

## **Finding of No Significant Impact (FONSI)**

### **Restoration Plan and Environmental Assessment for Tiger and Dinero Tunnels Restoration, Lake County, Colorado**

The natural resource trustee agencies, the U.S. Department of the Interior (DOI) and the State of Colorado, specifically represented by the U.S. Fish and Wildlife Service (Service), Bureau of Land Management, and the U.S. Bureau of Reclamation on behalf of DOI, and the Colorado Department of Natural Resources, Colorado Department of Public Health and Environment, and Colorado Department of Law, on behalf of the State of Colorado (collectively 'Trustees'), are proposing to implement a Restoration Plan/Environmental Assessment (RP/EA). This RP/EA presents a preferred alternative to address public losses resulting from surface water and groundwater injuries caused by releases of hazardous substances to and from the California Gulch Superfund Site (Site) near Leadville, Colorado.

Each Trustee is authorized to act on behalf of the public to evaluate potential injuries to natural resources and associated losses of ecological services resulting from releases of hazardous substances at the Site. Authority to act on behalf of the public is given to trustees in CERCLA [42 USC §§ 9601 *et seq.*] and the CWA [33 USC §§ 1251 *et seq.*]. Actions to restore, replace, or acquire the equivalent of lost resources are the primary means of compensating the public for injuries to natural resources under these authorities. Any funds used by Federal Trustees to implement restoration activities are subject to the requirements of the National Environmental Policy Act (NEPA) [42 USC § 4321]. Accordingly, the Trustees developed the RP/EA to identify restoration alternatives that partially address the resources injured and ecosystem services lost due to the release of mining-related hazardous substances, and to analyze the effects of those alternatives on the human environment. This RP/EA is not intended to quantify or to analyze the full extent of actions necessary to accomplish restoration of injured natural resources associated with the Site.

Resurrection Mining Company; Newmont USA Limited; and ASARCO LLC committed to fund restoration to resolve their liabilities for natural resource injuries at the Site. The restoration projects will be funded from the settlement funds received from these responsible parties. Additional restoration projects also will be funded out of these settlements and will be described in a future restoration plan that will address other injured resources, including injuries to aquatic resources in the Arkansas River.

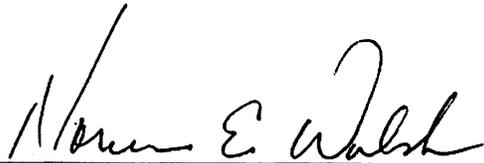
The RP/EA lists and describes a proposed action/preferred alternative that consists of two projects addressing acid-mine drainage sources and pathways to natural resources in the upper Arkansas River drainage: breaking hazardous substance pathways to natural resources at the Tiger Tunnel and at the Dinero Tunnel. These projects, to be implemented by the Bureau of Land Management and the State of Colorado's Division of Reclamation, Mining and Safety, will control acid-mine drainage that is exposing and injuring aquatic natural resources in Lake Fork Creek and other tributaries and will compensate the public for injuries to surface water and groundwater resources that were caused by releases of hazardous substances at and from the

California Gulch Superfund Site. In addition, these projects have been the subject of previous announcements and public meetings (pages 26-27).

The public comments received did not identify any significant environmental issues or impacts. As documented in the Proposed Restoration Action/Preferred Alternative and Alternatives, including the Environmental Consequences Section (pages 8-23), the preferred alternative will have either no or inconsequential effects on social, economic, recreational, biological, and cultural resources. Over the long term, restoration projects are expected to have beneficial effects for trust natural resources.

A Notice of Availability was published in the Leadville Herald-Democrat and several other Colorado newspapers the week of 11 May 2009. Copies of the RP/EA were available for review at the U.S. Fish and Wildlife Service, Colorado Ecological Services Field Office. Copies were also available at the Lake County and Colorado Mountain College Libraries in Leadville, Colorado. In addition, the RP/EA was available on the Service's Upper Arkansas River NRDAR website or on CD-ROM by request. Interested members of the public were invited to review and comment on the RP/EA. The 30-day public comment period ended 15 June 2009. Written comments were considered and addressed in the final RP/EA at the conclusion of the 30-day public comment period. No comments were received that required modification of the RP/EA.

Based on my review and evaluation of the RP/EA, and after addressing the public comment and concerns submitted, I have determined that the implementation of the RP/EA for the Tiger and Dinero Tunnels is not a major federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, preparation of an environmental impact statement is not required.



Date

8/17/09

Stephen D. Guertin

Regional Director, Region 6, U.S. Fish and Wildlife Service

Authorized Official of the U.S. Department of the Interior, Upper Arkansas River