

# **Final Decision Notice and Finding of No Significant Impact for the Kilgore Project**

USDA Forest Service  
Dubois Ranger District  
Caribou-Targhee National Forest  
Clark County, Idaho

## **Introduction**

The purpose of and need for this analysis is to consider a proposed plan of operations from the Otis Gold Corporation (Otis) for mineral exploration drilling on National Forest System (NFS) lands within the Kilgore Project area. The statutory right of Otis to explore mineral resources on federally-administered lands is recognized by the General Mining Law of 1872, and is consistent with the 1997 Targhee National Forest Revised Forest Plan (RFP; III-9 and III-139 to III-142). The environmental assessment (EA) documents the analysis of the alternative developed to meet this need (proposed action). The project record is incorporated by reference and contains the detailed data, methodologies, analysis, references and other technical documentation used to support this decision.

## **Decision and Reasons for the Decision**

Based upon my review of the environmental effects, I have decided to implement the Action Alternative, the proposed action, which would authorize Otis to conduct mineral exploration activities on NFS lands for the Kilgore Project.

The proposed action is a 5-year mineral exploration program that would occur within Otis' valid mining claims. Drilling would occur in four main target areas called the Mine Ridge, Gold Ridge, Prospect Ridge, and Dog Bone areas. All drilling stations would be located within new or existing roads. Project activities would commence annually on July 15, with demobilization and seasonal stabilization completed the following November. All project disturbance including roads would be reclaimed by the end of this project, unless Otis formally requests a timing extension or submits a new plan of operations to the FS for review before the approved plan of operations expires. The total surface disturbance associated with the proposed action is approximately 23 acres. A full description of the proposed action can be found in the Proposed Action section of the EA.

Project design features, best management practices (BMPs), and monitoring requirements were developed based on standard operating procedures, RFP standards and guides, and other procedural direction to eliminate or mitigate potential impacts during project implementation. A list of these measures are outlined in Appendix A of this document and are required as a part of my decision.

My selection of the proposed action does not constitute approval of the proponent's plan of operations. Approval of the plan is contingent upon the proponent's acceptance of the project design criteria and BMPs developed to minimize effects of the operation on surface resources and posting of a full reclamation bond for project-related disturbance. Although this decision authorizes plan approval, it is a separate action regulated under Forest Service (FS) minerals regulations at 36 CFR 228 Subpart A.

Should the operator intend to conduct connected activities that are beyond the scope of this decision, they would be required to submit a plan supplement or modification, which would be subject to additional review and approval.

## Public Involvement and Scoping

As described in the EA, the need for this action arose in September 2017. A proposal to conduct mineral exploration drilling was listed in the Schedule of Proposed Actions in January 2018. At that time, the project description was also made available on the Caribou-Targhee National Forest's project website. The proposal was provided to the public and other agencies for comment during the thirty day scoping period. Project information was sent to 115 individuals and groups, and the Shoshone-Bannock Tribe. A total of 76 comments were received in response to these efforts.

Using the comments received, the project interdisciplinary team identified issues regarding the effects of the proposed action (see Issues section of EA). Main issues of concern included water resources; threatened, endangered, and sensitive plant species; and wildlife (see EA, pages 10-30). To address these concerns, additional mitigation measures were developed for the project. These measures are described in Appendix A of this document.

## Finding of No Significant Impact

The significance of environmental impacts must be considered in terms of context and intensity. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human and national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. In the case of a site-specification, significance usually depends upon the effects in the locale rather than in the world as a whole. Intensity refers to the severity or degree of impact (40 CFR 1508.27).

### Context

The project is not of international, national, region-wide or statewide importance. The discussion of the significance criteria that follows applies to the intended action and is within the context of local importance in the area associated with the Kilgore Project. This project would occur on the Dubois Ranger District of the Caribou-Targhee National Forest. The resource effects as described in the entirety of the project record reveal that potential environmental effects are confined to the project area.

