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UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF LAND APPEALS

Confederated Tribes of the Goshute Reservation, Appellant, vs. Bureau of Land Management, Respondent.	IBLA # _____ Appeal from April 7, 2015 Record of Decision by Elko District Manager Jill Silvey to Approve Final Environmental Impact Statement (DOI-BLM-NV-E030-2013-006-EIS) and Plan of Operations (NVN-91032) for the Long Canyon Mine Project.

DECLARATION OF PAUL ECHO HAWK IN SUPPORT OF STATEMENT OF REASONS AND PETITION FOR STAY

I, Paul Echo Hawk, declare as follows:

I am counsel for the Confederated Tribes of the Goshute Reservation in this case. I am competent to testify and make this declaration based on my own personal knowledge. I am familiar with the record and have represented the CTGR in this matter. True and correct copies of the following exhibits are attached hereto.

1. Exhibit 1, CTGR Comments on the Long Canyon Mine Project Draft Environmental Impact Statement ("DEIS Comments").

2. Exhibit 2, Urgent Request to Place the Proposed Long Canyon Mine Project on Hold, January 30, 2015 ("Jan. 30 Request").

3. Exhibit 3, U.S. Fish and Wildlife Service 90-Day Finding on the Relict Dace.

4. Exhibit 4, Memorandum of Understanding of Understanding Between the Department of Interior, Bureau of Land Management, Wells Field Office and the Confederated Tribes of the Goshute Reservation as a Cooperating Agency ("Cooperating Agency Agreement").

5. Exhibit 5, Memorandum of Understanding for Information Sharing between the Nevada State Office of the Bureau of Land Management and the Confederated Tribes of the Goshute Reservation ("BLM's Agreement").

6. Exhibit 6, BLM's Response to the CTGR's Jan. 30 Request on April 7, 2015 ("BLM Response of April 7, 2015").

7. Exhibit 7, The Secretary of Interior Order No. 3317 (December 1, 2011) ("Secretarial Order 3317").

8. Exhibit 8, Executive Order 13175 of November 6, 2000: Consultation and Coordination With Indian Tribal Governments ("EO 13175").

9. Exhibit 9, CTGR Concerns with BLM Pre-Approval of the Long-Canyon (April 8, 2015) ("CTGR Letter April 8, 2015").

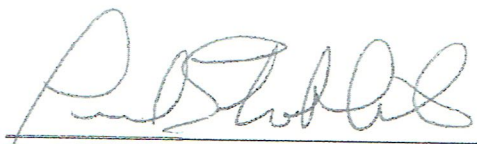
10. Exhibit 10, Memorandum of Understanding for Information Sharing between the Confederated Tribes of the Goshute Reservation and the Elko District Office of the Bureau of Land Management, with BLM's Mark-Ups. ("CTGR's Agreement").

11. Exhibit 11, Elko Daily Free Press Article, Long Canyon Is A Go (April 9, 2015).

12. Exhibit 12, Cities Water Rights Applications, February and March 2015.

Dated: May 5, 2015.

ECHO HAWK LAW OFFICE

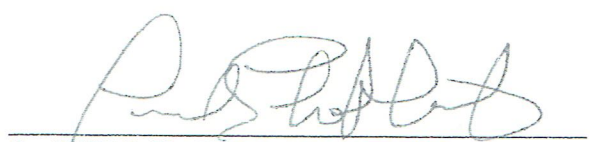


Paul C. Echo Hawk

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of May 2015, I caused to be served a true and correct copy of the foregoing in accordance with applicable rules by the method indicated below, and addressed to the following:

Interior Board of Land Appeals Office of Hearings & Appeals U.S. Department of Interior 801 N. Quincy Street, Suite 300 Arlington, VA 22203 Tel: 703-235-3750 Fax: 703-235-8349	___U.S. Mail ___Overnight Mail ___Email ___Federal ECF	X Overnight Mail ___Hand Delivered ___Telecopy (Fax)
Regional Solicitor Pacific Southwest Region U.S. Department of the Interior 2800 Cottage Way, Room E-2753 Sacramento, CA 95825-1890 Tel: 916-978-5690 Fax: 916-978-5694 janell.bogue@sol.doi.gov	___U.S. Mail ___Overnight Mail ___Email ___Federal ECF	X Overnight Mail ___Hand Delivered ___Telecopy (Fax)
Jill Silvey, District Manager BLM, Elko District Office 3900 East Idaho Street Elko, NV 89801 Tel: 775-753-0200 Fax: 775-753-0385 Email: jsilvey@blm.gov	___U.S. Mail ___Overnight Mail ___Email ___Federal ECF	X Overnight Mail ___Hand Delivered ___Telecopy (Fax)
Gavin Jangard Newmont Mining Corporation 1655 Mountain City Highway Elko, NV 89801-2800 Fax: 775-778-2513 Gavin.Jangard@Newmont.com	___U.S. Mail ___Overnight Mail ___Email ___Federal ECF	X Overnight Mail ___Hand Delivered ___Telecopy (Fax)



for ECHO HAWK LAW OFFICE

EXHIBIT 1

CONFEDERATED TRIBES
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GOSHUTE RESERVATION
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September 2, 2014

Bureau of Land Management
Wells Field Office
3900 East Idaho Street
Elko, Nevada 89801

RE: CTGR Comments on the Long Canyon Mine Project Draft Environmental Impact Statement (DEIS) and Preliminary Final EIS

Dear BLM,

The Confederated Tribes of the Goshute Reservation (CTGR) has reviewed the Long Canyon Mine Project Draft Environmental Impact Statement (DEIS) and the Preliminary Final EIS. We continue to have serious concerns about the potential environmental impacts from the proposed Long Canyon Mine Project.

The Tribe's aboriginal homelands include a large area of Nevada and they encompass the entire proposed Project Area. While the United States government forced our people to settle and live on the Reservation, the boundaries of those Reservation lands do not encompass the entire range and area of resources, rights, interests and use of lands that our people still use for subsistence, cultural and spiritual purposes. Our Tribe still uses our aboriginal territory for hunting, fishing, gathering, sacred/religious purposes, traditional education, and other uses.

We have significant cultural and historical ties to the Project Area. The Project Area extends from the Pequop Mountains down into Goshute Valley in and around the Big Springs complex. This region is a massive archaeological site that holds thousands of

years of continued history of our ancestors. The site has a history of continued occupation in the form of camp and village sites, hunting and fishing grounds, ceremonial areas and sacred sites, food gathering areas, and places important for passing on traditional knowledge. Still today, our people hold the area to be a sacred area where the spirits of our ancestors dwell.

After our review of this Long Canyon Mine Project DEIS, it is clear that there will be irreparable environmental impacts—direct, indirect and cumulative impacts—that are not disclosed nor mitigated. It is clear that some impacts, especially the large-scale cultural and historical resource destruction, were not analyzed properly nor disclosed. Accordingly, this proposed Project would adversely impact our Tribe. We therefore have significant concerns about any approval of the Project prior to the rectification of significant unresolved conflicts, major Project design changes, proper disclosure of the actual impacts, and proper mitigation measures for impacted resources. Our detailed review and comments are below.

I. PROJECT ALTERNATIVES

NEPA requires the development, study, and description of "appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts that concern alternative uses of available resources." The direct of the BLM is to analyze "a reasonable number [of alternatives] to cover the full spectrum of alternatives. . . . Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant." BLM Handbook at 49, 50.

The Alternatives proposed in the DEIS does not appropriately recommend courses of action to resolve significant conflicts important to our Tribe. Significant unresolved conflicts still remain as to the disturbance and destruction of Cultural Resources and Native American Religious and Traditional Values. The DEIS stated that "The [cultural resources] inventories recorded a total of 308 sites; 92 of which are recommended as eligible for listing on the NRHP and an additional 16 sites as unevaluated pending further research. . . . No TCPs have been identified in the Plan boundary". DEIS at 3-173. Of

these historic sites, 56 sites would be impacted from the Proposed Action and 47 sites would be impacted from the North Facilities Alternative. The DEIS fails to disclose how many other historic sites and resources, which they claim to be non-eligible under the NRHP without our Tribes input and recommendations on the cultural and historical significance, would be impacted by the Proposed Action and North Facilities Alternative. The significant unresolved conflict is that the sole Alternative, the North Facilities Alternative, does not appropriately modify the locations of Project elements in the Alternatives in order to avoid this large and essential set of historic sites.

