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Scoping Comments for
Cameco Res. Inc. Mine

Mr. Fortesch:

Please accept the attached scoping comments on the Smith-Highland Mine.
Please contact me if you have any questions. Thank you.

Harold Shepherd
Executive Director
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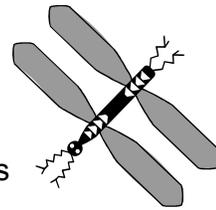


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Center for

Water Advocacy

Water Law and Policy Services



July 31, 2008

Tom Foertsch, Geologist
Bureau of Land Management
Casper Field Office
2987 Prospector Drive
Casper, Wyoming 82609
E-mail: casper_wymail@blm.gov

RE: Scoping Comments for Cameco Resources Inc. Mine

Dear Mr. Foertsch:

On behalf of the Center for Water Advocacy (CWA), I am submitting these scoping comments on the upcoming analysis for the Plan of Operations (POO) to conduct operations for locatable minerals under the general mining laws with the Bureau of Land Management (BLM), Casper Field Office, for a uranium in situ recovery (ISR) operation on public, fee, and state lands within Converse County, Wyoming. CWA is a non-profit public interest entity dedicated to protecting water resources in the West. CWA conducts legal and scientific research, analysis, policy and litigation in its efforts to protect and restore water quantity, water quality and water rights for the health of the watershed ecosystem, preservation of cultural identity and the benefit of its members.

Existing Conditions

The Bureau of Land Management (BLM) must adequately explain the current conditions of the project area, the watershed and the fish and wildlife populations and the effects that uranium mining will have on these resources. At a minimum, the following disclosures should be made:

Existing watershed conditions: Discuss conditions in general. This should also include a disclosure of existing water rights and stream flows.

Existing disturbance levels and their relationship to existing conditions and trends. The BLMs disclosure should, therefore, include all disturbance activities, but specifically focus on the disturbances caused by mining activity. Disclosure should include:

- a) A map of the mine showing, the proposed mining activity, size of the mine, streams, facilities and exploration activity.
- b) The most recent biological evaluations of listed species and biological

analyses of threatened, endangered, management indicator, and sensitive species for which occupied habitat or suitable unoccupied habitat exists within streams affected by the mine or exploration.

c) Information related to how the mine site will be reclaimed including the reclamation procedures or applications to be used and the time frames for reclamation.

d) Information addressing whether water will fill or will otherwise be present in the mine and, if so, whether the permittee will be required or otherwise intends to discharge it. If so, will ground water pumping impact existing water rights or instream flows and whether the Permittee will be required to obtain appropriate water rights permits from the Wyoming State Water Right Division and/or otherwise mitigate for impacts to instream flows.

e) Information addressing whether the mine is currently or will be impacting groundwater.

f) Information addressing whether the mine currently affects, or will affect, a local aquifer, in what manner it will do so and what measures will be taken to prevent or mitigate such impacts.

g) Information addressing how the Permittee will prevent water from entering the mine including grading to direct positive drainage away from the mine, or the construction of a drainage system to prevent undisturbed area drainage from entering the area of the mining disturbance.

h) Information addressing whether the ore bed is located in or otherwise associated with an aquifer.

i) Information addressing whether the Permittee has obtained or maintains a stormwater prevention and control plan. This is particularly important in the event the area has a lot of surface water.

j) Information related to plans of the Permittee to discharge water from the mine and has obtained an NPDES permit. This is particularly in the event the planning area has a lot of surface water.

k) Information on whether procedures followed by the BLM under the permit are in compliance with various federal laws and fiduciary obligations to affected Indian tribes including cultural resource protection, treaty rights and the federal trust obligation.

l) the Permittee must be required to produce a Comprehensive Hydrological Impact Assessment prior to the approval of mining activity or the issuance of any permit.

m) Information on whether the Mine will be processing the ore on sight or off. If

on site, they must obtain the appropriate permits from the Wyoming Division of Mining and the water right permits needed for the amount water used.

