Finding of No Significant Impact
Under the
National Environmental Policy Act

Coeur d'Alene Basin Final Interim Restoration Plan and Environmental Assessment
Coeur d'Alene, Idaho

United States Department of the Interior
U.S. Fish and Wildlife Service
Upper Columbia Fish and Wildlife Office
Spokane, Idaho

Introduction and Proposed Action

The U.S. Departments of Interior (DOI) and Agriculture (USDA) and the Coeur d'Alene Indian Tribe ('Trustees') initiated a Natural Resource Damage Assessment (NRDA) in 1991 to assess damages under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 33 U.S. C. 1321, and the Clean Water Act, 33 U.S.C. 1321, for natural resource injuries resulting from exposure to hazardous substances, particularly lead, zinc, and cadmium in the Coeur d'Alene Basin (Basin). The DOI is the lead federal administrative Trustee for the NRDA. The Trustees developed the Basin NRDA consistent with the DOI's non-mandatory damage assessment regulations, 43 C.F.R. 11, Subpart E, as appropriate. The results of the injury determination and quantification studies confirmed widespread distribution of mining-related contamination throughout the Basin and described the resulting natural resource injuries and loss of ecosystem services (Stratus 2000). The Trustees have proposed the Coeur d'Alene Basin Final Interim Restoration Plan and Environmental Assessment (FIRP/EA) to: partially compensate the public for injuries to natural resources and loss of ecosystem services; and analyze the effects of the Trustee's FIRP and other alternatives.

Documents reviewed and personal communications used in the preparation of this Finding of No Significant Impact (FONSI) that are hereby incorporated by reference include:

- *Final Interim Restoration Plan and Environmental Assessment* (FIRP/EA) *for Coeur d'Alene Basin*
- Endangered Species Act section 7 compliance discussion with Larry Salata, U.S. Fish and Wildlife Service (USFWS), Pacific Regional Office, Chief of Division of Consultation and Conservation Planning (pers. com. 2006)
- Records of Decision for Operable Unit (OU)-1, OU-2, and OU-3 in the Basin (USEPA 1991, 1992, and 2002).
- Report of Injury Assessment: Coeur d'Alene Basin Natural Resource Damage Assessment (Stratus 2000).

I. **Alternatives Considered**

Under CERCLA, damages recovered from parties responsible for natural resource injuries are used "to restore, rehabilitate, replace, and/or acquire the equivalent of the injured resources" (hereafter collectively referred to as "restoration" or "restoration activities") [42 U.S.C. § 9607(f)(1)]; and any funds used by Federal Trustees to implement restoration activities are subject to the requirements of the National Environmental Policy Act (NEPA) [42 U.S.C.§ 4321]. Accordingly, the Trustees developed the FIRP/EA to identify restoration alternatives that partially address the resources injured and ecosystem services lost due to the release of mining-related hazardous substances in the Basin, and to analyze the effects of those alternatives on the human environment. The FIRP/EA is not intended to quantify or to analyze the full extent of actions necessary to accomplish restoration of injured natural resources in the Basin. The Trustees proposed a limited number of restoration projects in river, riparian, and wetlands systems within the Basin to be accomplished over the next several years.

The proposed action and the preferred alternative in the FIRP/EA are consistent with the funds currently available from the Trustees' prior settlements with several responsible parties in the Basin (approximately $5 million dollars). Additional funds may also become available through requests for reimbursable funds that are submitted by the federal Trustees to the ASARCO, Inc. Environmental Trust, which the company established through a judicially approved, partial settlement of certain nationwide environmental claims against it by the United States, and/or through Trustee settlements for natural resource damages with the remaining defendants. Consistent with the National Contingency Plan, the Trustees would implement the selected alternative in coordination with the remedial activities of the U.S. Environmental Protection Agency (USEPA) and the State of Idaho in the Basin. See Subpart G of the National Oil and Hazardous Pollution Contingency Plan 40 CFR 300.600-615.

