



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Glennallen Field Office
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Glennallen, Alaska 99588
<http://www.blm.gov/ak>

Palmer Exploration Project, Constantine North, Inc.
Mine Plan of Operations
Environmental Assessment, DOI-BLM-AK-A020-2016-0006-EA

Case File, AA-094088

DECISION RECORD

Background

In the winter of 2015-2016, the Bureau of Land Management (BLM) prepared an Environmental Assessment (EA) (DOI-BLM-AK-A020-2016-0006-EA) analyzing the effects of Constantine Metals (Constantine) proposed Mine Plan of Operations, which includes an expansion of existing Notice-level exploration activity along Glacier Creek in the Glacier Creek Mining District, Alaska. Constantine is currently mining on 111 federal claims under a Notice of Exploration acknowledged by the BLM in 2014.

Constantine's new mine plan of operations (plan) would expand their existing exploration activities beyond the 5 acres of ground disturbance previously authorized by BLM. Specifically, the plan proposes up to 2.5 miles of additional road construction and includes the installation of culverts and bridges over gullies and streams in the vicinity of Glacier Creek. It also includes a switchback road with rock fall berms and an area at the terminus of the switchback road to stage equipment and facilities such as temporary work trailers, storage containers, and a portable toilet facility. The proposed road would provide access for up to 40 new exploration drill sites. These drill sites are all planned to occur east of their current mineral exploration areas and would provide a staging area for helicopter and ground-supported exploration activities. Constantine plans to continue in the exploration phase of their project for the next 5 – 10 years; the applicant intends to start operating in the new plan (if approved) in the summer of 2016.

Decision

It is my decision to approve Constantine Metals (Constantine) Plan of Operations as presented in Alternative 2, the Proposed Action Alternative, in the attached EA (DOI-BLM-AK-A020-2016-0006-EA).

Specifically, it is my decision to:

- Authorize Constantine Metals to expand exploration activities as described in their Mine Plan of Operations and the Environmental Assessment DOI-BLM-AK-A020-2016-0006-

EA.

- Authorize the surface use and occupancy of the federal mining claims identified in the Mine Plan and the EA in support of the mining operations, in accordance with 43 CFR 3715.

My decision to select Alternative 2 is contingent on full implementation of and adherence to:

- All *Design Features and Resource Protection Measures* identified within the EA.
- Applicable Soils, Fish and Wildlife, and Riparian Areas and Water Quality Required Operating Procedures (ROPs) from the 2008 Ring of Fire Management Plan and Record of Decision.
- Additional stipulations:
 - A geologist will inspect the road cut on a daily basis during construction for unanticipated exposures of sulfide minerals.
 - Development of an employee bear safety program, including appropriate food and waste management practices, within 1 year of the Decision Record approval date.
 - Development and BLM approval of a raptor mitigation plan within 1 year of the Decision Record approval date.

Rationale for the Decision

The No Action alternative was not selected because it did not meet the BLM's Purpose and Need nor the regulatory requirements to prevent Unnecessary and Undue Degradation as defined in 43 § CFR 3809.

Alternative 2 addresses Constantine Metals request to conduct exploration activities, minimizes new disturbance to natural resources, prevents unnecessary and undue degradation of public lands, and promotes rehabilitation of previously mined areas within the claim block.

The EA has highlighted the anticipated effects of implementing Alternative 2. Appropriate project design features, RMP Required Operating Procedures, stipulations, and mitigation measures have been identified to avoid, minimize or rectify adverse effects of the expanded exploration activities.

Although the EA has acknowledged that exploration operations in Glacier Creek will have adverse effects, I have determined that these effects do not rise to the level of significance that would require the preparation of an Environmental Impact Statement (see attached Finding of No Significant Impact).

Laws, Authorities, and Land Use Plan Conformance

The EA and supporting documentation have been prepared consistent with the requirements of various statutes and regulations (EA, Section 1.5).

The Ring of Fire RMP/ROD, approved in 2008, provides the overall long-term management direction for BLM-managed lands, which includes unpatented federal mining claims, in this area.

The proposed action and alternatives are consistent with the RMP/ROD. Specifically, the proposed action is consistent with: B. Cultural Resources, C. Fisheries, G. Hazardous Materials, L. Minerals – Locatable and Saleable, N. Paleontology, Q. Soils, S. Vegetation, T. Visual Resources, U. Water Resources, V. Wetland/Riparian, and X. Wildlife (EA, Section 1.4.1 Bureau of Land Management – Ring of Fire Management Plan).