### Intensity

The intensity of effects was considered in terms of the following:

- 1) Impacts may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on the balance the effects will be beneficial.** Beneficial and adverse impacts of this decision are addressed in the Environmental Consequences section of the EA. No significant impacts were identified. My finding of no significant environmental effect is not biased by the beneficial effects of the action. No adverse effects could be considered significant even if considered separately from any beneficial effects.
- 2) The degree to which the proposed action affects public health or safety.** I have determined that this project has limited potential to impact public safety or health. The project itself does not pose a threat to public health or safety. All applicable state and federal laws, policy and regulations will be followed. Design criteria incorporated into the project protect the health and safety of the public (Appendix A of this document).

- 3) **Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.** The project area does not contain any park lands, prime farmlands, or ecologically critical areas. The proposed action is in conformance with the Wild and Scenic River Act and will not impact the eligibility of any wild and scenic river status. It was determined and concurred upon by the Idaho State Historic Preservation Office that the proposed project activities will not affect any known historic properties (EA, page 31). Based on field review and information contained in the EA and project record, I conclude there will be no significant impacts on the unique characteristics of the area; potential effects will be avoided with the implementation of project design criteria (see Appendix A of this document).
- 4) **The degree to which the effects on the quality of the human environment are likely to be highly controversial.** The proposed action and its effects are similar to previous FS projects. Exploratory drilling projects similar to this one are routinely approved on NFS lands across the nation, and the resulting impacts from this project are not expected to be different or outside the effects from previous and similar projects. Based on previous implementation of similar projects, the effects of the proposed action on the quality of the human environment are not considered as highly controversial. While there may be disagreement over specific management actions, the activities proposed are consistent with RFP direction. There is no known credible scientific controversy over the impacts of the selected alternative and as such, I have determined that the effects of the proposed action will not be highly controversial.
- 5) **The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.** The human environment is the natural and physical environment, and the relationship of people with that environment (40 CFR 1508.14). This proposed action is similar to past actions completed by the FS. The effects upon the human environment are reasonably expected to be similar to other exploratory drilling projects. The environmental analysis, including the EA, resource reports, biological assessment (BA) and biological evaluations (BEs) (all available in the project record); determined that the selected alternative will not involve any highly uncertain or unknown risks. Based upon my knowledge of past actions and the professional and technical knowledge and experience of the project interdisciplinary team, I am confident that we understand the effects of these activities on the human environment. There are no unique or unusual characteristics about the area or the proposed action that will lead to an unknown risk to the human environment.
- 6) **The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.** As previously stated, the proposed action includes activities that are similar to past actions approved on NFS lands and the effects are expected to be similar. The effects analysis is site-specific for the Kilgore Project and is consistent with the RFP. Therefore, no precedent-setting actions are proposed.
- 7) **Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.** The cumulative effects of past and present actions, combined with the current proposal, and reasonably foreseeable actions for each resource are discussed in the specialist reports. The analysis conducted for this EA revealed that there will be no significant cumulative effects from this project (see individual specialist reports, BA, and BEs in the project record).
- 8) **The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in the National Register of Historic Places (NRHP) or may cause loss or destruction of significant cultural or historical resources.** Surveys were conducted in October 2017. One previously recorded site was re-recorded and re-evaluated as not eligible for inclusion

in the NRHP. Therefore, the project will have “no effect” on any known historic properties. The State Historic Preservation Office concurred with this determination on March 23, 2018. If any additional cultural resources are encountered during the course of the project, the Forest Archaeologist will be notified immediately and all-ground disturbing activities will cease in that area until the Forest Archaeologist takes appropriate action in consultation with the State Historic Preservation Office. No activities associated with the proposed plan would directly or indirectly affect cultural resources within or outside the project boundary or lead to future cumulative concerns (EA, page 30).