The DEIS also has not provided any other workable alternatives that could avoid the destruction of these historic and cultural resources. Other feasible alternatives exist but were not analyzed in the DEIS. While our Tribe previously attempted to work with the BLM on this Project to resolve conflicts and design Project alternatives—alternative designs that would avoid the major impacts to cultural and historic sites—the BLM prevented our Tribe from having any meaningful input and engagement. The BLM prevented our Tribe from access to the cultural resources inventories. For over one year now, while the Project EIS was still in planning stages, the CTGR as a Cooperating Agency has been asking the BLM to allow us to examine the cultural resources inventories so that we can provide the proper input and recommendations on other feasible alternatives and project design elements. Our Tribes' access to the inventory documentation was essential so that we could examine where the historic resources were located, what significance those resource had for our Tribe, and where Project design features could be feasibly relocated in order to avoid impacts on cultural resources.

As a result, the North Facilities Alternatives that was analyzed as part of this DEIS does not adequately avoid cultural resource impacts, nor did the Alternative take into account any of our Tribes' significance that we place on the Project Area. The Project Area has great historical significance for our Tribe because it has thousands of years of continued occupation and subsistence activities. It is a remarkable history that still remains at the site. One of the key features of the Project Area to our tribal ancestors and history is the Big Springs complex, a place that provided freshwater, proximity to Pinyon pine stands, hunting grounds in the valleys and Pequop Range, and ceremonial grounds that ranged from the Big Springs complex in Goshute Valley to the highest summits of

the Pequop mountains. But a significant part of that history—all of the linked cultural resources within the Project Area and our people's spiritual connection to our ancestors of this region, will be erased if the Project is approved under the North Facilities Alternative or Proposed Action. We still firmly hold that other Project alternatives would prevent the large-scale destruction of historic sites while still allowing for the Project to be constructed and operated in a feasible manner.

II. COOPERATING AGENCY

The CTGR entered into a Memorandum of Understanding (MOU) with the BLM Wells Field Office as a Cooperating Agency in July 2013. The MOU acknowledged that the CTGR, as Cooperator, "has special expertise applicable to the [Long Canyon Mine] EIS effort, as defined at 40 CFR 1508.15 and 1508.26." The purpose of the MOU was two-fold: "1) Establish and maintain coordination between CTGR and the BLM for their special expertise regarding Native American religious concerns and cultural resources in the areas potentially impacted by the Long Canyon Mine, . . . and 2) Coordinate and communicate Native American Religious concerns and exchange cultural resource information relating to the EIS that will be prepared for the proposed actions and alternatives."

The CTGR entered into this MOU to work with the BLM in the planning of the proposed Project EIS. We hold, as the MOU acknowledges, "special expertise regarding Native American religious concerns and cultural resources in the areas potentially impacted by the Long Canyon Mine". Our role as a cooperating agency was to have access and free "exchange of cultural resource information relating to the EIS" so that we could assist the BLM in properly designing the Project and its alternatives in ways that would avoid and reduce impacts on cultural, sacred, and historic resources. The MOU limited CTGR's role "to technical review of Native American religious concerns and cultural resources issues for the EIS." This included, at "the administrative drafting stage of the EIS," for CTGR to "review of any technical documents [i.e., cultural resource inventories] . . . and . . . advise the BLM on the technical adequacy and completeness of these documents."

Instead of acting in accordance with the MOU, the BLM never provided the CTGR copies of any technical documents for our review. Even after we requested the cultural resource technical documents in September 2013, as the administrative draft EIS was being prepared, the BLM did not provide those documents to our Tribe for our review and input. As a result, we were prevented from having appropriate opportunities for input, communication, and exchange of information that would guide BLM's alternatives, Project design elements, completeness of cultural information, and other EIS planning aspects.

We are still requesting that the BLM provide copies to the CTGR of all cultural resource inventories used in the DEIS development. Once we have had an opportunity to review that information, the CTGR and BLM must work together in the spirit of the MOU to properly design alternatives and project features by taking into account our Tribes' specialized knowledge of cultural, religious, and historical information.

III. CULTURAL RESOURCES

The DEIS' analysis of impacts on culturally significant resources, sacred sites, and exercise of Tribal religion must be significantly revised in order to take into account our Tribes' information on those resources. The BLM defines cultural resources as

> any definite location of past human activity identifiable through field survey, historical documentation, and/or oral evidence (BLM, 1989). Cultural resources include archaeological or architectural sites, structures, or places, and places of traditional cultural or religious importance to specified groups whether or not represented by physical remains. Cultural resources have many values and provide data regarding past technologies, settlement patterns, subsistence strategies, and many other aspects of history. DEIS at 3-171.

Tribal interpretations and input play an essential part of that definition of cultural resources. Without tribal input, the very basis of what defines and gives significance to the cultural resources of our ancestors either becomes misinformed or goes without its connected cultural significance altogether.

The exclusion of tribal interpretations and input on this massively significant cultural region within the Project Area is of great importance. Federal agencies are required under the National Historic Preservation Act of 1966, as amended, to consider the impacts on cultural resources from federal undertakings. Such assessments invariably require Class I and Class III cultural resources inventories. Cultural resources are then given a determination as to their cultural significance. Then, based on that cultural significance, the resources are determined as to their eligibility on the National Register of Historic Properties (NRHP) based on criteria defined in 36 CFR 60.4. In order for a resource to be NRHP-eligible it must meet one of the criteria that are often unknown to BLM and EIS consultants; they are criteria that the Tribes often hold confidential unless provided a proper forum to provide cultural interpretations and significance. An essential part of some cultural resources/sites, including the Project Area's cultural significance, is the "quality of significance in [Native] American history . . . and culture . . . present in districts, sites, . . . and objects that possess integrity of location, design, setting, . . . feeling and association". This preeminent criterion that defines our cultural ties to the Project Area often are not portrayed in the cultural resources inventories—the technical studies that form the foundation for determining NRHP eligibility, cultural resource impacts, and mitigation measures.

Our Tribe was precluded from having a fair and reasonable opportunity to participate in any of the cultural resource inventories, the NRHP-eligibility determinations, and the review and final decisions presented in cultural resource documents. The BLM identified in the DEIS that "[b]etween 2006 and 2013 Class III intensive level cultural resource inventories were conducted on the APE [Area of Potential Effect]. There are eight cultural resource reports associated with these inventories". Of the 308 historic sites found within the Project Area, some 71% were determined to be insignificant as to Native American history, culture, and feeling and association. Such a profoundly insignificant determination runs overtly contrary to the significance that the region holds to our Tribe. Our Tribe was never provided an opportunity to participate at any stage of the cultural resources projects that are well within our aboriginal territory and in close proximity to our Reservation. The CTGR has never received a single copy of the cultural resources inventories, nor invited to participate in any phase of the fieldwork, nor invited

to provide any tribal interpretations and significance of our Native American history, culture, and feeling and association of our cultural, historical and religious resources/sites. Our Tribe had no part in the eligibility determinations and conclusions drawn in the inventory documents.

The BLM determined, without Tribal participation (and without determinations of Native American feeling and association of cultural sites) that the Proposed Action would have No Effect on 82% of the cultural sites and that the North Facilities Alternative would have No Effect on 85% of the cultural sites. We strongly disagree with those determinations. While we have not examined the cultural resources inventories, we wonder how the BLM and Newmont have determined the feeling and association tied to our Native American history, culture and ancestors. We wonder how BLM and Newmont have determined the quality of significance of the cultural sites based on those cultural connections to this region, a region that has been inhabited for thousands of years by our ancestors and our ancestral spirits. Instead of providing our Tribe with any opportunity to participate and provide our tribal interpretations, the BLM and Newmont's documentation of cultural significance of the sites were left blank or considered to be unknown as to the feeling and association of the sites that would relate the quality of significance in Native American history and culture. In turn, the BLM has concluded that these blanks and unknowns equate to No Effect determinations on our cultural resources and our significant our history. This approach fails NEPA's "hard-look" test and evades NHPA and NEPA requirements.

Unfortunately, the BLM provided no option for Tribal participation and resolution of issues in this Project's impacts on cultural resources. The DEIS demonstrates that the BLM and Newmont aim to approve unknowns regarding cultural significance of resources instead of appropriately seeking tribal input and interpretations.

IV. MONITORING AND MITIGATION

The proposed monitoring and mitigation plan and the Programmatic Agreement do little to avoid, reduce, or offset the widespread destruction to cultural sites important to CTGR. Even now, the CTGR have not had a full and fair opportunity to review and

provide tribal interpretations and information on the importance of the cultural resources and sites within the Project area. For example, the Tribes have not received a full disclosure of the cultural resource information and/or data that relates to the Tribes' use of the Project area since time immemorial. In fact, the BLM has refused to provide open access to all cultural information relating to the Tribes unless the Tribes sign a one-sided form "information sharing" agreement drafted by the BLM. The BLM has even rejected the Tribes' proposed form of agreement presented in an effort to gain access to the Tribes' own information. As a cooperating agency, the Tribes signed a prior agreement with the BLM that promised the exchange of technical documents and other culturally relevant information. CTGR maintains that without full access to culturally relevant information held by the agency and the proponent, it is impossible for the Tribes to provide appropriate comments to this and other similar proposed actions.