Current conditions in terms of condition of vegetation, prevalence and control efforts for noxious weeds, soil compaction, erosion, etc. This disclosure should include a discussion of how current soil conditions deviate from optimum levels and any efforts by the BLM to restore conditions. This also should address impacts of mining on the soils and spread of noxious weeds.

Existing riparian conditions and effects of mining on these.

Current water quality: The potential effect of the proposed action, the authorizing of mining on the planning area, can have a significant potential effect on the watershed which underlies this site. The portion of the mining site which overlaps the aquifer recharge area needs to be managed to restore and maintain vegetative cover (canopy, ground, and litter) which maximizes percolation of precipitation into the vadose zone and thence into the aquifer. See the Step-Point Method of assessment described in the Interagency Technical Reference *Sampling Vegetative Attributes* (NARSC 1996).

The BLM should commit to a mining for planning area requiring restoring and maintaining vegetative cover in order to restore hydrologic function in the site, with measurable goals, monitoring to see management objectives are achieved, and provisions in the lease that mining activity may be modified to make corrections in progress towards achieving these vegetative cover/hydrologic function objectives if monitoring shows progress towards meeting the objectives is not being made.

In addition, the BLM should disclose trend and status, sediment, water temperature, pollutants, existing threats, risks, and cumulative effects and water quality listed streams and whether mining contributes to degraded water quality.

Fish populations and habitat: disclose current status and trend, existing cumulative effects from land management activities on fishery habitats. Variables to be analyzed include: large woody debris, temperature, fine sediment, pool frequency, channel width/depth, sediment delivery and bank stability. This analysis should include habitat both within the project area and outside of, but affected by it.(downstream affects on habitat).

Wildlife habitat: Disclose current status and evaluate population trends in relation to grazing.

Monitoring: Current status and trend of monitoring for implementation, effectiveness and cumulative effects, percent monitored and frequency.

Soils: Disclose current status and evaluate condition in relation to grazing.

Range of Alternatives

The BLM should conduct an EIS that includes a wide range of alternatives, including a no-action alternative, but also something in-between that and the proposed action. This should also consider alternatives that reduce mining acreage and/or activity that is sufficiently located away from streams that are in poor condition.

Ideally, we expect that subsistence and environmental values will be evaluated on an equal footing with economic values in the socio-economic analysis that will be included in the National Environmental Policy Act (NEPA) analysis and in the development of a reasonable range of alternatives. Since, NEPA mandates that the BLM fully discusses a reasonable range of alternatives and provide full public disclosure of significant environmental impacts and affected environment, the analysis should contain a detailed statement of alternatives to the proposed action. 42 U.S.C §§ 4332(2)(E).

Adaptive Management

The BLM should not rely too heavily on an adaptive- management approach to prevent degradation of ecological conditions from mining activity and other management action. This approach consists of “a continuing process of planning, implementation, monitoring, and evaluation, to adjust management strategies to meet goals and objectives of ecosystem based management.” U.S. Department of the Interior, BLM Vale District Office Proposed Southeast Oregon Resource Management Plan and Final Environmental Impact Statement, vol. 1:149–150, (April 2001). In general, instead of establishing management standards at the point of planning or other decision making, the adaptive management concept involves the continued adjustment of “management strategies as needed, supported by monitoring or additional information,” with the idea of selecting the strategy most likely to meet goals and objectives. *Id.* The “wait and see” adaptive-management concept, however, cannot meet the BLM’s stated objectives for improving over grazed sites because it lacks definitive determinations in relation to the impacts of livestock mining and other actions.

Effect of Alternatives:

Regarding likely effects of the actions, each and every alternative proposed should be evaluated for its effects on the resources described previously. These effects must be evaluated for both direct and cumulative effects for each alternative. The analysis of effects must also be analyzed for consistency with Indian treaty rights, rebuilding efforts, regional goals and policies, the legal mandates contained in NEPA, NFMA and other authority.