- 9) **The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act (ESA).** This decision is consistent with the ESA. A “*may affect, not likely to adversely affect*” determination was made for Canada lynx and a “*not likely to jeopardize the continued existence*” determination was made for wolverine (BA, pages 11-20). Consultation and conferencing was conducted with the U.S. Fish and Wildlife Service on this project through the ESA Section 7 informal streamlining process on March 14, 2018. Concurrence for the project was received on April 16, 2018. This concurrence is available in the project record.
- 10) **Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.** The proposed action is consistent with the 1997 RFP (EA page 9 and individual specialist reports). The proposed action will not threaten a violation of federal, state or local environmental protection laws (see individual specialist reports in the project record). Project design criteria listed in Appendix A of this decision will ensure compliance with these laws. Documentation associated with the Kilgore Project meets the requirements of the NEPA. As a result, I have determined that the proposed action does not violate Federal, State or local laws involved in the protection of the environment.

## Findings Required by Other Laws and Regulations

### *National Forest Management Act*

This decision to authorize Otis to explore for mineral resources on federally-administered lands is consistent with the intent of the RFP’s long term goals and objectives listed on pages III-9 and III-139 to III-141. The project was designed in conformance with plan standards and incorporates appropriate plan guidelines for mineral exploration.

### *National Environmental Policy Act*

The EA and Decision Notice/Finding of No Significant Impact document are in compliance with NEPA and the Council on Environmental Quality regulations (40 CFR 1500–1508) for implementing NEPA.

### *Clean Water and State Water Quality Standards*

The Clean Water Act provides direction for protection of water quality. No adverse impacts are expected with the implementation of the selected alternative. The selected alternative would be in compliance with the applicable hydrology related standards and guidelines in the RFP. Design features are in place to address aquatic influence zone (AIZ) concerns. This decision incorporates BMPs to ensure protection of soil and water resources.

### *Wetlands Executive Order 11990*

Executive Order 11990 requires the FS to take action to minimize destruction, loss, or degradation of wetlands to preserve and enhance the natural and beneficial values of wetlands. In compliance with

this order, FS directives require that an analysis be completed to determine whether adverse impacts would result. No activities are proposed in wetland areas and drafting locations would have no direct disturbance on wetlands. Change to flow during drafting would be negligible, as discussed in the hydrology report. The function and services of the wetland ecosystems would be unaffected. Therefore, the proposed action is in compliance with this executive order.

#### *Floodplains Executive Order 11988*

Executive Order 11988 requires the FS to provide leadership and to take action to (1) minimize adverse impacts associated with occupancy and modification of floodplains and reduce risks of flood loss, (2) minimize adverse impacts of floods on human safety, health and welfare, and (3) restores and preserve the natural and beneficial values served by floodplains. The selected alternative complies with this executive order by maintaining floodplain integrity. Based on the analysis contained within the project record, no adverse impacts to floodplains are expected with the implementation of the selected alternative.

#### *Environmental Justice Executive Order 12898*

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and Departmental Regulation 5600-2 directs federal agencies to integrate environmental justice considerations into federal programs and activities. Environmental justice means that, to the greatest extent practicable and permitted by law, all populations are provided the opportunity to comment before decisions are rendered on, are allowed to share in the benefits of, are not excluded from, and are not affected in a disproportionately high and adverse manner by, governmental programs and activities affecting human health or the environment. Implementation of the proposed action will be consistent with this order and will not have a discernible effect on minorities, American Indians, women or the civil rights of any United States citizen. Nor will it have a disproportionate adverse impact on minorities or low-income individuals. No civil liberties will be affected. Public involvement and comment was sought and incorporated into this document. The FS has considered all public input from individuals or groups regardless of age, race, income status, gender, or other social/economic characteristics. Executive Order 12898 also directs agencies to consider patterns of subsistence hunting and fishing when an agency action may affect fish or wildlife. The decision would not alter opportunities for subsistence hunting by Native American tribes. Native American tribes holding treaty rights for hunting and fishing on the Caribou-Targhee National Forest were provided an opportunity to comment on the proposal (letter in project record). Based on experience with similar projects on the Dubois Ranger District, the proposed action would not substantially affect minority low-income individuals, women, or civil rights.

