit lake water to the nearby surface water and groundwater features was found. Based on these findings, pit lake water follows bedding planes down to the regional aquifer.
- SBT: How long were these water tests conducted?
  Forest Service: The tracer and deuterium studies lasted two years while the major ion analysis occurred for about ten years.
- SBT: The SBT thought there was an agreement to calculate a separate scenario that utilized the requested SBT exposure parameters. Why was this not completed?
  Forest Service: The previous RPM for Champ and Mountain Fuel mines mentioned that this was a possibility during the Risk assessments. However, NuWest through the comment process did not complete the requested calculations.
- SBT: Why did the Forest Service not use the SBT exposure duration (all days the sites are accessible) in the Risk Assessment?
  Forest Service: The SBT exposure duration of “all days the site is accessible” is not in accordance with EPA guidance for exposure duration as it was not considered a “Reasonable maximum exposure”. Documentation was requested of the exposure duration and was not received because this duration was not in previously submitted Tribal documents.
- SBT: SBT does not have to provide documentation of sacred use of the land.

Forest Service: The Forest Service is not asking for a tally or other onerous documentation. Just a description of "reasonable maximum exposure" of the average Tribal member that uses the site.

- SBT: The SBT views the 28 days use as an infringement of protected Treaty Rights to use unoccupied lands.
  Forest Service: As the SBT is aware, the number of days in the Risk Assessment does not affect the Tribes number of days the Tribes can access the site. The purpose of the calculation is to see effects to the average Tribal member might receive from intermittent use totaling 28 days the sites. Further, Tribal members were not observed at the sites for the timeframe requested.
  SBT: The Tribes practice "leave no trace" as they utilize the land and Tribal use may not be observable. The Tribes use is gathered from interviews with tribal elders and covers potential use over seven plus generations.
  Forest Service: The number of days requested in effect is a residential scenario during the days the sites are accessible. Are the Tribes asserting that their use results in a residential scenario for tribal members on Public land while the sites are accessible?
  SBT: No, SBT is trying to protect the tribal members that could possibly use the site for all days the site is accessible for Treaty Right purposes.
  Forest Service: We are looking for defensible documentation as we cannot require calculations beyond a "reasonable maximum exposure" to tribal members.
- SBT: Why did the Forest Service not use the SBT soil ingestion rate in the Risk Assessment?
  Forest Service: The soil ingestion rate requested by the SBT is based on a study with a wide degree of uncertainty. Therefore, an EPA soil ingestion rate that is higher than industrial use (which is higher than residential or recreationist use) was used with lower uncertainty.
- SBT: SBT does not agree with all EPA risk assessment assumptions and risk assessment guidance represents Tribal members.
  Forest Service: Comment noted. Forest Service used the best available science when we could not use the SBT requested values in the Risk Assessment.
- SBT: Does the Forest Service need a letter of concurrence from the Tribes for the ROD?
  Forest Service: No, a letter of concurrence from the Tribes is not required for the ROD. This Staff-to-Staff meeting will fulfill tribal involvement requirements.
- SBT: Can SBT submit a letter of concurrence or comments on the NMM OPSOU & SMCM OPOU ROD?
  Forest Service: Yes, the SBT can submit a letter when the Record of Decision (ROD) is sent out for preview.

Agenda Item: Next Steps

Kelly Wright will brief the SBT Council and ascertain if the tribal council would like to hold a formal Government to Government meeting with the Forest Service regarding the NMM & SMCM Proposed Plan. Kelly Wright will notify the Forest Service within two weeks.

The Forest Service will draft a meeting summary, summarizing SBT discussions, questions, comments and Forest Service answers that will be appended to the NMM OPSOU & SMCM OPOU ROD Responsiveness Summary.

North Maybe Mine, Open Pit Sub-Operable Unit

and

South Maybe Canyon Mine, Open Pits Operable Unit

Proposed Plan Government to Government Meeting Summary

November 16, 2023

A Government to Government meeting for the North Maybe Mine (NMM), Open Pit Sub-Operable Unit (OPSOU) and South Maybe Canyon Mine (SMCM), Open Pits Operable Unit (OPOU) Proposed Plan was held on November 16, 2023 at 1:30 am MST to discuss comments by the Shoshone-Bannock Tribes (SBT).