The Project proponent has moved forward and begun removing large numbers of cultural resources from the Project Area. While the BLM and Project proponent term this erasure of our history and cultural resources as a type of mitigation known as "data recovery," our Tribe views this removal of cultural resources as a destroyed resource and destroyed cultural connection to this important site. For example, tribal monitors have first-hand knowledge that a contractor of the Proponent has already collected numerous cultural artifacts in bags for transport an unknown off-site location. This has been done without tribal consultation and consent. This process of "data recovery"—the so-called cultural resources mitigation—is wholly inadequate as a mitigation measure that is suppose to avoid, reduce, or offset the massive amount of destruction of cultural resources and history that will occur due to the Project construction and operation.

V. CUMULATIVE EFFECTS

CTGR also objects to the Project as currently proposed because the cumulative effects of the Proposed Action and North Facilities Alternative. The geographic area of analysis, or Cumulative Effects Study Area (CESA) is improperly designated and too small, especially regarding cultural resources. The CESA was also chosen arbitrarily and without reasoned justification. For example, the DEIS provided an unreasoned, very

generalized justification for the CESA boundary. "This CESA boundary was chosen because it encompasses the project area as well as the area of historic activities associated with the cultural resource sites in and around the project area." The CTGR has no way of being able to evaluate such a generalized statement, especially in light of the fact that the BLM has refused to provide detailed cultural resources inventories for the Project Area. The unreasoned decision prevents the CTGR from having a fair and reasonable opportunity comment without sufficiently detailed and reasoned analysis. The Cumulative Effects analysis also failed to properly specify the time period analysis of effects.

Sincerely,

Madeline Greymountain, Chairwoman

EXHIBIT 2

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January 30, 2015

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RE: Urgent Request to Place the Proposed Long Canyon Mine Project on Hold

Dear BLM and BIA:

The Confederated Tribes of the Goshute Reservation (CTGR) respectfully request that the Bureau of Land Management (BLM) immediately place the proposed Long Canyon Mine Project (Project) on hold from any further environmental permitting and/or approvals. This proposed gold mine Project (DOI-BLM-NV-E030-2013-006-EIS; Case File NVN-91032) is located in Elko County, Nevada, between Wells and Wendover. The proposed Project Environmental Impact Statement (EIS) and Plan of Operations (PO) remain in planning and/or public comment stages. While an EIS has been drafted and remains open for public comment, neither the EIS nor the PO have been approved.

Accordingly, the BLM Elko District Manager has not yet issued a Record of Decision (ROD) for the proposed Project.

I. Background

In 2008, the BLM issued a Finding of No Significant Impact, approved an Environmental Assessment, and permitted a Plan of Operations for mineral exploration activities within Project Area, located partially in the Pequop Mountains and partially in Goshute Valley. CTGR had no input on the cultural resources inventories nor were any ethnographic studies conducted to disclose tribal significance of the Project Area.

In 2010, exploration activities were proposed for expansion through an amended Plan of Operations. The BLM issued an Environmental Assessment and approved the much-expanded exploration project with another Finding of No Significant Impact. Similarly to 2008, CTGR's perspectives on cultural resource significance and context were not part of the cultural resource inventories and associated EA.

In March 2012, the Newmont Mining Corporation, the Project applicant, submitted a proposed Plan of Operations to the BLM and began preparing an EIS. In July 2013, the CTGR entered into a Memorandum of Understanding with the BLM Wells Field Office (Elko District) as a Cooperating Agency. The CTGR expressed serious concerns about this Project and its potential impact on this tribally significant site from the beginning and throughout the Project planning and development.

By September 10, 2013, all technical studies, baseline inventories, and an administrative Draft EIS were prepared, which covered all 4,588 acres of land that would be disturbed/destroyed from mining activities. The pace of that environmental documentation was unusually fast. A short administrative comment period lasted for 17 days. During that time, the CTGR made several requests to BLM to have an opportunity to review and provide input on the cultural resources inventories that were conducted by Newmont's archaeological contractor. The CTGR also notified BLM that this region had important history and cultural significance to the Tribes. The CTGR requested "that the BLM refrain from any final decisions on eligibility determinations of cultural/historic properties, design/modification alternatives, and mitigation requirements until we have had an opportunity to review the above-listed documents [cultural resource inventories] and provide input." The BLM declined to provide the CTGR with additional information. Tribal perspectives and tribal significance attached to the cultural resources were shunned. Instead, BLM offered the CTGR a redacted copy of the cultural resource studies that would exclude detailed information and would exclude information paramount to understanding significance and context of those resources. While the BLM and private contractors have free access to CTGR's cultural and ancestral history and resources from the Project Area, the BLM would not allow the CTGR to see and review that information without signing an agreement that restricted access and use of that cultural information. The CTGR's fair and reasonable opportunity to attach tribal significance to our ancestral resources was truncated by the BLM.

In September 2014, the CTGR submitted comments on the Long Canyon Mine Project Draft EIS. The CTGR informed the BLM that the Project Area was "a massive archaeological site that holds thousands of years of continued history of our ancestors." The Project Area, the CTGR explained, "has a history of continued occupation in the form of camp and village sites, hunting and fishing grounds, ceremonial areas and sacred sites, food gathering areas, and places important for passing on traditional knowledge. Still today, our people hold the area to be a sacred area where the spirits of our ancestors dwell." The CTGR provided 9 pages of detailed comments expressing great concern that the cultural resources were not properly documented, and tribal significance and context of those resources were not included.

From the very beginning stages of the NEPA process, the CTGR has continuously provided comments and voiced great concerns about the Project. Specifically, those concerns focused on the fact that the area is culturally and archaeologically a monumental site. After all of the meetings with BLM, after all of the correspondence with BLM, after all of our comments on the early drafts of the EIS . . . not one of CTGR's comments to BLM—not a single comment, not a single concern—was included in the Final EIS that was published for public viewing and public comment. ***Not one of our concerns was recorded. Not one of our statements was included.*** Not one of our appeals to the BLM that the Project Area is of monumental significance was documented. Like the thousands, perhaps tens or hundreds of thousands, of ancient artifacts at Long Canyon that were somehow blatantly missed, so too our comments mysteriously and blatantly were left undocumented and missed.

Recently, Newmont Mining Corp agreed to have a very limited number of tribal monitors working on-site with their archaeological contractor, ASM Affiliates. CTGR's tribal monitors have been utterly shocked and horrified at the glaring reality that this archaeological site is of such a monumental scale but is on the cusp of being destroyed. The tribal monitors have been shocked and horrified that massive numbers of cultural resources were never documented. The tribal monitors have been shocked and horrified by the fact that, of the few cultural resources recorded, few of those were actually identified as significant resources of an important cultural historical context. The tribal monitors have been shocked at how extraordinarily different private contractors of Newmont assign cultural significance to their ancestral resources compared to how they—the tribal monitors/members—assign significance to their very own historical and cultural resources. The CTGR, and its tribal monitors, re-affirm an overwhelming reality about the Project Area: The site is a monumental archaeological discovery, perhaps one of the greatest of cultural discoveries in the Western United States.

II. The Recent Archaeological Discoveries are Monumental and the Site is One of the Greatest Cultural Discoveries in the Western United States

Placing the proposed Project on hold is urgent especially given recent, significant, and continuous archaeological discoveries occurring within the Project Area.

Construction work is occurring on-site, approved through prior EA's and Findings of No Significant Impact. Since the tribal monitors began their work at the Project Area, archaeological discoveries suddenly went from zero to thousands. These discoveries include but are not limited to the following:

1. Massive numbers of cultural resources have been discovered within the Project Area that were somehow inconceivably missed during previous inventories carried out by Newmont Mining Corp and their archaeological contractor ASM Affiliates. Just recently, over 6,000 tribal artifacts were newly discovered in just one very small part of the Project Area. Perhaps even more astounding was the recent discovery of more than 900 well-defined stone tools of historic and prehistoric periods that were identified in part by tribal monitors. When tribal monitors walked into a grove of Pinyon-Juniper trees, they found ancient pottery everywhere. It was unrecorded, undocumented, conveniently missed. These finds are staggering. They are unprecedented. And they are only a fraction of what has been discovered recently, and only a fraction of the discoveries that increase each day when the tribal monitors are working at the Project site. In fact, so many new and significant discoveries have been made with the assistance of tribal monitors that it is undeniably clear that the Project's cultural resource inventories (and seven previous site-specific cultural resource studies) grossly misrepresent and underestimate the significance, context, and scale of important tribal cultural resources within the Project Area.

