



Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Mark Gordon, Governor

Todd Parfitt, Director

June 15, 2023

Attn: Smoky Canyon Mine
Comments
Sherri Stumbo
USDA Forest Service
4350 Cliffs Drive
Pocatello, ID 83204

Submitted via: sherri.stumbo@usda.gov and sarah.wheeler2@usda.gov

Re: Comments for Smoky Canyon Mine Proposed Plan

Dear Sherri Stumbo,

The Wyoming Department of Environmental Quality - Water Quality Division (WDEQ-WQD) has reviewed the Smoky Canyon Mine Proposed Plan (Proposed Plan) developed by the Caribou -Targhee National Forest under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund, and the regulations that implement CERCLA, known as the National Contingency Plan (NCP). The Proposed Plan describes the alternatives evaluated and the Forest Service's preferred alternative to address the contamination of soils, surface water, vegetation, sediments/soils, and groundwater associated with Smoky Canyon Mine in Caribou County, Idaho, the site of a former phosphate mine. The Proposed Plan requested input on all the alternatives and the Forest Service's rationale for the preferred alternative. After considering public comments and any new information, the Forest Service, in coordination with support agencies, will issue a Record of Decision (ROD) that selects a final remedy to be implemented.

In accordance with Title 35, Section 11 of the Wyoming Statutes and Wyoming's Water Quality Rules, the WDEQ-WQD is responsible for the protection and restoration of the quality of waters of the state, defined at W.S. 35-11-103(c)(vi) as "all surface and groundwater, including waters associated with wetlands, within Wyoming." The WDEQ-WQD also implements portions of the federal Clean Water Act, including development of surface water quality standards, identification of impaired waters, and development of total maximum daily loads for impaired waters under Section 303; inventorying water quality under Section 305; discharge permitting under Section 402; water quality certifications under Section 401; and addressing nonpoint sources of pollution under Section 319. Due to WDEQ-WQD's role in regulating water quality in Wyoming and the proximity and impact of Smoky Canyon Mine on the quality of Wyoming's waters, WDEQ-WQD takes considerable interest in the Proposed Plan.

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Of particular interest to WDEQ-WQD are elevated concentrations of selenium in Crow Creek. Since 2014, a 15.6-mile segment of Crow Creek has been included on Wyoming's 303(d) List of Impaired Waters for not supporting its aquatic life uses due to concentrations of total recoverable selenium that exceed Wyoming's aquatic life chronic criteria of 5 µg/L, as established in Wyoming Water Quality Rules, Chapter 1, Wyoming Surface Water Quality Standards (see [Wyoming's 2020 Integrated Clean Water Act Section 305\(b\) and 303\(d\) Report, Wyoming WDEQ/WQD's Report Selenium Concentrations in Crow Creek, Snake River Basin, 2008-2012](#) and [Wyoming Surface Water Quality Standards](#)).

The Proposed Plan identifies selenium as the primary risk driver in surface waters in several drainages and notes that whole-body fish tissue selenium concentrations in Hoopes Spring, South Fork Sage Creek, and Crow Creek downstream of Sage Creek currently exceed Idaho's whole-body fish tissue criteria for these waterbodies. Page 6 of the Proposed Plan identifies cleanup levels of "selenium" in the water column at 16.7 µg/L for Hoopes Spring and South Fork Sage Creek and 4.2 µg/L for Crow Creek. Page 8 describes that Remedial Action Objectives (RAOs) for surface waters are to "reduce selenium concentrations in lower Sage Creek and Crow Creek watersheds to below levels that pose unacceptable risks for aquatic life and comply with ARARs [Applicable or relevant and appropriate requirements] (IDAPA 58.01.02- Water Quality Standards)."

Although the Proposed Plan and preferred alternative may achieve compliance with Wyoming's Surface Water Quality Standards, WDEQ-WQD requests the Proposed Plan describe the exceedances of Wyoming's surface water quality standards in Crow Creek and also include Wyoming's surface water quality standards as a RAO and ARAR. WDEQ-WQD also recommends the Proposed Plan clarify whether water column selenium concentrations are for "total recoverable" or "dissolved" selenium, consistent with both Idaho's and Wyoming's surface water quality standards. Finally, WDEQ-WQD requests to be included as a support agency in future discussions regarding the CERCLA process for Smoky Canyon Mine. Because of the impacts to water quality in Wyoming, WDEQ-WQD has requested in the past to be included as a support agency. However, this has not occurred, and while we appreciate the opportunity to comment on the Proposed Plan at this time, we are concerned that we only learned of the plan in May 2023.

We look forward to working with you and other stakeholders to address selenium concentrations in Crow Creek in Wyoming. Should you have any questions regarding our comments, please contact Ron Steg at ron.steg@wyo.gov or 307-335-6980.

Sincerely,



Jennifer Zygmunt
Water Quality Division Administrator

cc: David Waterstreet, Watershed Protection Program Manager
Ron Steg, Assessment and TMDL Program Lead
Lindsay Patterson, Surface Water Quality Standards Coordinator