Attendees included:

Brian Deeken, USFS
Bryan Fuell, USFS
Mel Bolling, USFS
Susan Hanson, SBT
Claudia Washakie, SBT
Gaylen Edmo, SBT
Sammy Matsaw Jr, SBT
Sarah Wheeler, USFS
Alan Jones, USFS
Kelly Wright, SBT
Donna Thompson, SBT
Ladd Edmo, SBT
Nancy Eschief Murillo, SBT

The agenda items, questions, and comments covered during the November 16, 2023 meeting are listed below.

Agenda Item: Opening Remarks

Opening remarks from the SBT included introductions and that the SBT intent is to protect Treaty Rights and ensure the safety of Tribal members at the sties.

Opening Remarks from the Forest Service included introductions and that the purpose of the meeting was to receive comments and answer questions regarding the Proposed Plan for the NMM OPSOU & SMCM OPOU.

Agenda Item: NMM OPSOU & SMCM OPOU Proposed Plan

Brian Deeken provided a presentation on the NMM OPSOU & SMCM OPOU Proposed Plan. The presentation covered the location of the sites, previous actions at the sites, Remedial Investigation (RI) results, Risk Assessment results, the proposed Forest Service No Action decision, next steps, and an opportunity for SBT questions and comments.

Agenda Item: SBT Questions and Comments

SBT representatives asked the following questions during and after the presentation. Forest Service responses are provided after each question or comment.

- SBT: Does the Risk Assessment account for other mines?
  Forest Service: No, the risk assessment only accounts for risks at NMM & SMCM Open Pits.
  SBT: it should account for cumulative effects from other mines.
  Forest Service: CERCLA only requires that the risk assessments calculate risks at the portion of the site being evaluated.
- SBT: Is surface water in the pit lakes connected to groundwater?
  Forest Service: No, surface water was above the groundwater elevation in two wells adjacent to the NMM OPSOU pit lake. This groundwater infiltrates approximately 900 feet to the regional aquifer. The wells downgradient of NMM OPSOU are below groundwater quality standards.
- SBT: Where does pit lake water go?
  Forest Service: We conducted tracer studies, major ion analysis, and deuterium analysis at NMM OPSOU and nearby surface waters, springs, and groundwater at NMM East Mill Dump Sub-Operable Unit and Creeks Sub-Operable Unit. Based on the results of these studies no connection of pit lake water to the nearby surface water and groundwater features was found. Based on these findings, pit lake water follows bedding planes down to the regional aquifer.
- SBT: Does the Risk Assessment account for hunters in the area?
  Forest Service: The Risk Assessment assumes that hunters in the area are actually on NMM & SMCM Open Pits.
- SBT: Why did the Forest Service not use the SBT exposure duration (all days the sites are accessible) in the Risk Assessment?
  Forest Service: The SBT exposure duration of "all days the site is accessible" is not in accordance with EPA guidance for exposure duration as it was not considered a "Reasonable maximum exposure". This duration was not in previously submitted Tribal documents. Therefore, documentation was requested of the exposure duration and was not received.
- SBT: SBT does not have to provide documentation of sacred use of the land. Further, the SBT cannot survey each member of the Tribes use of the land.
  Forest Service: The Forest Service is not asking for a tally or other onerous documentation. Just a description of "reasonable maximum exposure" of the average Tribal member that uses the site.
- SBT: The SBT views the 28 days use as an infringement of protected Treaty Rights to use unoccupied lands.

Forest Service: The number of days in the Risk Assessment does not affect the Tribes number of days the Tribes can access the site. The purpose of the calculation is to analyze effects the average Tribal member might receive from intermittent use totaling 28 days a year at the sites.