2. These resources collectively position the Project Area within an expanded historical context. Work by archaeological contractors have divided and separated our tribal history and culture. But what we know about this area is that there is an incredible continuity of time that this place was used by our ancestors. The Project Area was not an area of tiny little regions used by our ancestors and divided and separated through time and space. It was one very large, significant, and sacred site. What is paramount to understand about the continuity and wholeness of this significant cultural site is that our people have ways to see, feel and associate with that wholeness. Archaeological data is only one of many types of information; it is only one piece of a much larger picture.

3. There is a great discrepancy between the significance assigned to cultural resources by Newmont's contractors and the significance assigned to those same resources by the CTGR tribal monitors, members, and leaders. As you know, and as we have mentioned previously in our comments on the Draft EIS, assigning significance to these resources is in part the "feeling and association" with our tribal history and culture. (This is provided pursuant to National Historic Preservation Act (NHPA) criteria for historic property eligibility.) That significance is prominent among cultural resources at the Project Area. However, that significance was never assigned to these resources, or was simply assigned as "unknown" or as "not significant".

4. On-site data gathered from our tribal monitors, who have worked on-site for months, support what our people, elders, and leaders have always known about the Project Area. Our oral histories tell us that our ancestors have continuously occupied the Project Area since time immemorial. Our oral histories tell us that the region was highly significant to our people. It was a place where our people lived and had homes, where our people raised families, where our people were buried, and where our people held religious ceremonies and gatherings.

These issues speak to the fact that the initial cultural resource inventories missed massive numbers of artifacts and grossly underestimated the cultural significance and historical context of the Project Area. It was that misrepresentation and underestimation that allowed the Project's EIS, and its previous NEPA approvals (FONSIs for mining exploration and road construction), to move forward without documenting, disclosing or mitigating the impacts on this monumental archaeological site. And now we are teetering on the cusp of the BLM handing Newmont their environmental permits and approvals without ever documenting one of the most monumental archaeological sites of Nevada, of the Great Basin, of the Western United States.

This paints a vivid picture of what the CTGR has said about the Project Areas since the beginning—that this is a massive cultural site with exceptional significance. How can we say it any clearer? How many times do we need to repeat this to the BLM before we are heard and the BLM requires proper procedures to be carried out to survey this great historical site? Without conducting the proper inventories, without assigning proper significance to these resources, and without an opportunity to provide our tribal input and perspectives, this great historical resource faces irreparable destruction and loss. Before this monumental archaeological site is totally destroyed by the Long Canyon Mine Project, we must develop a full understanding of this site and its historical significance.

III. Immediate Hold on the Project Approvals/Permits; First Steps Toward a Resolution and Identification of the Proper Process to Move Forward

These issues must be addressed prior to the release of an approved FEIS and Record of Decision (ROD). They are not within the purview of the proposed Programmatic Agreement, nor are they within the purview of the proposed cultural mitigation measures outlined in the Draft and Final EIS. As we have already tragically witnessed, prior authorizations allowed Newmont to conduct extensive amounts of land surface disturbance that destroyed cultural sites. Cultural monitors (not tribal monitors) previously gave their OK or clearance for construction, identifying that no significant cultural resources were present. It wasn't until our tribal monitors were on-site that we have learned that the reality of the situation is very different, that significant cultural resources are everywhere on the surface and within many feet or meters of substrata. For example, just in the last few days, twenty-six (26) tribal ancestral campsites were discovered within shallow layers of substrata.

As you know the United States has a trust responsibility owed to the CTGR to protect tribal interests and the tribal cultural resources threatened by this Project. The trust responsibility of the United States to Indian tribes is a fiduciary obligation of the highest order. That order is such that the BLM's trust responsibility to the CTGR is above the BLM's duty to address private corporate concerns for project development. The federal trust responsibility combined with the government-to-government consultation obligation of the United States requires federal decision-makers at the high levels to discuss this matter with elected tribal leaders. The trust responsibility mandates immediate attention to the ongoing destruction of important tribal cultural resources.

Furthermore, the very first article of the Shoshoni-Goship Treaty of Tuilla Valley (1863) between the Goshute nation and the United States was the recognition of peace and friendship. "Peace and friendship is hereby established", the Treaty declared, "and shall be hereafter maintained". The CTGR sees the maintenance of peace and friendship as a relationship where one friend does not permit the wholesale destruction of one of the greatest assets of the other friend's cultural identity, cultural legacy and history. In protecting our culture, our history, and our sacred places and resources, we wish to work with the United States government in a respectable manner of peace and friendship.

We must address this urgent matter immediately. The CTGR requests the following:

1. Place an immediate hold on any approvals or permits of the proposed Long Canyon Mine Project FEIS, PO and ROD until we have determined how this great archaeological site will be documented, until that work has been carried out, and until we have determined the proper process to go forward from there.

2. We need a minimum of six (6) months for the CTGR to gather information and to conduct our tribal evaluations on the context and significance of cultural resources that have already been documented. This is a very brief and respectable amount of time to conduct our evaluations. Depending our evaluations, and the extent of incorrect historical context, continuity, and wholeness of the site, that short time frame may need to be pushed back to allow for re-work and complete evaluations.

3. The CTGR may enter into a Data Sharing Agreement with the BLM, but that agreement cannot restrict our use of information and the agreement cannot restrict what cultural information is given to the CTGR. This has been the case in the past where the BLM asked our Tribe to enter into these agreements but placed heavy limitations on the use of information. To facilitate our consultation with BLM, to facilitate the BLM in their trust obligation to CTGR, and to conduct our evaluations of this monumental cultural site, we are presently modifying a Data Sharing Agreement and will send a signed agreement when executed.

4. A government-to-government consultation meeting between the CTGR, BLM, and BIA must be held immediately to chart a course to protect our cultural

resources and history within the Project Area. As you know, consultation is a meeting with decision-makers in attendance. As the CTGR Tribal Council, we are elected tribal leaders and we have the capacity to make necessary high-level decisions on behalf of our Tribe. We need BLM and BIA officials who are the same level—officials who have decision-making powers. We request a consultation meeting at CTGR Tribal Headquarters in Ibapah, Utah, on February 6, 2015 beginning at 1:00pm. Please make arrangements to attend, as this matter is urgent.

5. Re-open and re-negotiate the Programmatic Agreement once we have conducted our evaluation of the cultural resource information. In light of the massive misrepresentation and underestimation of cultural resources within the Project Area, a new or highly modified Programmatic Agreement is warranted. The CTGR is presently reviewing the Programmatic Agreement attached as Appendix 3D in the Final EIS that is still open for public comment and review.

6. Identify the regulatory process to follow in this case. In other words, the CTGR wants to hear from the BLM what their process is for situations like this when massive archaeological discoveries are made. There is a process to follow to put the Project on hold, to declare this area as an extraordinary cultural and archaeological site, and to carry out the necessary archaeological and historical research to properly document this monumental place.

7. Possible investigation to determine why such a massive number of cultural resources and sites were missed during inventories and previous years of monitoring. An investigation may also be warranted to determine why cultural clearances were given to construction work in the past with no significant finds of cultural resources. Once the tribal monitors came to work at the Project Area, suddenly and immediately significant discoveries were being made. Those discoveries have been and continue to be extensive. It is also highly noteworthy that there are current construction activities at the Project site.

These seven (7) points are necessary first steps to help us properly protect and document this site, and to take the proper course of action going forward. Depending on further cultural resource discoveries and our tribal evaluations of documentation (or other unforeseen issues that may arise), we expect that modifications to the Long Canyon EIS will be necessary. Unfortunately, Newmont clearly missed the cultural significance of the Project Area during their inventories. They glossed over that cultural significance as if designed to speed through Project approvals. While it may be inconvenient for Newmont, the cultural resource assessments must be done properly and according to applicable laws and regulations. We hope that the BLM will remedy these matters working in a government-to-government manner with CTGR and in the true spirit of the federal trust responsibility.

We are only beginning to reveal that the Project Area is perhaps one of the greatest archaeological sites and one of the greatest archaeological discoveries in the Western United States. The area is astoundingly significant. Our peoples' history is yet there. Most of that history has not been documented. That history has not yet been revealed and told through the eyes of our people. This Project site harbors an extraordinary part of our cultural history; it is a history that all of us rarely come across. That cultural history is sacred to us. The Project Area is a sacred site to us. From burial sites to village sites to ceremonial sites within the Project Area, our tribal perspectives (supported by archaeological data) tell us that we are dealing with a truly rare discovery. This is something to be properly documented and something that must be protected.