#### *National Historic Preservation Act*

The National Historic Preservation Act (NHPA) provides direction for protecting and preserving our heritage and archeological sites that are a reflection of our nation's history. No historical sites will be adversely impacted by implementing this project (EA, page 31). Therefore, I have determined that the proposed action will not significantly impact important cultural resources, and is consistent with the NHPA.

#### *Migratory Bird Treaty Act*

The Migratory Bird Treaty Act of 1918 prohibits the killing, taking or possessing of native birds, nests, or eggs. One of the nation's first environmental laws, its purpose was to prevent the killing of millions of birds annually to supply the fashion hat trade. The proposed action is in compliance with direction to protect migratory birds as described in the wildlife resource report.

### *Endangered Species Act*

This decision is consistent with the ESA. Determinations of “*may affect, not likely to adversely affect*” and “*not likely to jeopardize the continued existence*” were made for listed species anticipated to be, or have habitat within, the analysis area as described in the BA. Currently only Ute ladies’-tresses is designated as threatened on the Targhee National Forest but was not further considered as they are not known to occur in Clark County nor the immediate surrounding area (EA, p. 21-30).

### *Regional Forester’s Sensitive Species*

The project record includes evaluations for those terrestrial, aquatic and plant species identified as Regional Forester’s Sensitive Species known or expected to occur within the project area. As detailed in the terrestrial and aquatic resource reports and BEs, the proposed action would have “*no impact*” or “*may impact individuals or habitat, but will not likely contribute towards federal listing or loss of viability to the population or species.*”

The plant resource report and whitebark pine BE for this project includes detailed evaluations for sensitive plant species. A determination of “*may impact individuals or habitat, but will not likely contribute to a trend toward Federal listing or cause a loss of viability to the population or species*” was made for whitebark pine. No other sensitive plant species are known or expected to occur within the project area; therefore, it was determined there would be “*no impact*” to those species a result of the proposed action

I have reviewed the analysis and anticipated effects on all Regional Forester’s Sensitive Species and concur with the findings and determinations summarized above.

### **Conclusion**

After considering the environmental effects described in the EA and specialist reports and the entirety of the project record, I have determined that the proposed action will not have significant effects on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared.

### **Administrative Review**

Those who submitted substantive formal comments related to the proposed action during the 30-day opportunity to comment period were eligible to file an objection pursuant to 36 CFR 218. The 45-day objection period began with the publication of the legal notice for the draft decision in the Idaho Falls Post Register, the newspaper of record, on May 17, 2018. The publication date in the newspaper of record is the exclusive means of calculating the time to file an objection. The objection period ended on July 2, 2018.

On July 2, 2018, an objection was filed by the Idaho Conservation League, Greater Yellowstone Coalition, and Yellowstone to Yukon Initiative (collectively Objectors) and was received by the objection reviewing officer. An objection resolution meeting was held on July 27, 2018. Resolution of the objection issues was not achieved during the objection resolution meeting and related follow up discussions with the Objectors.


### **Implementation**

When objections are filed, the responsible official may not sign a Decision Notice subject to 36 CFR 218 until the reviewing officer has responded in writing to all pending objections and all concerns and instructions identified, if any, by the reviewing officer in the objection response have been addressed

(36 CFR 218.12). On August 9, 2018, the reviewing officer responded in writing to the objection received from the Objectors.

For further information concerning the Kilgore Project, contact Bill Davis, Dubois District Ranger, at 208-374-5422 or [bdavis@fs.fed.us](mailto:bdavis@fs.fed.us) during normal business hours.

Approved by:

  
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WILLIAM G DAVIS  
District Ranger  
Dubois Ranger District  
Caribou-Targhee National Forest

August 20, 2018  
Date

## Appendix A: Management Requirements and Best Management Practices

To eliminate or minimize potential resource impacts, this analysis incorporates pertinent management requirements and BMPs. Terms and conditions of approval of the proposed plan of operations will include the items listed below. The operator must formally agree to implement these design criteria prior to plan of operations approval.

