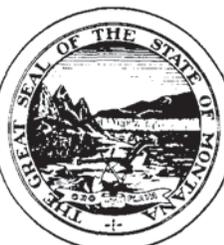


DEPARTMENT OF STATE LANDS



STAN STEPHENS, GOVERNOR

CAPITOL STATION

STATE OF MONTANA

(406) 444-2074

RECEIVED
APR 20 1992
ENVIRONMENTAL
QUALITY COUNCIL

125 SOUTH AVENUE
HELENA, MONTANA 59620

April 17, 1992

Dear Reader:

Enclosed is a copy of the final Environmental Assessment (FEA) prepared by the Department of State Lands, the Bureau of Land Management and the Beaverhead National Forest. This FEA is for 2900 Development Corporation's proposal to: 1) construct a haul road from the A & P mine to the Pony Mill, 2) reclaim the A & P heap leach, and 3) haul approximately 10,000 tons of crushed uncyanidated ore to the mill.

This FEA adopts the draft and provides responses to written and verbal comments received by the agencies on the draft Environmental Assessment (DEA). It is necessary to keep and use your DEA copy with this FEA in order to have a complete package.

The agencies worked through five reviews with the company and the comments received from the public. These comments led to the supplemental information given in the final and definitive answers to concerns.

The agencies thank you for your time and effort in working with the issues through the environmental analysis process.

Sincerely,

Bob Winegar

Robert C. Winegar
Program Supervisor
Hard Rock Bureau
Reclamation Division

RCW/cf

Enclosure

2900 DEVELOPMENT CORPORATION

Madison County
Montana

FINAL

ENVIRONMENTAL ASSESSMENT
adopting the

Draft Environmental Assessment

and

Responding to Comments

PREPARED BY:

BUREAU OF LAND MANAGEMENT
BUTTE DISTRICT OFFICE
BUTTE MONTANA
43 CFR 3892 Plan of Operation
MT 077-PO-1

U. S. FOREST SERVICE
BEAVERHEAD NATIONAL FOREST
MADISON RANGER DISTRICT
ENNIS, MONTANA
36 CFR 228 PLAN OF OPERATIONS

DEPARTMENT OF STATE LANDS
HARD ROCK BUREAU
HELENA, MONTANA

PURSUANT TO THE NATIONAL AND
MONTANA ENVIRONMENTAL POLICY ACTS
March 16, 1992

CHAPTER I - SUPPLEMENTAL INFORMATION

A. Introduction

The Department of State Lands (DSL) and the USFS adopted the draft environmental assessment (EA) for the 2900 Development Corp. project, with supplemental information and answers to public comments, as the final EA (FEA). This decision was made after reviewing the oral and written comments received on the EA published November 29, 1991. Comments received at the October 9, 1991, public meeting and written comments through December 30, 1991, have been answered.

This document adopts the EA as part of the FEA, therefore, you must keep the November EA to assure you have a complete package. The EA will not be reprinted. Substantive comments are those which affect the substance of the EA. This type of comment would include comments which identify errors in assumptions, analysis, or data, through the identification of omissions, or by supplying information which was not previously available. References to the "EA" in the responses to comments are referring to the draft EA published November 29, 1991.

The proposed actions and decision-making on the 2900 mining plan remain unchanged. The Commissioner of the DSL and the USFS must now grant, modify, or deny the proposal to continue mining. In making that decision the Commissioner will consider the information in the permit application, the EA, comments made at the public meeting and submitted on the EA, and responses to those comments.

B. Public Involvement

Public Notice of receipt of the application was published in the Montana Standard and Whitehall Ledger for 3 weeks in February 1991. The public scoping meeting to identify issues was held in Harrison October 9, 1991. The public meeting on the EA was held in whitehall December 19, 1991. Written comments were received until December 30, 1991. In addition the notice for cultural resources public input was run for 3 weeks in November 1991 in the Madisonian and comments were accepted December 6, 1991.

CHAPTER II - COMMENTS AND RESPONSES

The comments received have been summarized by issue and the responses printed below each comment. Comments are also sorted into oral and written comments. The full text of all letters and hearings are on file at the DSL, the USFS, and the BLM. The EA referred to in the responses to comments is the draft EA published November 29, 1991.