Public Involvement, Consultation, and Coordination

On November 27, 2015, the Glennallen Field Office announced the preparation of an EA for Constantine’s proposed action via the BLM’s national ePlanning website.

The BLM released the Plan of Operations (plan) for a 38 day public review beginning December 2, 2015 through January 8, 2016. 173 comment letters were received. All comments submitted were reviewed and categorized in a Scoping Report Public located on the BLM ePlanning NEPA register website at: <https://eplanning.blm.gov/epl-front-office/eplanning/projectSummary.do?methodName=renderDefaultProjectSummary&projectId=54990>. The comments received were used to identify potential environmental issues related to the proposed action and to identify potential alternatives to the proposed action that also fulfill the purpose of and need for the project.

The BLM released the EA for a 30-day public review beginning April 25, 2016. Comment letters were received from 58 parties. All comments submitted were reviewed and categorized as either “substantive” or “non-substantive” based upon the guidance defined in the BLM’s National Environmental Policy Act Handbook H-1790-1 (BLM 2008).

Of those comments received 44 were determined to be non-substantive, value-type comments without justification or facts to back up the statement. The remaining 14 comments were determined to be substantive and could be resolved through clarification of intent in a section of the final EA. The substantive comments could be grouped into three themes of concern: Wildlife, Mining, NEPA process.

For Wildlife:

- The consideration of fish habitat and distribution within the Chilkat and Klehini Rivers was provided in Fisheries section 3.3.3.2.
- The consideration of fish habitat and distribution overview within the Chilkat and Klehini Rivers was provided in Fisheries section. Fisheries impacts are not anticipated for the Klehini and Chilkat River in Fisheries section 3.3.5.
- The consideration of Haines State Forest Management Plan and its requirements for fish are discussed in Land Use Plan Conformance section 1.4.2.
- The consideration for impacts to denning animals, the proposed alternative analyzes a season of use from May to October and therefore potential impacts during this time are not likely, see section 2.2 Alternative 2 – Proposed Action Alternative.
- In consideration of the 1500ft mitigation measure included in the EA as opposed to a 1500 meter buffer, the proposed season of use is May to October. Mountain goats are particularly vulnerable during winter months with winter climate exerting the strongest effects on mountain goat survival in coastal AK. Distances of 1500m have been recommended within winter range; however, with no activity proposed during winter

months, such buffer was not applied. Additionally, no critical habit for Mountain goat has been identified by ADFG within or near the project area, see Wildlife section 3.5.4.1.

- The consideration of Dall Sheep from the affected environment has been eliminated as they are not present within or near the area.
- In consideration of the naming system of RSF models, language was clarified to note that these are values that relate to probability of use. Model validation suggested the RSF effectively predicted the historic distribution of mountain goats in the study area, see Wildlife section 3.5.

For Mining:

- The consideration of references to “drift” mentioned in a Constantine corporate news release, it is not included in the scope of operations and is not considered a part of the exploration plan as described. Furthermore, per 43 CFR 3809.420(a)(2) the operators must “...follow reasonable and customary mineral exploration...” Following this requirement, it would not be reasonable or customary for an exploration project to develop a drift, or any underground exploration portal, without first completing surface exploration in accordance with the Exploration Industry standard. The BLM cannot reasonably expect a drift to be created given the current level activity and scope of exploration identified in the Constantine Exploration Plan.
- The consideration of the Federal land the proponent is exploring on has been staked with active unpatented mining claims in accordance with the General Mining Law of 1872, as amended, and other applicable laws and regulations. A mining claim is “real property” as the claimant owns the minerals in the subsurface. Through the Surface Management Regulations (43 CFR 3809) the BLM administers the surface use of the public lands but cannot prevent the claimant, or their operators, from exploring or developing their mineral resources. Development of mineral resources within an active unpatented mining claim is a non-discretionary action on behalf of the BLM’s decision process.
- The consideration of financial assurances, per BLM Surface Management Handbook (H-3809-1), Administrative Costs are not only Indirect Costs but a whole range of additional costs to cover operational costs should the BLM hire a third party contractor to perform all required reclamation. Indirect costs, as defined in the Handbook, is a fixed 21% of the estimated BLM contract administration cost and is not the same as the contingency cost. Per the handbook, Contingency Costs allow for cost overruns that regularly occur in reclamation contracting but cannot be ascertained when an operation is being reviewed. Furthermore, the Handbook directs the BLM to consider that Contingency costs “*Where the proposed operation involves a relatively small, uncomplicated reclamation effort, and development of an engineering, design, and construction plan is not anticipated, there may not be a need to include a contingency line item in the RCE.*” Some of the components of Constantine’s RCE meet this requirement whereas other components will need to include a 10% contingency so to account for unforeseen operational costs during the more complex reclamation components involving helicopter operations and