Going forward, we want to work cooperatively with the BLM not just in our fiduciary relationship but also in the spirit of how truly significant this archaeological site really is. While the BLM has seen thousands of days when mine projects have been approved, it is truly a rare and incredible day when we find an archaeological site of this depth and magnitude. Just as we have said from the onset of this Project EIS, the site is a monumental cultural area of profound significance. When we are faced with a rare and monumental discovery, we must rise to the occasion. We must spend the time and energy to properly reveal this great archaeological site. The gold at the Project Area will not disappear in the meantime. But if the BLM were to permit this Project prior to properly documenting and mitigating this great historical site, then a great part of Goshute history would be lost forever, and with it a significant part of American history would be lost forever. This site is a national treasure. It is an historical asset that can never be replaced if destroyed. We simply ask the BLM to do what is morally and legally right on this matter. We ask that the BLM cooperatively work with our Tribe by taking these first seven (7) steps so that we may begin properly evaluating the real history of the site.

For any official communications going forward regarding the Long Canyon Mine Project, please ensure that those communications go directly (or cc'ed) to our attorney, Paul C. Echo Hawk, Echo Hawk Law Office, P.O. Box 4166, Pocatello, Idaho 83205, paulechohawk@gmail.com.

Thank you for giving careful and urgent attention to this profoundly significant matter. Please get back to us at your earliest convenience and confirm your attendance at the meeting at CTGR Headquarters on February 6, 2015.

Sincerely,

Madeline Greymountain

Madeline Greymountain, Chairwoman

cc: Zelda Johnny
Richard Henriod
Jake Steele
Elvira Murphy
Paul Tsosie
Monte Sanford
Paul Echo Hawk

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket Nos. FWS–R8–ES–2015–0017, FWS–HQ–ES–2015–0018, FWS–HQ–ES–2015–0019, FWS–HQ–ES–2015–0020, FWS–R8–ES–2015–0021, FWS–R1–ES–2014–0061, FWS–R8–ES–2015–0022, FWS–R8–ES–2015–0023, FWS–R8–ES–2015–0024, FWS–R7–ES–2015–0025;4500030115]

Endangered and Threatened Wildlife and Plants; 90-Day Findings on 10 Petitions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition findings and initiation of status reviews.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on various petitions to list eight species, reclassify one species, and delist one species under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that these 10 petitions present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this document, we are initiating a review of the status of each of these species to determine if the petitioned actions are warranted. The status reviews for two species, the golden conure (which appears in the List of Endangered and Threatened Wildlife as the golden parakeet) and the northern spotted owl, will also serve as 5-year reviews for those species. To ensure that these status reviews are comprehensive, we are requesting scientific and commercial data and other information regarding these species. Based on the status reviews, we will issue 12-month findings on the petitions, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: To allow us adequate time to conduct the status reviews, we request that we receive information on or before June 9, 2015. Information submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES,** below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit information on species for which a status review is being initiated by one of the following methods:

(1) Electronically: Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter the appropriate docket number (see table below). Then click the Search button. You may submit information by clicking on "Comment Now!" If your information will fit in the provided comment box, please use this feature of *http://www.regulations.gov,* as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) By hard copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: [Insert appropriate docket number; see table below]; U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information received on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Request for Information section, below, for more details).

Species	Docket No.
Clear Lake hitch	FWS–R8–ES–2015–0017
Egyptian tortoise	FWS–HQ–ES–2015–0018
Golden conure	FWS–HQ–ES–2015–0019
Long-tailed chinchilla	FWS–HQ–ES–2015–0020
Mojave shoulderband snail.	FWS–R8–ES–2015–0021
Northern spotted owl	FWS–R1–ES–2014–0061
Relict dace	FWS–R8–ES–2015–0022
San Joaquin Valley giant flower-loving fly.	FWS–R8–ES–2015–0023
Western pond turtle	FWS–R8–ES–2015–0024
Yellow-cedar	FWS–R7–ES–2015–0025

FOR FURTHER INFORMATION CONTACT:

Species	Contact information
Clear Lake hitch.	Jennifer Norris, telephone (916)-414–6600.
Egyptian tortoise.	Janine Van Norman, telephone (703) 358–2171.
Golden conure	Janine Van Norman, telephone (703) 358–2171.
Long-tailed chinchilla.	Janine Van Norman, telephone (703) 358–2171.
Mojave shoulderband snail.	Mendel Stewart, telephone (760) 431–9440.
Northern spotted owl.	Paul Henson, telephone (503) 231–6179.
Relict dace	Edward D. Koch, telephone (775) 861–6300.
San Joaquin Valley giant flower-loving fly.	Jennifer Norris, telephone (916) 414–6600.
Western pond turtle.	Jennifer Norris, telephone (916) 414–6600.
Yellow-cedar	Steve Brockmann, telephone (907) 780–1181.

If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Request for Information

When we make a finding that a petition presents substantial information indicating that listing, reclassification, or delisting a species may be warranted, we are required to promptly review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on these species from governmental agencies, Native American Tribes, the scientific community, industry, and any other interested parties. We seek information on:

(1) The species' biology, range, and population trends, including:

(a) Habitat requirements;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) The factors that are the basis for making a listing, reclassification, or delisting determination for a species under section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A);

(b) Overutilization for commercial, recreational, scientific, or educational purposes (Factor B);

(c) Disease or predation (Factor C);

(d) The inadequacy of existing regulatory mechanisms (Factor D); or

(e) Other natural or manmade factors affecting its continued existence (Factor E).

(3) The potential effects of climate change on the species and its habitat.

(4) For the northern spotted owl, we specifically request information on:

(a) Evidence that any of the factors identified under Factor A are having

population-level effects on the northern spotted owl, either singularly or in combination;

(b) Evidence that the West Nile virus or predation by barred owls have caused population-level impacts on northern spotted owls;

(c) Identification of shortcoming in existing regulations that are having population-level effects on the northern spotted owl;

(d) Evidence that competition with barred owls is having population-level effects on the northern spotted owl; and

(e) Evidence that global climate change is having population-level effects on the northern spotted owl.

(5) For those domestic (U.S.) species that are not listed, if, after the status review, we determine that listing is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act) under section 4 of the Act for those species that fall within the jurisdiction of the United States, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, we also specifically request data and information for Clear Lake hitch, Mojave shoulderband snail, relict dace, San Joaquin Valley giant flower-loving fly, western pond turtle, and yellow-cedar on:

(a) What may constitute "physical or biological features essential to the conservation of the species," within the geographical range occupied by the species;

(b) Where these features are currently found;

(c) Whether any of these features may require special management considerations or protection;

(d) Specific areas outside the geographical area occupied by the species that are "essential for the conservation of the species"; and

(e) What, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of section 4 of the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the actions under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made "solely on the basis of the best scientific and commercial data available."

You may submit your information concerning these status reviews by one of the methods listed in the **ADDRESSES** section. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Information and supporting documentation that we received and used in preparing this finding will be available for you to review at *http://www.regulations.gov,* or you may make an appointment during normal business hours at the appropriate lead U.S. Fish and Wildlife Service Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly commence a review of the status of the species, which we will subsequently summarize in our 12-month finding.

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act (see (2) under Request For Information, above).

We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither an endangered nor threatened species for one or more of the following reasons:

(1) The species is extinct;

(2) The species has recovered and is no longer an endangered or threatened species; or

(3) The original scientific or commercial data used at the time the species was classified, or the interpretation of such data, were in error.

In considering what factors might constitute threats, we must look beyond the exposure of the species to a factor to evaluate whether the species may respond to the factor in a way that causes actual impacts to the species. If there is exposure to a factor and the species responds negatively, the factor may be a threat, and, during the subsequent status review, we attempt to determine how significant a threat it is. The threat is significant if it drives, or contributes to, the risk of extinction of the species such that the species may warrant listing as an "endangered species" or a "threatened species," as those terms are defined in the Act. However, the identification of factors that could affect a species negatively may not be sufficient for us to find that the information in the petition and our files is substantial. The information must include evidence sufficient to suggest that these factors may be operative threats that act on the species to the point that the species may meet the definition of an "endangered species" or "threatened species" under the Act.

Evaluation of a Petition To List the Clear Lake Hitch as an Endangered or Threatened Species Under the Act

Additional information regarding our review of this petition can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2015–0017 under the Supporting Documents section.