1. Operator must meet with the Dubois District Ranger at least two weeks in advance of commencing operations for the season to discuss upcoming activities for the season.
2. Proponent must provide the District Ranger with copies of all State and Federal permits required for the project. This includes temporary water appropriation permits from the State for drafting from West Camas Creek and Corral Creek, the U.S. Environmental Protection Agency storm water permit and associated storm water pollution prevention plan, Idaho Stream Channel Alteration Permits, and Section 404 permits from the U.S. Army Corps of Engineers.
3. A copy of the approved plan of operations must be maintained on site during operations.
4. All project personnel must be familiar with the terms and conditions of approval of the plan of operations. A designated representative or key point of contact to provide project oversight for each operating season will be designated by letter to the FS.
5. If unanticipated cultural materials, historic sites, or vertebrate fossils are encountered, Otis will notify the FS and halt operations in the vicinity of the discovery until inspected by a qualified FS representative and a mitigation plan developed if determined necessary.
6. Existing healthy mature whitebark pine should be avoided when flagging routes for temporary road construction and clearing limits (i.e., areas adjacent to road construction where trees may be removed for safety or other considerations). The road centerline and upper and lower clearing limits will be flagged and approved by the FS prior to any ground disturbing activities or felling operations.
7. Otis will control dust generated from project activities with dust suppressant water applied by water trucks. Dust suppressing chemicals such as magnesium chloride or calcium chloride are not authorized for use.
8. Operations may not occur when ground conditions are wet enough that rutting could exceed 6–8 inches in depth.
9. All motorized equipment must have working mufflers to minimize noise, and spark arresters to minimize potential for ignition of a wildland fire. Electrical equipment must be properly insulated. Adequate fire protection is required and includes at least one handheld implement (e.g., shovel, ax) per person and one fire extinguisher per vehicle.
10. Prior to entry onto lands, all vehicles and equipment must be power-washed such that they are free of dirt and/or caked mud that may contain weeds or weed seeds. Qualified FS personnel will inspect vehicles and equipment prior to use.
11. Roads to be used for project activities but not open for public use will be gated. Gates and locations must be pre-approved by District Ranger. Operator must maintain all FS-approved gates to allow access by FS personnel and prohibit access by the general public.
12. Operator will use soy-based and biodegradable drilling fluids.



13. Drill holes must be abandoned according to current State guidelines and requirements.
14. Operator will maintain spill prevention measures on site. A spill remediation kit must be available at each staging area and active drill station, and be employed immediately in the event of a spill. In addition, vehicles transporting fuels and lubricants will be equipped with spill kits.
15. Prior to plan of operations approval, the West Camas Creek and Corral Creek drafting sites must be assessed by a FS hydrologist and/or fisheries biologist to determine whether additional site-specific BMPs are required.
16. During drafting operations, signs must be placed on the road in front of and behind the water truck to alert other vehicles of potential traffic.
17. All equipment used for water transport will be solely dedicated to this project for each season of its duration. Prior to entry onto NFS lands, all equipment used for water transport, including pumps, tanks, and draft hoses must be cleaned, flushed with culinary water, drained, and dried to the extent possible to minimize the risk of introducing aquatic invasive species when drafting from approved sources.
18. Intake pumps will be primed with source water or culinary water (not tank water).
19. Foot valves must be tested at both low and high pressures to certify they are leak free.
20. Intake hoses must be screened to meet National Marine Fisheries Service fry criteria of 3/32 inch and an approach velocity of 0.20 feet per second to avoid entrainment and impingement concerns.
21. Sumps must be of sufficient capacity to prevent water or sediment overflow. Drill/sump water may not be discharged to natural waterways, including intermittent or ephemeral channels. Sumps will be closely monitored and drilling activities temporarily suspended and appropriate action taken (e.g. enlargement of sump, allow additional time for infiltration) if unexpected quantities of water are encountered that could potentially overwhelm the sump.
22. Operator will avoid locating staging areas or storing any hazardous materials within AIZs. The District Ranger may grant some exceptions for staging areas along existing roads based upon consultation with a FS hydrologist and/or fisheries biologist.
23. No drill holes or sumps shall be located within AIZs. Any that may fall within the AIZ areas would be moved to avoid the area. A map with AIZ areas identified will be provided by the FS.
24. BMPs such as silt fencing will be used on the downhill sides of sumps and other locations as needed.
25. Road construction within AIZs will be avoided where possible. If building a road in the AIZ is unavoidable, these roads would not be constructed until appropriate standards for construction, maintenance, and operations are in place. A site inspection of each proposed crossing will be completed. Use previously disturbed areas to the extent possible that minimizes disturbance. If stream channels must be crossed, cross the channel at a right angle. Road/stream crossings will be constructed and used in such a way as to minimize sediment input. They will be maintained during use and removed and obliterated as soon as they are no longer needed. The location and type of road/stream crossings shall be approved by the hydrologist or fish biologist prior to construction.
26. Obliteration of new roads that have been determined to be no longer need for this plan of operations will consist of full recontouring of the cut/fill slope and restoring natural drainage