switchback road reclamation. The BLM has engaged Constantine to revise these calculations.

- The consideration of truck drilling activities, they will be on already disturbed ground that is already bonded within the current RCE calculations.
- The consideration of acid generating rock, a certified geologist subject matter expert review concluded that all of the available data indicate that the rocks found in the area of the proposed have minimal risk of acid rock drainage, see section 2.2.3.4.
- Channel morphology change is anticipated to be negligible with small increases in sediment from the proposed action, see section 3.1.3.1.2.
- The project-area water samples provided for analysis provide adequate general idea of water quality. The truck mounted water well drilling and sampling will contribute to further definition of water quality and baseline for the proposed action, see section 3.1.3.1.2.
- The site-specific spill prevention plan (SPCC) is a requirement of the Environmental Protection Agency (EPA) and is required from the Alaska DEC. The BLM requires that an SPCCP be on site when fuel storage meets the qualification requirements for the plan. The BLM does not review the SPCCP, but a completed and up-to-date SPCCP must be on site at all times. If a spill should happen, then the SPCCP will be inspected by either EPA or the State to ensure that it was in place and that its requirements were being followed prior to the spill as provided in Hazardous Materials, see section 2.2.7.

For NEPA process:

- The consideration of potential cumulative actions as aspects of a broader proposal, BLM followed 43 CFR 3809.420(a)(2) which identifies that operators must "...follow reasonable and customary mineral exploration...". The Surface Management Regulations (43 CFR 3809) allows mineral properties to be explored through a Notice of Exploration (5 acres or less of surface disturbance and less than 1000 ton of bulk sample) or through an Exploration Plan (greater than 5 acres and greater than 1000 tons). Exploration must be conducted, in a reasonable methodology consistent with the industry standard, before the prospect can lead to an economical discovery that will support the pre-feasibility, feasibility, engineering, and construction processes that must take place before production of that deposit. Therefore, by allowing Constantine to continue to define the size and economic viability of the resource at the Palmer Project, the BLM is complying with the General Mining Law 1872, as amended, and the Federal Regulations. The proponent is still in exploration phase; therefore it is not a reasonable foreseeable future action to consider mining in this analysis.
- The consideration of the scope of the analysis and potential affected environment was defined to the Glacier Creek drainage after consideration of the proposed action and evaluation of other BLM and non-Federal actions being conducted in the area.
- The temporal boundaries considered for the impact analysis took into account past and present actions as well as reasonable foreseeable future actions through the anticipated exploration project. Exploration must be conducted, in a reasonable methodology consistent with the industry standard, before the prospect can lead to an economical discovery that will support the pre-feasibility, feasibility, engineering, and construction

processes that must take place before production of that deposit. The Surface Management Regulations (43 CFR 3809) allows mineral properties to be explored through a Notice of Exploration (5 acres or less of surface disturbance and less than 1000 ton of bulk sample) or through an Exploration Plan (greater than 5 acres and greater than 1000 tons). Therefore, by allowing Constantine to continue to define the size and economic viability of the resource at the Palmer Project, the BLM is complying with the General Mining Law 1872, as amended, and the Federal Regulations. See section the final section of each resource for discussion.

- The purpose and need statement for an externally generated action describes the BLMs purpose and need, not that of the applicant (40 CFR 1502.13). It is the BLM action that triggers the NEPA analysis and the purpose and need for action dictates the range of alternatives and provides a basis for the rational for eventual selection of an alternative in a decision. See Purpose and Need, section 1.3.
- In Land Use Conformance, language regarding the context of the Haines State Forest Management Plan was clarified to reflect that the lands in the project area are not classified as “public recreation” nor “wildlife habitat”. See section 1.4.3.