PUBLIC ORAL COMMENTS RECEIVED AT THE OCTOBER 9, 1991, PUBLIC MEETING CONCERNING THE ENVIRONMENTAL ASSESSMENT OF 2900 CORPORATION'S APPLICATION FOR AN OPERATING PERMIT

ENFORCEMENT ISSUES

1. COMMENT: What is to be the future of 2900's SMES? Could 2900 continue mining at the A&P SMES area after the permit is granted?

RESPONSE: A company may not hold an SMES and an Operating Permit. The SMES will become void upon issuance of the operating permit. After issuance of the operating permit mining at the A&P would cease. It could resume if and when the permit was amended to include further mining.

2. COMMENT: The EA did not discuss the noncompliance history of 2900, nor the environmental effects of these noncompliances.

RESPONSE: The noncompliance history is presented in response #1 of written comments.

3. COMMENT: What is to be the ultimate resolution of the non-compliance issued to 2900 and the fate of the missing six acres at the A&P, that is, the six acres in excess of the five allowed under the SMES? The \$800 penalty is woefully inadequate.

RESPONSE: The noncompliance has been resolved in so far as 2900 has complied with the required abatement by: 1) reseeding 2.0 acres and 2) making application to include 4.6 acres in an operating permit. Final evaluation of the success of the revegetation effort may require several growing seasons. In the meantime, 2900 remains liable for reclamation of those areas.

82-4-361, MCA, provides for penalties within the range of \$100 to \$1,000 per violation and for each day that the violation continues. The \$800 penalty is near the upper end of the range allowed by statute. DSL invokes the per day provision of the penalty in those instances where a violation is ongoing and, by its continuance, incrementally causes more environmental damage, such as would be the case with an ongoing discharge of pollutant. In this instance the viola-

tion is the result of a one-time action. Imposing a per day penalty would result in an absurdly high penalty, in so far as it may take several years for the reclamation to be successful. Such a large penalty would be insupportable by the facts of the case.

Please see #1 written comments.

4. COMMENT: The noise and dust problems which were predicted for the Pony mill have indeed occurred and the agencies have failed to carry out the enforcement and abatement that was promised in the mill EA. Now this EA predicts additional noise and dust. Agency enforcement of the mitigations of these impacts is inadequate.

RESPONSE: While a certain amount of noise and dust are anticipated with any operation like the Pony mill, no excessive noise or dust problems have been identified or observed at the site by the regulatory agencies. The agencies have not received detailed written complaints specifying problems within the agencies scope of authority. The agencies retain the obligation to enforce the applicable regulations and conditions of operation with respect to both the Pony mill and 2900 activities.

Only the DHES has authority over the Pony Mill. Dust and noise complaints should be directed to the DHES regarding the Pony mill.

5. COMMENT: The EA mentions that there will be additional noise and dust but wrongly concludes that there will be no impact.

RESPONSE: The EA identifies additional noise and dust impacts as a result of this proposal (page 31 of the EA) but concludes that these impacts will not be significant. This is not the same as saying there will be no impacts.

Please see #7 in the written comments.

CUMULATIVE IMPACT ISSUES

6. COMMENT: The EA does not adequately deal with anticipated mine expansion at the A&P even though this is foreseeable. In addition, the relationship between the road, the A&P mine, the mill, and other likely developments is never made clear.

RESPONSE: The EA does describe the anticipated mine expansion of the A&P in Chapter V - Cumulative Effects, page 36. The analysis of that expansion was based on 2900's known reserves and a reasonably foreseeable development scenario for that mine. Impacts that this mining scenario could generate on the Cataract Creek environmental were evaluated by the various resource staff specialists (wildlife biolo-

gist, range, timber, etc.) with respect to other potential cumulative effects and it was their determination presented in the EA that there would be no significant effects on the human environment from the mining scenario generated. Effects could occur but not significant effects.

The relationship of the proposed road to the A&P mine, the mill and other developments is simple. It will serve as the main route for mining activities between the mill and mine, as well as provide a main access route to conduct exploration activities to other claims that are located along and parallel to that road. The company chose this route because they felt that it gave the company a route that resolved some of the public's concerns, i.e., public safety, water and riparian issues, while giving them the best possible route to conduct mining and exploration activities.