Alternative A (No-action Alternative–Natural Recovery) would not initiate the proposed interim actions at this time to compensate the public for losses attributable to continuing injuries resulting from on-going releases of mining-related hazardous substances in the Basin. The USEPA would continue to implement the agency's Records of Decision for OU-1, OU-2, and OU-3 (USEPA 1991, 1992, and 2002). This alternative could require several centuries to facilitate recovery, and specific restoration activities that would partly address injured resources or lost ecosystem services in the Basin would not be implemented at this time.

Alternative B (The Future Final Restoration Plan) would not initiate restoration until a final restoration plan was developed. The Future Final Restoration Plan (FFRP) would be developed after a litigation result or a settlement was achieved with the remaining defendants in Coeur d'Alene Tribe v. Asarco, Inc., et al., found to be liable by the U.S. District Court for the District of Idaho for injuries to certain natural resources associated with the on-going releases of mining-related hazardous substances into the Basin (approximately four to five years from now). The Trustees would develop a restoration plan that included a prioritization scheme for the full amount of funding and projects available at that time.

Alternative C (The Proposed Action) and preferred alternative involves projects of the FIRP. The projects in the FIRP would partially address natural resource injuries caused by mining

activities in the Basin. The Trustees considered all known related potential project opportunities. Priority for evaluating potential projects was influenced by several considerations contained in the EA (Sections 1.3 and 2.4.2).

Alternative C, the Proposed Coeur d'Alene Basin Interim Restoration Plan Projects, is the preferred alternative, and includes several discrete restoration projects including: 1) Moon Creek Restoration ($25,000); 2) Sherlock Creek Restoration ($950,000); 3) Pine Creek Restoration ($600,000); 4) Alder Creek Restoration ($600,000); 5) Benewah Creek Restoration ($660,000); 6) Hepton Lake Restoration ($300,000); and 7) the Wetland-based Restoration Projects ($900,000).

II. **Effects and Finding of No Significant Impact**

The Trustees estimate the Proposed Action and Preferred Alternative will begin to address resources injured and ecosystem services lost in the Basin, and provide beneficial cumulative impacts by increasing habitat quality for fish and wildlife (particularly tundra swans). Impacts to surface water quality, soil and sediments, fish, tundra swans, riparian habitats, listed/proposed/candidate species, cultural resources, and costs and opportunities were considered and analyzed (Table 4.5 of the EA).

The restoration projects will benefit aquatic, riparian, and wetland habitats and their associated species, and these improvements would contribute to restoration, rehabilitation, replacement and /or acquisition of the resources injured and ecosystem services lost due to mining activities in the Coeur d'Alene Basin. Improvements to aquatic and riparian areas will indirectly benefit bald eagles and bull trout. There will be no benefits for gray wolf or Canada lynx.

Minimal short-term disturbance of soil and vegetation from construction projects may cause some impacts to riparian zones, aquatic habitats, and their associated fish and wildlife species. These impacts will be minimized by best management practices and other avoidance and mitigation measures as required by the various regulatory agencies. The direct, indirect, adverse and beneficial effects of the projects would not be 'significant' because: they would not affect public health; they would not produce impacts to unique characteristics of the area; and the effects would not be precedent setting, controversial, unique, or uncertain. No negative cumulative effects are expected from the proposed action.

The Trustees in discussions with the USFWS (Larry Salata, USFWS, pers. com. 2006) determined, by consensus, that Section 7 consultation in accordance with section 7(a)(2) of Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) would be completed, as appropriate, on individual projects rather than on the FIRP, if alternative C (the preferred alternative) is selected. Once project designs are more precisely known, Section 7 consultation would be more meaningfully conducted.

III. **Public Review and Comment**

The Trustees made the draft Coeur d'Alene Basin Interim Restoration Plan available to the public for a 30-day comment period. All comments received during the comment period were considered by the Trustees and addressed in the FIRP/EA.

IV. **Conclusion and Determination**

Based upon an environmental review and evaluation of the FIRP/EA of April 2007, it is my determination that the Proposed Action and Preferred Alternative (Alternative C), of the FIRP/EA does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102 (2)(C) of NEPA. Accordingly, the preparation of an environmental impact statement is not required.

David H Wesley

Regional Director, Region 1, Fish and Wildlife Service
Authorized Official for U.S. Department of the Interior
Coeur d'Alene Basin NRDA

4/27/07
Date