Consultation and Coordination

The EA was prepared by HDR Inc. in close coordination with the Glennallen Field Office Interdisciplinary Team.

Other state and federal agencies provided mine plan input and permit stipulations that were incorporated into the EA. The following agencies were consulted or contributed to the EA:

- Alaska Department of Natural Resources
- U.S. Fish and Wildlife Service

The BLM met with Chilkat Indian Village and Chilkoot Indian Association for government-to-government consultations and meetings on April 26, 2016.

Appeal Opportunities

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR § 4. To appeal you must file a notice of appeal at the BLM Glennallen Field Office, P.O. Box 147, Glennallen, Alaska 99588, within 30 days from receipt of this decision. The appeal must be in writing and delivered in person, via the United States Postal Service mail system, or other common carrier, to the Glennallen Field Office at Mile 186.5 Glenn Highway, Glennallen, Alaska or as noted above. *The BLM does not accept appeals by facsimile, email, or other electronic means.* The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR § 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. Except as otherwise provided by law or other pertinent regulation, a petition for a stay of decision pending appeal shall show sufficient

justification based on the following standards: (a) The relative harm to the parties if the stay is granted or denied, (b) The likelihood of the appellant's success on the merits, (c) The likelihood of immediate and irreparable harm if the stay is not granted, and (d) Whether the public interest favors granting the stay.

Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the Office of the Solicitor (see 43 CFR § 4.413); Office of the Regional Solicitor, Alaska Region, U.S. Department of the Interior, 4230 University Drive, Suite 300, Anchorage, Alaska 99508; at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

\s\ Dennis C. Teitzel

8/18/2016

Dennis C. Teitzel
Glennallen Field Manager

Date

Attachments

1. *Constantine Metals Environmental Assessment*, DOI-BLM-AK-A020-2016-0006-EA
2. Finding of No Significant Impact, *Constantine Metals Environmental Assessment*, DOI-BLM-AK-A020-2016-0006-EA
3. Stipulations, *Palmer Exploration Project*
4. *Constantine Metals 2015 Mine Plan of Operations*

**Palmer Exploration Project
Constantine North, Inc.
Plan of Operations
Casefile AA-094088
STIPULATIONS**

In addition to the terms included with the enclosed permit, the following special stipulations are a part of this authorization and are applicable to BLM-managed lands. Failure to comply with any of these conditions or stipulations constitutes a knowing and willful violation of 43 CFR 3809.

Air Quality

1. Constantine will apply water to the road surface with a water truck for dust suppression if necessary. Alternately, they will apply gravel to the road surface to control dust.

Cultural and Paleontological

2. Pursuant to 43 CFR 10.4, Constantine will notify the BLM authorized officer, by telephone, and with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined in 43 CFR 10.2).
3. Pursuant to 43 CFR 10.4 (c) and (d)(2), they will immediately stop all activities in the vicinity of the discovery and not commence again for a maximum of 30 days or when notified to proceed by the BLM authorized officer.
4. Constantine will not knowingly disturb, alter, injure, or destroy any historical or archaeological site, structure, building, or object. If Constantine discovers any cultural resource that might be altered or destroyed by operations, the discovery will be left intact and reported to the authorized BLM officer.
5. In the event that previously undiscovered paleontological resources are discovered in the performance of any surface disturbing activities, the item(s) will be left intact and immediately brought to the attention of the authorized BLM officer. If significant paleontological resources are found, Constantine will avoid the area, record the location, and recover data.

Fire

6. Constantine will comply with applicable Federal and state fire laws and regulations and will take reasonable measures to prevent and suppress fires in the area of operations.
7. Constantine and contractors will carry fire extinguishers, hand tools, or backpack-type water pumps in their vehicles to suppress small fires.

Geology and Soils

- 8.
9. Any rock anticipated to be blasted would be sampled and analyzed for acid generation and neutralization potential. Static laboratory testing would include neutralization potential (NP); net neutralization potential (NNP); maximum potential acidity (MPA), paste pH, sulfur, sulfide, sulfate, and leachable sulfate, and inorganic carbon. If the test results indicate high potential for acid generation then Constantine would be required to submit a rock characterization and handling plan, along with appropriate reclamation and bond

modifications, in accordance with 43 CFR 3809.430, Plan Modifications. Results will be submitted to the BLM at the earliest available time.