Refer to RESPONSE #1 of written comments.

7. COMMENT: The capacity of the Pony mill (500 TPD) effectively limits the scale of any future mining development. There will not be any major mines.

RESPONSE: It is actually the size and economics of an ore deposit that will determine if a mine will be a major operation. But, the above comment is true for the A & P and Pony Mill association. The underground operation at the Stillwater mine is approximately 800 TPD, and the open pit operation at Beal Mountain is 12,000 TPD. Both of these mines are on the small end of the scale and are much larger than any production reasonably foreseeable around the Pony mill.

Based on a geologic review of the area combined with past and current activities, and proposed exploration, a possible future development could include a larger prospect.

8. COMMENT: 2900's exploration and exploration planning is not complete, hence it is not possible to make predictions of future mining activity with any degree of confidence.

RESPONSE: Although 2900's exploration planning may not be complete, it is reasonable to assume that, if the price of gold in the next 10 years is comparable to the past 10 years, that exploration and mine development will also be about the same over the next ten years as it has been in the past 10 years. Various companies are exploring in the area. See response to exploration in comments #5 and #8 in the written comments.

9. COMMENT: An EIS is required for a complete analysis of all cumulative impacts of all of Chicago Mining's projects and of all other projects in the northern Tobacco Roots.

RESPONSE: An EIS is required if the agencies can document the potential for significant impacts. Cumulative effects

are limited to those projects which are reasonably foreseeable (see # 8 above). Based on the analysis of this proposal and the cumulative effects narrative with respect to the proposal, an EIS is not necessary because of the finding of "no significant impacts." The federal agencies already have land use management plans in effect in which an EIS was conducted.

Currently, the Beaverhead National Forest is developing the Tobacco Root Integrated Analysis (IA) as prescribed by the Beaverhead Forest Plan. The IA, when completed, will be used as a planning document and will provide data such as: mineral occurrences; mineral potential; past, present mining activities; as well as other resources and activities on National Forest lands. This data will be available for use in environmental analysis for site-specific projects within the Tobacco Roots in the Beaverhead National Forest. This document is to provide data and is not a decision to implement projects.

10. COMMENT: Chicago Mining is deliberately secretive and that plans for further development exist and should be made known. Building and permitting of the mill before permitting of the mine, splitting of CMI into two corporations to evade regulation and building of the road before disclosure of a mining plan were offered as evidence of this proclivity towards secrecy.

RESPONSE: Most companies have plans that only they know. The plans are made known by application to the agencies when the companies determine development is a viable direction to take. See responses to #2 and #8 in the written comments. The impacts of these plans, along with the reasonable foreseeable cumulative effects associated within the area encompassing the proposal are analyzed to determine if significant impacts could occur, and whether they can or can not be mitigated. The impacts from future development would be evaluated and presented to the public as such development becomes known.

The state statutes require companies to furnish names of principals of the corporation, company, limited partnership, etc. The statutes do not require a company to explain the investment structure which may lead to various company names.

11. COMMENT: 2900's exploration will precede any new development and that new development would go through the permitting process.

RESPONSE: Federal and state statutes do require permitting of new developments. The more comprehensive and foreseeing the application for permit, the better for everyone concerned.

WATER ISSUES

12. COMMENT: Baseline information on surface and groundwater is lacking.

RESPONSE: Baseline information on surface and groundwater is summarized on page 20 of the EA. See responses to #5, #6, and #7 in the written comments.

The monitoring well at the A&P mine and the occurrence of springs in the area are the basis for assumptions about cumulative development nearer the ridge tops. Water is assumed to be of small volumes if encountered.

13. COMMENT: The eventual degradation of Pony's water supply by the Pony mill was not addressed in this EA.

RESPONSE: The Pony mill was evaluated in the EA prepared by the DHES, which concluded that there would not be significant impacts to Pony's water supply.

SOCIAL AND ECONOMIC ISSUES

14. COMMENT: Impacts to the local population will be minimal because the mill and mine are already staffed up and most of the employees are already local residents or commute from Butte or Whitehall.