Species and Range

Clear Lake hitch (*Lavinia exilicauda chi*); California

Petition History

On January 13, 2013, the California Department of Fish and Wildlife drafted a recommendation to the California Fish and Game Commission to list the Clear Lake hitch as threatened species under the California Endangered Species Act. On September 25, 2014, we received a petition dated September 25, 2014, from the Center for Biological Diversity, requesting that Clear Lake hitch be listed as a endangered or threatened species under the Act. The petition clearly identified itself as such and

included the requisite identification information for the petitioner, required at 50 CFR 424.14(a). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Clear Lake hitch (*Lavinia exilicauda chi*) based on Factors A, B, C, and E.

Thus, for the Clear Lake hitch, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Egyptian Tortoise as an Endangered or Threatened Species Under the Act

Additional information regarding our review of this petition can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2015–0018 under the Supporting Documents section.

Species and Range

Egyptian tortoise (*Testudo kleinmanni*); Egypt, Libya, Israel

Petition History

On June 9, 2014, we received a petition dated May 2014, from Friends of Animals, requesting that the Egyptian tortoise be listed as an endangered or threatened species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(a). In a letter to the petitioner, we responded that we reviewed the information presented in the petition and did not find that the species warranted emergency listing. This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Egyptian tortoise (*Testudo kleinmanni*) based on Factors A, B, C, D, and E.

Thus, for the Egyptian tortoise, the Service requests information on the five listing factors under section 4(a)(1) of the Act (see Request for Information, above).

Evaluation of a Petition To Delist the Golden Conure Under the Act

Additional information regarding our review of this petition can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2015–0019 under the Supporting Documents section.

Species and Range

Golden conure (*Guaruba guarouba* or *Aratinga guarouba*); Brazil. (Note: The species is listed as "golden parakeet" (*Aratinga guarouba*) in the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h). However, we refer to the species by the common name "golden conure" in this document.)

Petition History

On August 21, 2014, we received a petition dated August 20, 2014, from the American Federation of Aviculture, Inc., requesting that the golden conure be removed from the Federal List of Endangered and Threatened Wildlife (*i.e.*, "delisted") pursuant to the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(a). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the golden conure (*Guaruba guarouba* or *Aratinga guarouba*) based on new population estimates and Fnew information relating to actors A, B, and D.

Thus, for the golden conure, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Long-Tailed Chinchilla as an Endangered or Threatened Species Under the Act

Additional information regarding our review of this petition can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2015–0020 under the Supporting Documents section.

Species and Range

Long-tailed chinchilla (*Chinchilla lanigera*); Chile

Petition History

On October 14, 2014, we received a petition dated October 7, 2014, from Friends of Animals, requesting that the long-tailed chinchilla be listed as a endangered or threatened species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(a). In a November 17, 2014, letter to the petitioner, we responded that we reviewed the information presented in the petition and did not find that the species warranted emergency listing. This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the long-tailed chinchilla (*Chinchilla lanigera*) based on Factors A, B, D, and E.

Thus, for the long-tailed chinchilla, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List Mojave Shoulderband Snail as an Endangered or Threatened Species Under the Act

Additional information regarding our review of this petition can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2015–0021 under the Supporting Documents section.

Species and Range

Mohave shoulderband snail (*Helminthoglypta* (coyote) *greggi*); California

Petition History

On January 31, 2014, we received a petition dated January 31, 2014, from the Center for Biological Diversity, requesting that Mohave shoulderband snail be listed as a endangered or threatened species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(a). In an April 4, 2014, letter to the petitioner, we responded that we reviewed the information presented in the petition and did not find that the species warranted emergency listing. This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Mohave shoulderband snail (*Helminthoglypta* (coyote) *greggi*)) based on Factors A, C, and E.

Thus, for the Mojave shoulderband snail, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To Reclassify the Northern Spotted Owl as an Endangered Species Under the Act

Additional information regarding our review of this petition can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R1–ES–2014–0061 under the Supporting Documents section.

Species and Range

Northern spotted owl (*Strix occidentalis caurina*); California, Oregon, and Washington, U.S.A.; British Columbia, Canada.

Petition History

On August 21, 2012, we received a petition dated August 15, 2012, from Environmental Protection Information Center, requesting that the northern spotted owl (*Strix occidentalis caurina*) be listed as an endangered species under the Act. We published a final rule to list the northern spotted owl as a threatened species under the Act on June 26, 1990 (55 FR 28114); the effective date of that rule was July 23, 1990. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required by 50 CFR 424.14(a). In a September 27, 2012, letter to the petitioner, we responded that we reviewed the information presented in the petition and did not find that the species warranted emergency uplisting. We also issued a letter to the petitioner on April 17, 2014, informing them of our anticipated timeline for publication of the 90-day and 12-month findings. This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial information that the petitioned action may be warranted for the northern spotted owl (*Strix occidentalis caurina)* based on Factors A, C, D, and E.

Thus, for the northern spotted owl, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Relict Dace as an Endangered or Threatened Species Under the Act

Additional information regarding our review of this petition can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2015–0022 under the Supporting Documents section.

Species and Range

Relict dace (*Relictus solitarius*); Nevada

Petition History

On June 27, 2014, we received a petition dated June 27, 2014, from Forest Service Employees for Environmental Ethics, requesting that relict dace be listed as an endangered species under the Act on an emergency basis. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(a). In an August 25, 2014, letter to the petitioner, we responded that we reviewed the information presented in the petition and did not find that the species warranted emergency listing. This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the relict dace (*Relictus solitarius*) based on Factors A, D, and E.

Thus, for the relict dace, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the San Joaquin Valley Giant Flower-Loving Fly as an Endangered or Threatened Species Under the Act

Additional information regarding our review of this petition can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2015–0023 under the Supporting Documents section.

Species and Range

San Joaquin Valley giant flower-loving fly (*Rhaphiomidas trochilus*); California.

Petition History

On June 26, 2014, we received a petition dated June 26, 2014, from Gregory R. Ballmer and Kendall H. Osborne, requesting that San Joaquin Valley giant flower-loving fly be listed as an endangered species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(a). In a September 12, 2014, letter to the petitioner, we responded that we reviewed the information presented in the petition and did not find that the species warranted emergency listing. This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the San Joaquin Valley giant flower-loving fly (*Rhaphiomidas trochilus*) based on Factors A and E.

Thus, for the San Joaquin Valley giant flower-loving fly, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Western Pond Turtle as an Endangered or Threatened Species Under the Act

Additional information regarding our review of this petition can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2015–0024 under the Supporting Documents section.

Species and Range

Western pond turtle or Pacific pond turtle (*Actinemys marmorata;* formerly *Clemmys marmorata*); California and Washington

Petition History

On July 11, 2012, we were petitioned by the Center for Biological Diversity to list 53 amphibian and reptile species across the United States. The western pond turtle was one of the species petitioned for listing.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents

substantial scientific or commercial information indicating that the petitioned action may be warranted for the western pond turtle *(Actinemys marmorata)* based on Factor A.

Thus, for the western pond turtle, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factor identified in this finding (see Request for Information, above).

Evaluation of a Petition To List Yellow-cedar as an Endangered or Threatened Species Under the Act

Additional information regarding our review of this petition can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R7–ES–2015–0025 under the Supporting Documents section.

Species and Range

YellowYellow-cedar (*Callitropsis nootkatensis);* Alaska, California, Oregon, Washington, U.S.A.; Canada

Petition History

On June 24, 2014, we received a petition dated June 24, 2014, from Center for Biological Diversity, The Boat Company, Greater Southeast Alaska Conservation Community, and Greenpeace, requesting that yellow-cedar be listed as a endangered or threatenedspecies under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(a). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for yellow-cedar (*Callitropsis nootkatensis)* based on Factors A, B, and E.

Thus, for yellow-cedar, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Conclusion

On the basis of our evaluation of the information presented under section 4(b)(3)(A) of the Act, we have determined that the petitions summarized above for Clear Lake hitch, Egyptian tortoise, golden conure, long-tailed chinchilla, Mojave shoulderband snail, northern spotted owl, relict dace, San Joaquin Valley giant flower-loving fly, western pond turtle, and yellow-cedar present substantial scientific or commercial information indicating that the requested actions may be warranted. Because we have found that the petitions present substantial information indicating that the petitioned actions may be warranted, we are initiating status reviews to determine whether these actions under the Act are warranted. At the conclusion of the status reviews, we will issue a 12-month finding in accordance with section 4(b)(3)(B) of the Act, as to whether or not the Service believes listing, reclassification, or delisting, as appropriate, is warranted.