Hazardous Materials

10. Constantine will develop a site-specific SPCC plan, which will prescribe proper storage, transfer, and maintenance procedures; employee training; and documentation of regular inspections. They will have onsite and available the SPCC plan before using bulk fuel storage facilities.
11. Constantine will follow these guidelines:
 - a. All fuel storage containers larger than 55 gallons will be double-walled or stored within secondary containment capable of holding at least 110 percent of the largest container within the containment.
 - b. Smaller containers will be stored in containment where practicable.
 - c. Fuel transfer will take place within containment or over drip pans where practicable.
 - d. Absorbent pads and spill kits will be readily available at fuel storage sites.

Public Safety

12. In accordance with 43 CFR 3715, *Use and Occupancy Under the Mining Law*, Constantine will maintain public safety throughout the duration of the Project and maintain all equipment and Project components in a safe and orderly condition.
13. They will place signs warning the public that the area is an active exploration site and heavy equipment traffic might be present.
14. They will secure any identified public hazards, such as open historic mine workings, per state and Federal regulations.
15. Development of an employee bear safety program, including appropriate food and waste management practices, within 1 year of the Decision Record approval date.

Vegetation

16. Road construction materials are restricted to sources that have been inspected by a qualified person and found to be free of weeds.
17. The cleaning process for all vehicles and transport equipment entering the project site will be extended to drilling equipment, work boots, and tools.
18. Constantine will apply water to the road surface with a water truck for dust suppression if necessary. Alternately, they will apply gravel to the road surface to control dust.
19. After construction, Constantine will begin reclaiming the site as soon as possible, using only native topsoil and seeding with BLM approved seed mix
20. Constantine will implement the following prevention and control practices:
 - a. Minimize soil disturbance to the extent practicable, consistent with Project objectives, stockpiling growth media (topsoil) for use in reclamation.
 - b. Revegetate disturbed sites as soon as practicable when exploration work is complete.
 - c. Use only certified weed free products for erosion control, revegetation, and reclamation activities.
 - d. Identify and remove any noxious weeds in the Project area.
 - e. Exclude noxious weeds from disturbed areas until reclamation is accepted and bond is released.

- f. Ensure that all equipment is “weed-free” before traveling to and from the Project area so that noxious weeds will not be spread to new locations.
- g. Create a noxious weed inventory

Water Quality

- 21. Utilize BMPs to limit erosion and sediment transport from proposed facilities and disturbed areas during construction and operation, in accordance with the Alaska General Storm Water Permit and the SWPPP.
- 22. Following construction activities and in accordance with BLM requirements, Constantine will seed areas, such as growth media stockpiles, as soon as practical and safe.
- 23. Conduct concurrent reclamation to accelerate stabilization of disturbed areas.
- 24. Conduct an annual evaluation in order to prepare a written report documenting the following:
- 25. Inspection of areas contributing to storm water discharges containing pollution (i.e., sediment or product spills/leaks).
- 26. Evaluation of BMPs for their effectiveness in reducing storm water pollutant loads.
- 27. Schedule for modifying the BMPs and revisions to the SWPPP, if practical reductions of pollutants can be achieved.

Wetlands

- 28. Permittee shall design their project to avoid adverse impacts
- 29. Incorporate measures to minimize adverse impacts
- 30. Plan to restore sites that must be temporarily adversely affected by the project
- 31. Compensate for unavoidable adverse impacts through preservation, restoration or creation of wetlands.
- 32. Constantine will keep abutments for vehicular modular bridge crossing at Glacier Creek to the minimum size necessary and construct them using local cut timbers and stone where possible. They will remove all bridge abutments when no longer needed, and reshape the Glacier Creek channel to pre-construction contours.

Wildlife

- 33. Conduct any land clearing or other surface disturbance associated with Project-related activities outside of the avian breeding season (April 15 to July 15),
- 34. If not feasible, Constantine will perform avian nest surveys prior to surface disturbance to determine the presence/absence of ground- or shrub-nesting birds.
- 35. Avoid all active nests identified during these surveys during the avian breeding season or coordinate with U.S. Fish and Wildlife Service (USFWS) staff to determine possible mitigating measures.
- 36. Development and BLM approval of a raptor mitigation plan within 1 year of the Decision Record approval date.