RESPONSE: Population impact will be minimal or nonexistent regarding influx of additional mine or mill workers for 2900. The existing work force is adequate. Cumulative impact is estimated at an additional 2 to 4 workers (page 43 of the EA). This is not considered a significant impact. A proposal which would change this projection such as another company with a larger deposit would have to be analyzed and added to the cumulative effects.

15. COMMENT: The EA did not discuss the negative impacts that the proposal would have on the farming and ranching community and in fact it did not discuss the agricultural economy of the area at all.

RESPONSE: The agencies did not perceive an impact to the agricultural community. Nor was this issue raised in any of the written scoping comments or the scoping meeting held October 9, 1991.

16. COMMENT: The EA did not address economic activities in the area other than mining, such as recreation, retirement, and agriculture.

RESPONSE: The EA did discuss socioeconomic issues. Due to the scope of the project and scoping comments, discussion was limited. Little negative impact to socioeconomic conditions in the area are anticipated. The EA did not address

completely the vendor and services income generated by the mine. Total income to mine families was not addressed completely either. Retirement and ranching were recognized as part of the major income factors to the area (page 34 of the EA). Schools were not significantly impacted (page 25 in the EA). Traffic appeared to be one of the main issues during the scoping process (see page 34 of the EA). Separating the mine haul traffic from the roads used for recreation minimizes the impact to reducing recreational income. If the Cataract Creek road would be chosen as the haul route, mitigations could be incorporated to minimize impacting recreational income. People could still use the Cataract Creek road.

No Agricultural land would be taken out of production, therefore, no economic impacts to agricultural lands are likely to occur.

17. COMMENT: The attitudes of the local populace toward mining was misrepresented in the EA. The locals are not opposed to change and are not opposed to mining.

RESPONSE: Various attitudes exist, and have been expressed to the agencies, toward mining in the area. This comment is appreciated but several residents remain opposed to mine development in the area and several residents are in support of mining.

WILDLIFE ISSUES

18. COMMENT: The EA concludes that the road would cut off elk foraging from security cover areas. This is a significant impact.

RESPONSE: While it is true that some elk foraging sites will be separated from security cover by the proposed road, this is not expected to have significant impact on the elk currently using this area. Even though the habitat which will be bisected by the proposed road will not be as effectively utilized by the elk, some use would still occur during periods of decreased mining activity. In addition, elk are a highly mobile species and because suitable habitat currently exists on lands north and south of the proposed project area, some of the animals affected by this project may be displaced to use these other areas. This change in use patterns by the impacted animals will not have a detrimental impact on elk or its numbers in this area.

19. COMMENT: Wildlife and fisheries impacts are insufficiently assessed in the EA.

RESPONSE: Based on the size, scope and type of projects being proposed, it is our determination, based on specialists' input, that the assessment of the wildlife and

fisheries within the affected area of the proposal was adequately addressed.

20. COMMENT: There will be no impacts to wildlife. A photograph was shown of a deer resting in the entryway of an abandoned mill.

RESPONSE: There will be impacts to wildlife but they are not judged to be significant. A photograph of a deer in an adit or abandoned mill does not demonstrate the absence of impacts to a wildlife population, but only the adaptation of a single animal to use the structure for shelter.

MISCELLANEOUS

21. COMMENT: Factual errors were made in the EA. Specifically the population of Pony was underestimated at 40 when in reality it is 120, the precipitation was overestimated at 30 inches when in fact it is 17 - 18 inches, and the employment level of the population was incorrectly described as mostly retirement.

RESPONSE: The population of Pony was taken from the DHES EA (August, 1989). If it is in error, 120 residents instead of 40 would have little bearing on the evaluation of environmental impacts.

The precipitation was an estimated average for the location of the road, not for the town of Pony. Precipitation is much higher at higher elevations. The road originates at an elevation of 7,840 feet.

The EA, on page 25, states that the main employment of the area is from ranching, mining, and independent merchants. Further down the page a reference is made that tourism and retirement formed the major economic base prior to construction of the mill. These comments were not intended to be quantitative but rather to give a qualitative discussion of the types of economic activity found in the area.