- SBT: The SBT is offended that use of the land is reduced to 28 days. Where did this number come from? 28 days appears arbitrary.
  Forest Service: Originally NuWest proposed two days of use by Native Americans in the first draft of the Baseline Human Health Risk Assessment (BHHRA). This was rejected by the Agencies as not being a reasonable use by Native Americans. The SBT then requested that the exposure frequency be extended to "the number of days the site is accessible". The Forest Service worked with the SBT over numerous meetings, calls, and emails from 2017 through 2022 to include as much of the Tribal lifeways into the risk assessment as possible. Without site specific data to document Tribal use, 28 days from the Smoky Canyon Mine was used as a conservative representation of SBT use at NMM & SMCM Open Pits.
- SBT: By the SBT Council providing the number of days the site is accessible, this should suffice as documentation of SBT use.
  Forest Service: The Forest Service believes that the 28 days contained in the BHHRA is conservative because the Reasonable Maximum Exposure (RME) accounts for 90% of the SBT tribal members use of NMM & SMCM.
- SBT: We believe that the risk assumptions used are biased.
  Forest Service: We endeavored to use as much of the risk assumptions from the approved SBT Risk Assessment document as possible. When these values could not be used we used the most conservative values based on the most recent science available.
- SBT: We do not believe that the equation reflects the tribal use at the site, the harm to our culture, and loss of natural beauty of the landscape.
  Forest Service: We believe that there is a misunderstanding regarding how the equation accounts for SBT use of the land. The equation only evaluates the health risk posed to Native Americans.
- SBT: Does the Risk Assessment account for Tribal use of land in the area of the site?
  Forest Service: No, the RME only evaluates tribal use of actual site.
- SBT: The SBT feels Article 4 of the Treaty (access to unoccupied lands for hunting and gathering) is tampered with.
  Forest Service: The number of days in the Risk Assessment does not reduce the number of days the Tribes can use the site. It only represents the number of days expected to be used by the SBT.
- SBT: Who can make changes to Rules and Regulations?
  Forest Service: Congress can make changes to the Laws, Rules, and Regulations governing Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

- SBT: What does our disagreement mean to you?
  Forest Service: That we need to continue to work with the SBT on the frequency of use of Forest Service lands.

Agenda Item: Next Steps

The SBT Council will issue a formal response letter to the Forest Service regarding the NMM & SMCM Proposed Plan. This letter will be included in the Responsiveness Summary for the NMM & SMCM ROD.

The Forest Service will draft a Government to Government meeting summary, summarizing SBT discussions, questions, comments and Forest Service answers that will be appended to the NMM OPSOU & SMCM OPOU ROD Responsiveness Summary.

The SHOSHONE-BANNOCK TRIBES

Fort Hall Indian Reservation
Phone: (208) 236-1048
(208) 236-1049
ewmp@sbtribes.com

Environmental Waste Management Program
P.O. Box 306
Fort Hall, ID 83203

December 18, 2023

USDA Forest Service
Attn: NMM EMD Comments Brian Deeken
USDA Forest Service
4350 Cliffs Drive
Pocatello, ID 83204

Re: North Maybe Mine and South Maybe Mine Proposed Plan

The Shoshone-Bannock Tribes provide the following comment on the Proposed Plan for the North and South Maybe Mine. The NMM Site is located in a rural and sparsely populated area of Southeast Idaho with the nearest town is Soda Springs, located about 26 miles away. The area is used by Shoshone-Bannock residents and is part of the Tribes Off-reservation Treaty Protected Rights to hunt, fish, gather and perform cultural and customary activities in the area.

There are many active and inactive phosphate mines in the area. The surrounding area is also used for public recreation, including hunting on private and public lands, and fishing on the Upper Blackfoot River. The NMM Site includes the former mine area and contaminated portions of adjacent properties. Currently, access is restricted to NMM EMD. Current land uses of the adjoining private properties include seasonal ranching (grazing of sheep and cattle). There are no residences at, or near, the NMM EMD.

While the USFS recognizes the reasonably anticipated future uses of the land at the Site to include seasonal ranching (grazing of sheep on EMD), recreation,

and Tribal use. They do not recognize the full uses nor protect through cleanup requirements to ensure Tribal members can practice their treaty protected rights at the site. Because of this, Tribal members practicing their Treaty may be at an increased risk from these cancer-causing chemicals when they use the resources.