It is important to note that the "substantial information" standard for a 90-day finding as to whether the petitioned action may be warranted differs from the Act's "best scientific and commercial data" standard that applies to the Service's determination in a 12-month finding as to whether a petitioned action is in fact warranted. A 90-day finding is not based on a status review. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90-day finding. Because the Act's standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

5-Year Review

The status reviews of golden conure and northern spotted owl will also serve as the 5-year reviews for thesetheses species. Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species under active review. For additional information about 5-year reviews, go to *http://www.fws.gov/endangered/what-we-do/recovery-overview.html,* scroll down to "Learn More about 5-Year Reviews," and click on our factsheet.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the appropriate lead field offices (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this document are the staff members of the Branch of Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service.

Authority

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 30, 2015.

Robert Dreher,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2015–07837 Filed 4–9–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R6–ES–2015–0013; FXES11130900000C6–145–FF09E42000]

RIN 1018–BA42

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of Black-Footed Ferrets in Wyoming

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), in coordination with the State of Wyoming and other partners, propose to reestablish additional populations of the black-footed ferret (*Mustela nigripes*), a federally listed endangered mammal, into occupied prairie dog (*Cynomys* spp.) habitat in Wyoming. We propose to reestablish the black-footed ferret under section 10(j) of the Endangered Species Act of 1973, as amended (Act), and to classify any reestablished population as a nonessential experimental population (NEP). This approach would provide relaxed management rules to facilitate reintroductions. We are seeking comments on this proposal and on our draft environmental assessment, prepared pursuant to the National Environmental Policy Act of 1969, as amended (NEPA), which analyzes the potential environmental impacts associated with the proposed reintroduction.

We are also notifying the public that we are amending the List of Endangered and Threatened Wildlife (List) to reflect the scientifically accepted historical range of the black-footed ferret. The revised historical range description includes Mexico. The historical range information in the List is informational, not regulatory.

DATES: We will accept comments received or postmarked on or before

EXHIBIT 4

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Elko District Office
3900 East Idaho Street
Elko, Nevada 89801
http://on.doi.gov/elkoBLM

In Reply Refer To:
3809(NVE03000)
NVN-091032

JUL 3 0 2013

Chairman Ed Naranjo
Confederate Tribes of the Goshute Indian Reservation
P.O. Box 6104
Ibapah, UT 84034

Dear Chairman Naranjo,

Enclosed please find a signed copy of the Memorandum of Understanding (MOU) establishing a cooperating agency relationship between the Confederated Tribes of the Goshute Reservation (CTGR) and Bureau of Land Management (BLM), Wells Field Office (WFO) for the purpose of preparing the Long Canyon Mine Environmental Impact Statement (EIS).

In the spirit of cooperative consultation and collaborative public involvement, the WFO extended, and the CTGR accepted, an invitation to serve as a Cooperating Agency for the duration of the EIS process. The attached Memorandum of Understanding (MOU) outlines the relationship and respective roles of our organizations during the EIS planning effort.

The first Cooperating Agency meeting will be scheduled in the near future. The WFO is looking forward to working with the CTGR on the EIS.

If you have questions please contact Whitney Wirthlin, Geologist, at (775) 753-0342 or via email: wwirthli@blm.gov.

Sincerely,

Bryan K. Fuell FOR
Manager, Wells Field Office

Enclosure

cc: Madeline Greymountain

MEMORANDUM OF UNDERSTANDING
Between the
Department of the Interior, Bureau of Land Management,
Wells Field Office and
the Confederated Tribes of the Goshute Reservation
as a Cooperating Agency

This MEMORANDUM OF UNDERSTANDING, (MOU) establishes a cooperating agency relationship between the Bureau of Land Management's Wells Field Office (BLM) and the Confederated Tribes of the Goshute Reservation (CTGR) for the purpose of preparing the Long Canyon Mine Environmental Impact Statement (EIS). The BLM is the lead federal agency for development of the EIS. The BLM acknowledges that the Cooperator has special expertise applicable to the EIS effort, as defined at 40 CFR 1508.15 and 1508.26. This MOU describes responsibilities and procedures agreed to by the CTGR as a Cooperating Agency and the BLM.

The purpose of this MOU is to: 1) Establish and maintain coordination between CTGR and the BLM for their special expertise regarding Native American religious concerns and cultural resources in the areas potentially impacted by the Long Canyon Mine, located approximately 30 miles east of Wells, NV in the Pequop Mountain Range and 2) Coordinate and communicate Native American Religious concerns and exchange cultural resource information relating to the EIS that will be prepared for the proposed actions and alternatives.

The CTGR's role as a cooperating agency is limited to technical review of Native American religious concerns and cultural resource issues for the EIS. This participation does not imply endorsement of the project or preferred alternative. The point of contact for CTGR will be the CTGR Administrator.

1. At the administrative drafting stage of the EIS, CTGR will review any technical documents, including that portion of the administrative draft EIS concerning Native American religious concerns and cultural resource issues and will advise the BLM on the technical adequacy and completeness of these documents.

2. CTGR may advise changes to the Native American religious concerns and cultural resource sections of the EIS as well as interpret these comments to the contractor, as necessary. Additionally, BLM will provide CTGR an opportunity to review appropriate sections of the preliminary Draft EIS to determine if data and comments provided by CTGR have been accurately represented. However, CTGR will not be responsible for preparation of any portion of the EIS or related report, and is not responsible for the adequacy of the EIS.

3. Staff time and budget permitting, CTGR will participate in major interagency meetings to discuss the project and the review process (including agency responsibilities and work schedules concerning Native American religious concerns and cultural

resources).

5. CTGR advice on Native American religious concerns and cultural resources components is contingent upon adequate review time. CTGR will have not more than three weeks, or other negotiated period of time, for review of both the preliminary Draft EIS and the preliminary Final EIS upon receipt of these documents. For the Draft EIS and Final EIS, comment/review periods for CTGR will be the same as that for the general public and other state and federal agencies. This includes any technical documents concerning Native American religious concerns and cultural resources. Any other pertinent correspondence received by CTGR from the BLM or the contractor will be responded to in a timely manner.

The cooperating agency relationship established through this MOU shall be governed by all applicable statutes, regulations, and policies, including the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations (in particular, 40 CFR 1501.6 and 1508.5), the BLM's planning regulations (in particular, 43 CFR 1601.0-5, 1610.3-1, and 1610.4), and the Department of the Interior Manual (516 DM 2.5).

Authority for the BLM and the CTGR to participate in this agreement is provided by the National Environmental Policy Act of 1969 (42 USC 4321 et seq.), the Federal Land Policy and Management Act of 1976 (43 USC 1701 et seq.), Council of Environmental Quality regulations on implementing NEPA (40 CFR Part 1501 et seq.), National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and BLM planning regulations (43 CFR 1601 et seq.).

The BLM shall engage in government-to-government consultation with affected Indian tribe(s) during all phases of the planning process, in accordance with applicable federal statutes, regulations, and other authorities, including the National Historic Preservation Act, the American Indian Religious Freedom Act, Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and Executive Order 13007 (Indian Sacred Sites). The cooperating agency relationship established here supplements and is subordinate to the government-to-government relationship between CTGR and the BLM.

This agreement is not intended to limit any Federal or State laws, rules or regulations or any other requirements or duties under such laws, rules or regulations. This agreement is not intended to give any agency additional authority beyond current laws, rules, or regulations.

This MOU shall become effective upon signature by the CTGR, and the Elko BLM Wells Field Office Manager and will remain in effect until a decision for the Long Canyon Mine EIS is completed.

Amendments to this agreement may be proposed any time by any party and shall become effective upon written approval by all parties. Any of the parties, after 60 days written notice to other agencies, may terminate this agreement.

Signatures:

~~Administrator~~ Chairman
Confederated Tribes of the Goshute Reservation

7-12-13
Date

Manager, Wells Field Office
Bureau of Land Management

7/25/13
Date

Designated Representative

Organization: Confederated Tribes of the Goshute Reservation

Name: Ed Naranjo

Title: ~~Administrator~~ Chairman

Mailing Address: P.O. Box 6104

Ibapah, UT 84034

Phone Number: 435-234-1302

Fax Number: 435-234-1162

Email Address: goshutetribe@goshutetribe.com

EXHIBIT 5

MEMORANDUM OF UNDERSTANDING
for
INFORMATION SHARING
between the
NEVADA STATE OFFICE OF
THE BUREAU OF LAND MANAGEMENT
and the
CONFEDERATED TRIBES OF THE GOSHUTE RESERVATION

WHEREAS, the National Historic Preservation ("NHPA"), specifically 16 U.S.C. § 470a(d)(1)(A), states that the Secretary of the Interior shall "foster communication and cooperation between Indian tribes and State Historic Preservation Officers in the administration of public interests in such properties are given due consideration, and to encourage coordination among Indian tribes, State Historic Preservation Officers, and Federal agencies in historic preservation planning and in the identification, evaluation, protection, and interpretation of historic properties."