22. COMMENT: Although the EA contains some factual errors, these are minor in nature and the EA is adequate as it stands.

RESPONSE: The agencies accept there may be some minor factual errors (population). No errors have been identified which would change substantive findings or conclusions of the EA.

23. COMMENT: The width of the proposed road is inconsistent within the EA.

RESPONSE: Road widths are identified as follows. Total disturbed width is estimated at 43 feet; road bed width is proposed at 16 feet; and driving width is 14 feet.

24. COMMENT: The range of reclamation bond given in the EA is excessive.

RESPONSE: The estimate for reclamation costs given in the EA represents total estimated costs for reclaiming disturbances on both public and private land. Reclaiming only those disturbances on public land is estimated at \$96,636.00. Total reclamation bond would be \$200,00 to \$240,000 for those disturbances on private land. These calculations were based on standard labor, equipment, and materials costs.

25. COMMENT: The EA's estimate of 200 acres of possible cumulative disturbance was probably excessive, especially given the fact of concurrent reclamation.

RESPONSE: Under the cumulative effects analysis, and using reasonable foreseeable development scenario, the EA describes that over the next 10 years there could be 200 acres of disturbance with 150 acres being reclaimed. This 150 acres of reclaimed ground is considered concurrent. The remaining 50 acres would be non-reclaimable ground, i.e., pits and highwalls.

See #8 of the written comments.

26. COMMENT: DSL is not a neutral party in the writing of this EA and DSL has violated the law.

RESPONSE: DSL does strive to apply and enforce the MMRA and MEPA fairly and impartially. The accusation that DSL has violated the law is not specific, hence there is no further response.

RESPONSES TO WRITTEN PUBLIC COMMENTS TO 2900 EA.

1. COMMENT: The agencies have not adequately explained the relationship between the A&P mine, the SMES, The Notice of Noncompliance issued to 2900 Corp. (2900), and the permit application. This condensation includes the question "Does the permit, and thus the EA, cover the entire A&P Mine or doesn't it? If it does not, why not?"

RESPONSE: Chapter I. A. Proposed Action, Pg 1 of the EA describes the company's proposal as threefold:

1. Upgrade the reclamation plan for the existing heap leach pad at the A&P Mine.
2. Construct a haul road linking the mine to the mill at Pony.
3. Transport approximately 10,000 tons of unprocessed, uncyanidated ore from the A&P heap leach pad site (ramp material) to the mill at Pony.

These items constitute the permit application which the agencies have reviewed and which is evaluated in this EA. The proposal or EA does not cover the entire A&P mine as a proposed action.

Chapter I. C. Background, Pg 3 of the EA describes operation of the A&P Mine under a Small Miners Exclusion Statement (SMES). As noted in the EA, the proposed expansion can not be implemented under the SMES because of acreage restrictions on the SMES. When an operating permit is issued to a company, any pre-existing SMES becomes void as per the conditions in 82-4-303 (15), MCA.

However, the MMRA does not obligate a company which has had an SMES to include all of the disturbance created under that SMES in an application for an operating permit. Thus, 2900 has applied for inclusion of a portion, but not all, of the A&P Mine in the operating permit. No mining activity is permitted on those portions not included (A&P open pit). Similarly, there is no reclamation liability for those portions on private land which are not included.

A Notice of Noncompliance was issued to 2900 Development Corp. for violating the conditions of the SMES by exceeding the allowed 5-acre limit. Abatement for this NON was to be either: "Reclaiming the area to reduce the disturbance to not more than 5 acres; or obtaining or making diligent effort to obtain an operating permit for the A&P Mine so that not more than 5 acres of the disturbed area would remain outside of the operating permit bonded area." Of the 11 acres of disturbance which have been mapped at the A&P Mine, 2900 has included 4.8 acres (pad, pond, and ramp) in the operating permit application and has informed the agencies that 2.0 acres have been reseeded. This reduces the unpermitted and unreclaimed acreage to 3.4 acres, for which 2900

has no legal reclamation liability. 2900 will continue to bear reclamation liability on the reseeded portions until successful establishment of desirable vegetation occurs.