- in drainages. Compacted road prisms will be ripped to a minimum depth of 12 inches prior to full recontouring.
27. Operations will not commence prior to July 15 each year.
  28. Project personnel must make all bear attractants (food, garbage, coolers, toiletries, dish soap, dishes, cutlery, and cookware) unavailable to bears. Acceptable storage containers for attractants may include recreational trailers with windows and doors closed, the bed of a pick-up with a closed topper, the cab of a truck with doors and windows closed, a fully-enclosed utility trailer, or certified bear-resistant containers. Grills used for cooking should either be secured or burned off for one hour and have drip trays wiped. Propane stoves should be burned off and kept clean. Garbage should be routinely removed from the project area. Compliance with the food storage order will be checked during site inspections by FS personnel (Occupancy and Use Order #04-15-117).
  29. Project personnel camping on site during drilling operations will be required to follow the same rules as the general public for dispersed camping.
  30. Surveys will occur for Boreal and Great Gray Owls in the project area. If a Boreal or Great Gray Owl nest is located, vegetation may not be removed for road construction within a 30-acre or 20-acre buffer, respectively, around the nest as required by the 1997 RFP.
  31. Surveys will occur for Northern Goshawks in the project area. If a goshawk nest area or post-fledging family area is identified, project activities in these areas will occur from October 1 to February 28 as required by the RFP.
  32. Light pollution during night operations will be prevented by shielding all overhead lighting to deflect light downward onto the specific work area.
  33. Seasonal closure for the project will occur at the end of each operating season. Prior to demobilization, surface disturbances not fully reclaimed will be stabilized (e.g., seeded). All project equipment, consumable materials, fuel, and other similar items will be removed from the site.
  34. Operator will submit an annual monitoring report to the District Ranger by January 31 following the drilling season that includes a summary of drilling and reclamation activities conducted for the year and required monitoring as defined below.

## Required Monitoring

1. Operator must routinely monitor the project area, including the status of reclaimed areas, at least twice annually. This should occur in early summer to identify and address any issues that may have occurred during the winter, and in early fall to ensure access control/restrictions are working as designed.
2. Operator will conduct water quality monitoring and reporting as defined in Appendix B of the EA.
3. Operator will routinely monitor the occurrence of noxious weeds in the project area. State-listed noxious weeds will be treated with an FS-approved herbicide, and herbicide quantities and locations used will be reported as part of the annual monitoring report submitted to the District Ranger.
4. Operator will provide an annual summary report of storm water management monitoring and BMP effectiveness.
5. Operator will provide a summary report of activities conducted for the year including roads constructed, areas reclaimed, interim stabilization, and any other pertinent information.