The nature and extent of contamination associated with the NMM EMD was investigated through review of existing Site information and extensive sampling of the various media within and downslope of the Site. The primary source of contaminants at the Site is waste rock located in mine pits and dumps, particularly shale material from the Meade Peak Member of the Phosphoria Formation This shale is enriched with selenium (a nonmetal) as well as metals, metalloids, and uranium daughter products (for example, radium and radon), and represents a significant portion of the waste rock stockpiled in EMD.

Contaminant release processes at NMM EMD include: Dissolution or leaching (from contact with rain or snowmelt) of contaminants from center waste shales present in source areas, and the subsequent migration (movement) of dissolved constituents in surface water

• Erosion of contaminated particles from waste rock dumps, transport off the dump(s), and subsequent deposition in ephemeral and intermittent streams, resulting
in impacts to both stream sediment and riparian soil downgradient of source areas.

Selenium is observed to have significant uptake into vegetation growing on waste rock dumps through the root system and into plant tissue.

Media influenced and affected by mine waste and associated contaminants include:

- Surface material/waste rock (12.6 million cubic yards)
- Sediment (impacted sediments in the EMD sediment control ponds)
- Surface water (East Mill Creek, sedimentation ponds, and seeps)
- Groundwater (alluvial aquifer)

The following resources have been impacted by mining at the site: **Surface water** – arsenic, hexavalent chromium, molybdenum, selenium, thallium,

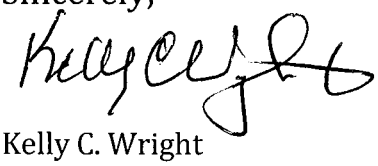
uranium, and vanadium; **Groundwater** – aluminum, antimony, arsenic, cadmium, chromium, cobalt, iron, lead, manganese, molybdenum, nickel, selenium, thallium, uranium, and vanadium**; Sediment** – aluminum, arsenic, cadmium, cobalt, iron, selenium, thallium, and vanadium; **Soil,** vegetation, and beef – aluminum, antimony, arsenic, cadmium, cobalt, iron, manganese, nickel, selenium, thallium, uranium, and vanadium.

In addition, the calculated concentrations of uranium-238 and radium-226 exceed screening levels in soil and sediment.

The Tribes have serious concerns surrounding the USFS risk assessment process and their continued display of non-understanding of Tribal Cultural and Customary activities, Treaty Rights and relevant and appropriate risk calculations needed to ensure protection of this vulnerable populations. For years the Tribes have communicated through Government to Government Consultation, workings with USFS staff, verbally and in writing the need to use relevant calculations in their risk assessment process. These requests continue to fall on deaf ears and until this is completed, the USFS is not performing their duties to the Tribal government. We do not believe the risk assessment reflects adequate scenarios and is inappropriate for use at this site. The USFS should require the Companies to run relevant risk models and include the documentation within the Remedial Investigations and site documentations.

We look forward to working with the USFS to ensure they understand how to document Tribal risk scenarios.

Sincerely,



Kelly C. Wright

EWMP Manager

Shoshone Bannock Tribes

APPENDIX C

Administrative Record Index

Administrative Record
North Maybe Mine
Open Pit Sub-Operable Unit

1. NuWest 2023. Final Remedial Investigation (RI) Report, North Maybe Mine, Open Pit Sub-Operable Unit and South Maybe Canyon Mine, Open Pits Operable Unit. Prepared by Arcadis.

2. NuWest 2022. Final Baseline Human Health Risk Assessment (HHRA), North Maybe Mine, Open Pit Sub-Operable Unit and South Maybe Canyon Mine, Open Pits Operable Unit. Prepared by Arcadis.

3. NuWest 2020a. Final Livestock Risk Assessment (LRA), North Maybe Mine, Open Pit Sub-Operable Unit and South Maybe Canyon Mine, Open Pits Operable Unit. Prepared by Arcadis.

4. NuWest 2020b. Final Baseline Ecological Risk Assessment (ERA), North Maybe Mine, Open Pit Sub-Operable Unit and South Maybe Canyon Mine, Open Pits Operable Unit. Prepared by Arcadis.