The A & P's right to operate under an SMES expires if an operating permit is issued. This means that mining at the A & P mine could not resume until 2900 proposed to amend their operating permit to resume mining. To date 2900 has not proposed a resumption of mining activities. If the decision is made to approve an operating permit 2900 is limited to the activities described in their application and summarized above. Any change in the scope of activity must be submitted to the DSL for approval and is subject to review and public comment under MEPA.

The operating permit area would total 45 acres including 11 acres along the haul road and 34 acres at the A & P mine. Of the 34 acres at the A & P mine 4.8 acres would be permitted and bonded for disturbance. The remaining acres at the A & P mine include prepermit disturbances, access to the groundwater monitoring site, land application disposal area and a buffer perimeter around the disturbances.

2. COMMENT: The approach apparently being taken by the Department of State Lands (DSL) is to encourage piecemeal permitting - the A&P tails now, the A&P mine later - which defeats the purpose of both the Metal Mine Reclamation Act and MEPA.

RESPONSE: The Metal Mine Reclamation Act (MMRA) does not give DSL authority to dictate internal policies of mineral development which a company chooses to include in an operating permit application. Incremental (piecemeal) permitting does occur and may be abused in some instances. However, the law allows for amendment by necessity. There must be provision for incorporating changes into an existing mining plan.

The agencies are not covering all the bases in one permit. Our goal is to get the entire operation covered in one permit and have adequate planning and bonding for reclamation. We are working toward this goal, given the information provided to the agencies. Mining, if it is to continue at the A&P mine, must be covered by an operating plan. The company must propose a mining plan at the A&P mine because the SME will not apply if this permit is issued.

Chapter V. Cumulative Effects Pg 36, of the EA describes possible development of the A&P mine which the company has not proposed.

3. COMMENT: It is MEIC's strongly held position that A&P is prohibited by 82-4-335 (9), MCA from even applying for a permit until it is in full compliance with MMRA and NON # 164. DSL must deny the current application.

RESPONSE: As per 82-4-335 (9)(a)(ii), MCA, the abatement of the Notice of Noncompliance which was issued to 2900 is in the process of being carried out to the agency's satisfaction. Please see #1 above.

4. COMMENT: The conclusion drawn is that there will certainly be connected, secondary and cumulative impacts from the proposed action and that the impacts will be significant.

RESPONSE: Chapter V Cumulative Effects Pg 36 - 43 of the EA describes the possible anticipated connected and secondary impacts from the proposed action. Although the catalogue of potential activity seems long each project by itself would be relatively small, of limited duration, and separated from other projects by both time and space. The 200 acres accumulated disturbance acreage projected on page 40 would not occur at the same time, nor would the residual scars of disturbance be present at the same time because of reclamation requirements. Of the 200 acres, approximately 50 acres would be open pits and highwalls and would remain unreclaimed.

Therefore, the agencies have determined that the connected, secondary and cumulative impacts are not significant.

5. COMMENT: Despite the clear ability of the agencies to foresee with some certainty the developments which will follow the permitting of the road, they imply that each will be permitted and evaluated separately. Given that the purpose of the road is to access new mines, the fact that the EA did not examine in detail these related developments is inexcusable.

RESPONSE: Any new proposals for development would indeed be permitted separately. The evaluation of these new proposals would comply with NEPA and MEPA and would therefore also consider the cumulative effects of previously permitted actions.

The ability of the agencies to clearly foresee possible future developments is greatly overstated. Except for the few projects so identified, the agencies have not received proposals for the other possible projects, hence, have based impact predictions on known averages from other projects that may be similar. A reasonably foreseeable development scenario is developed as required by NEPA and MEPA. Although the listing of possible developments seems lengthy, most of the projections are conjectural.

6. COMMENT: We feel that the EA has totally dismissed the cumulative effects on water quality and feel that an in depth study should be conducted by an EIS. When the sealed adit was blown out of the Holland Tunnel on 10/15/91, it caused the water of Park creek to be undrinkable for over two weeks from sediment alone.