Issues of Concern:

A. Cultural Resources

CWA is especially concerned with effects on cultural resources. CWA urges the BLM to protect cultural resources and access rights to public lands to maintain and exercise treaty rights. The BLM is required to evaluate the effects of proposed actions on sites listed in or eligible for inclusion in the National Register of Historic Places in order to properly safeguard Traditional Cultural Properties (TCPs). National Historic

Preservation Act, 16 U.S.C. 470. As such, the BLM must adequately identify TCPs within the project area and evaluate them for significance. Once potential TCPs have been identified, the BLM should provide a map which indicates the locations of known sites and TCPs, so that we can evaluate the proposed action in light of that information.

B. Threatened and Endangered Species

In the event that there are streams occupied by Threatened, Endangered, or Sensitive (TES) fish in the watershed(s) in question, it will be important to ensure that all potential impacts from the preferred alternative on such species will be fully analyzed and considered. The agency should consider whether livestock mining will alter trend or otherwise prevent such habitat from reaching a level making it suitable for particular species.

C. Water Quality and Riparian Areas

The areas of highest concern in the planning are should be those with a PFC rating of "not properly functioning," and Wyoming State Water Quality Standard 303(d) listed streams as well as those with channel stability concerns. Please be sure to address these areas of special concern and the effects of livestock mining on water quality and all aspects of the riparian conditions. CWA will be concerned about any activities that would exacerbate current water quality or riparian conditions. The BLM should also consider how and when TMDLs or water quality management plans should be integrated into the site plans to address any water quality bodies not in compliance with state standards.

Finally, the agency should consider the need to maintain riparian conditions, including vegetation, and aquatic habitats that are currently functioning properly and improve riparian conditions and aquatic habitats in locations which have been degraded by past management activities. These needs require taking a hard look at the impact to riparian conditions and considering improvement measures.

We appreciate being included in the scoping process and wish to be informed on the progress of these and other projects that may affect the interests of CWA and CWA members.

D. Water Availability

The BLM needs to explain how water will be available for new mining activity under this proposal in light of the fact that any water used in the mining process would be totally consumed due to the fact that it is completely unusable after such processes. The BLM must, therefore, analyze exactly how much water will be used, what it will be used for and whether it violates state water right permitting standards including, beneficial use, public welfare standards, instream flow needs, anti-speculation standards and the that the Permittee has the financial means to put the water to beneficial use.

E. Foreign Ownership

The BLM must thoroughly Investigate the Permittee's authority to operate the mine In question on the grounds that the Applicant's status as a foreign corporation may violate the explicit terms of the Atomic Energy Act of 1954, as amended (AEA), and the rules and regulations promulgated by the Nuclear Regulatory Commission (NRC) thereunder. The BLM must, therefore, assess the Permittee's ownership structure, and, specifically, whether Its complete ownership and domination by foreign interests violates applicable U.S. law. The regulations under 10 CFR Part 40 for "Domestic Licensing of Source Material" clearly require, at Section 40.32(d), that the issuance of the license may not be "inimical to the common defense and security or to the health and safety of the public." *Long Island Lighting Co.* (Shoreham Nuclear Power Station, Unit 1), LBP-84-45, 20 NRC 1343 , 1400 (1984), Memorandum at 122.

The BLM must, therefore, ask two key questions (1) does Section 40.38 apply to bar authorization of mining in this case; and (2) if not restricted under Section 40.38, does Section 40.32(d) bar authorization of mining?. The AEA, and Section 40.32(d) may bar the issuance of a mining permit in this case. Further, 40.38 also supports a bar to the issuance of the sought permit due to the admitted foreign ownership and control of the licensed uranium mining activities by the Permittee which is a Canadian corporation

Given the importance of the AEA as means of ensuring nuclear security in the post-9/11 world, it is critically important that the Permittee's foreign ownership be assessed in light of the Congressional mandate that nuclear material be regulated "in the national interest and in order to provide for the common defense and security and to protect the health and safety of the public." The Permittee's ownership and complete domination by a Canadian corporation means that any undisclosed foreign would violates the applicable regulatory scheme and flaunts laws specifically enacted by the U.S. Congress to ensure the health, security and safety of U.S. citizens.

We hope that our comments will be useful. Should you have any questions about our comments, please contact me at (435)259-5640.

Sincerely,

s/Harold Shepherd

Harold Shepherd, Executive Director

cc: Board Members