RESPONSE: Surface and ground water hydrology are discussed in the EA on pages 20 and 28. No further discussion of cumulative impacts to water quality is offered, as stated in No. 5 above, because of the limited scope of this project. The impacts to water quality of the proposed project are judged to be insignificant. The DHES and Forest Service EA's concluded no significant impact to area waters by the mill, or by the A&P mine operation.

The Holland Tunnel was not a sealed adit, but rather an abandoned caved adit which was partially dammed by debris. It was this partial dam which blew out causing siltation of Park Creek. 2900 had never worked in the tunnel although it is on their property, it is not related to this project, nor is there any proposal from any party to reactivate the Holland Tunnel at this time.

7. COMMENT: The EA does state that there will be cumulative effects, and then disregards them as not important. How can these effects be properly evaluated without any baseline water, air quality, or noise level studies?

RESPONSE: The EA does not regard the identified cumulative effects as not important but rather as not significant as required by NEPA and MEPA.

Baseline water, air quality, and noise are discussed on pages 20, 23, and 25 respectively. The groundwater information which is available indicates that groundwater is limited to confined aquifer systems which would yield small discharges of water if accessed by mining. Discharges from abandoned adits and springs in the area are small and flow intermittently in response to precipitation and snowmelt.

Air quality and noise are defined as typical of southwestern Montana mountain valleys impacted by dust and noise from roads, as well as from mining, milling, and exploration activities. Dust and noise would increase in response to mining and exploration activities.

The expected duration and frequency of these increases from the specific projects would be mitigated as necessary not to exceed calculated air, noise and water quality standards.

8. COMMENT: The only conclusion that can be drawn from the EA is that there will be cumulative, secondary and connected impacts arising from the permitting of the road, and that these impacts will be significant. The agency's conclusion that impacts will be insignificant is unsupported by the EA and the law.

RESPONSE: Based in the agencies' analysis of this proposal and of the cumulative effects connected to this proposal the foreseeable impacts will not be significant.

Significance can be a very subjective adjective and can mean one thing to one person and another thing to a different person. The agencies have guidelines to determining significance as provided by 26.2.644 (ARM) and NEPA. Your letter focuses on two aspects of that regulation; (a) severity, duration and extent, and (f) precedent set that would...commit the department to future actions with significant impacts or a decision in principle about such future actions.

An example is the cumulative effects of exploration in the area. Although it is not known what to evaluate until a plan is received, knowledge of exploration methods and several assumptions allow limited evaluation. Page 38 of the EA states "... exploration activity could involve 1 to 3 acres at a time with a duration of 1 to 2 weeks per project". Page 40 explains that this activity will be spread over several years. Therefore, the total 80 acres of disturbance will not happen at one time. Even the 80 acres itself does not necessarily constitute a significant impact. Having only small portions of the total exploration acreage disturbed at any one time further removes it as a significant impact. Extent, therefore, is limited. Severity is low because of recontouring and revegetation. Drilling may require sealing the entire hole if water is encountered. Duration is limited because portions of the total disturbance are reclaimed before other exploration activities are begun. Exploration activities could be much larger in extent and still not pose a significant impact.

Permitting specific exploration activities does not commit the agencies to decisions about future actions. Each project must undergo its own environmental evaluation. If, as a result of exploration activities a mine is proposed, then the mine proposal receives its own review. An EIS would be prepared if NEPA and MEPA criteria were met and a decision is reached based upon the merits and impacts of that plan.

9. COMMENT: Correction is necessary for page 8 of the EA in describing the DNRC. "A water rights permit is required by the MWUA for any surface water diversion or groundwater withdrawal exceeding 100 gallons per minute." Correction: "A water right is required by the MWUA for any surface water diversion or groundwater withdrawal exceeding 35 gallons per minute or 10 acre - feet.

RESPONSE: The correction is noted.

10. COMMENT: A water right is necessary for 2900 to obtain water to water the road for dust.

RESPONSE: A water right is reported to exist for 2900 on the spring below the Holland Tunnel and 2900 has bought water from the Ohs ranch. It is 2900's responsibility to obtain water rights or to purchase water. An operating

permit does not grant property rights. Similarly, if 2900 were to fail to control dust, as committed, they would be subject to enforcement actions (see question #4 in the oral comments).