WHEREAS, the Bureau of Land Management (BLM) recognizes the historic and traditional interests of Indian tribes in lands and resources potentially affected by BLM's decisions, and seeks to afford these tribes and groups adequate participation in BLM's decision-making process; and

WHEREAS, the BLM may enter into agreements with Indian tribes to facilitate the sharing and maintaining information and records related to cultural resources in a secure manner consistent with applicable Federal laws and regulations; and

WHEREAS, BLM is the sole federal agency responsible for collecting and maintaining cultural resource information from lands it manages;

WHEREAS, by law and tradition the Confederated Tribes of the Goshute Reservation ("Tribe") has a significant interest in the proper management and preservation of certain cultural resources, and these interests are best served by the open sharing of cultural resources information that is the subject of this Memorandum of Understanding for Information Sharing ("Memorandum").

WHEREAS, the Tribe has identified the following political subdivisions of the State of Nevada as the area of its significant interests and has requested that this Memorandum apply to BLM's activities in the following counties: Elko and White Pine.

I. Purpose

The purpose of this Memorandum is to foster and improve communications and coordination between the respective BLM District and Field Offices under the BLM NSO and the Tribe, and to provide a process for the exchange, maintenance, and protection of information shared between BLM District and Field Offices under the BLM NSO and the Tribe related to cultural

resources on public lands in the state of Nevada. The information exchanged through this Memorandum is intended to be used by the BLM and the Tribe in government-to-government consultations between the Tribe and the BLM relating to specific projects under review or consideration by the BLM.

This Memorandum applies when the BLM is the lead federal agency for consulting with the Tribe on a specific Federal action and for maintaining or developing relevant cultural resource information.

II. Authorities

-Federal Land Policy and Management Act, 43 U.S.C. § 1701 *et seq*.
-National Historic Preservation Act, 16 U.S.C. § 470 *et seq*.
-Archaeological Resources Protection Act, 16 U.S.C. § 470aa *et seq*.

III. BLM Responsibilities

A) Each BLM District Office and Field Office in the state of Nevada and administered through the BLM NSO will provide the Tribe, through the Tribal Chair or Tribal Representative, with reasonable access to BLM District Office or Field Office cultural resource information on a project-specific basis, consistent with applicable federal laws, in order to assist the Tribe in consulting with the BLM on land-use applications and multiple-use decisions, as follows:

1. Upon a written request from the Tribal Chair or Tribal Representative for project-specific cultural resources information, the BLM will provide the Tribe with one copy of the relevant cultural resources information for the Tribe's use.
2. The BLM Representative in each BLM District and Field Office under the NSO will maintain a log of documents that their respective office provided to the Tribe through this Memorandum. This log will be made available upon a written request to the Tribe with 30 days written notice.
3. Any release of cultural information from a BLM Representative to the Tribe must have prior approval of the BLM District Manager or Field Manager from which the information is requested.
4. The Tribe bears no responsibility to the BLM for the cost of BLM providing information within BLM's possession to the Tribe under this Memorandum.

B) As the lead agency, the BLM shall make sure that all cultural resource information generated by or specifically for the BLM meets applicable BLM standards.

C) Upon written request to the BLM from the Tribe, BLM will maintain the confidentiality of specific information received from the Tribe consistent with applicable Federal laws and regulations.

D) Any sharing of archaeological and cultural resources information by the BLM with the Tribe through this Memorandum is subject to applicable Federal laws and regulations pertaining to the confidentiality of such information.

E) Each BLM District and Field Office under the NSO will seek to establish a regular meeting schedule with the Tribe, through the Tribal Chair, to discuss tribal interests related to specific land-use proposals. As appropriate, BLM District and Field Offices may coordinate to jointly schedule meetings with the Tribe, through the Tribal Chair, and to share information accordingly.

F) BLM Representatives.

(1) Each BLM District Office and Field Office will formally designate a BLM representative to work with the Tribal Chair or Tribal representative on a project-specific basis to further cultural resource information sharing and consultation involving the BLM office. If any BLM Representative is not designated in this Memorandum at the time of its signing by BLM and the Tribe, the relevant BLM District Office or Field Office will make such designation within 30 days of receipt of a written request from the Tribal Chair or Tribal Representative to do so. The currently identified BLM Nevada District and/or Field Office Representatives are identified in Appendix A.

(2) The BLM NSO will identify a Representative who will work with the Tribal Chair or Tribal Representative to further general considerations of cultural resource information sharing and consultation involving the NSO and relating to any proposed amendments to or renewals of this Memorandum. The NSO Representative is identified in Appendix A.

(3) The appropriate BLM office will notify the Tribal Chair within ten (10) working days of any change in a the designated BLM Representative or of any change in the a BLM District Office or Field Office manager under the NSO.

V. Tribal Responsibilities

A) The Tribe agrees to maintain the confidentiality of records containing any archaeological and cultural resource information received from the BLM under this Memorandum by ensuring all information is kept in a centralized secure location, with access limited to the Tribal Chair and designated Tribal Representative for the sole purpose of consultation with the BLM.

B) The Tribe agrees that the cultural resource information provided by the BLM will not be duplicated or shared outside of the Tribe and will not be used for any purpose other than consultation with the BLM.

C) The Tribe agrees to cooperate with the BLM and to consult with the BLM on specific land-use proposals in a timely manner and to ensure that the Tribe shares relevant cultural and other resource information with the BLM in a timely manner.

D) The Tribe will appoint a Tribal Representative, who will have the authority to represent the Tribe in implementing this Memorandum and the primary responsibility for maintaining the records received under this Memorandum in a secure locked file. The Tribal Representative is identified in Appendix A. The Tribe agrees to notify the NSO and all BLM District Offices and Field Offices within ten (10) working days of any change in the designated Tribal Chair or Tribal Representative.

VI. Joint Responsibilities

A) The BLM and the Tribe agree to cooperate in the consultation process to identify Tribal concerns related to archaeological resources and to properties of religious and cultural importance potentially affected by specific proposed Federal actions and to work together to develop alternatives to address such effects.

B) The BLM and the Tribe agree to work cooperatively to protect archaeological sites and properties of religious and cultural importance on lands administered by BLM.

C) Based on the location of a proposed Federal action, the BLM and the Tribe agree that the relevant District and Field Offices and the Tribe will make reasonable efforts to attend all scheduled meetings for the purpose of facilitating communication and sharing of information. Only BLM District and Field Offices involved in a specific project are expected to attend meetings with the Tribe to discuss specific projects.

VII. Modification, Termination and Remaining Authority, Rights and Legal Responsibilities

A) This Memorandum may be amended as necessary through mutual written agreement of the BLM NSO and the Tribal Chair.

B) Either party to this Memorandum may terminate the same upon written notice from the BLM NSO to the Tribal Chair or from the Tribal Chair to the BLM NSO. The Tribal Chair shall also provide written notice of any termination by the Tribe to each BLM District Manager and Field Manager under the NSO.

C) Unless terminated by written notice, this Memorandum shall be reviewed at least every ten years. Any renewal must be mutually agreed to in writing by the BLM NSO and Tribal Chair.

D) Any changes in Tribal Chairpersons, BLM State Director, managers, or designated BLM or Tribal Representatives do not constitute revisions or modifications to the terms of the Memorandum.

E) This Memorandum shall not limit or affect in any way the authority, rights or legal responsibilities of the Tribe or of the BLM.

This Memorandum becomes effective upon being signed by the BLM and by the Tribe:

For the Bureau of Land Management, Nevada	For the Confederated Tribes of the Goshute Reservation
_____	_____
Amy Leuders, State Director, Nevada	Edward Naranjo, Chair
Date _____	Date _____

EXHIBIT 6

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Elko District Office
3900 East Idaho Street
Elko, Nevada 89801
http://www.blm.gov/nv/st/en/fo/elko_field_office.html

APR 07 2015

In Reply Refer To:
8100 (NVE03000)

CERTIFIED MAIL # 7012 3460 6467 5964 RETURN RECIEPT REQUESTED

Confederate Tribes of the Goshute Indian Reservation
Madeline Greymountain – Chairperson
P.O. Box 6104
195 Tribal Center Road
Ibapah, Utah 84034

Dear Chairperson Greymountain:

On January 30, 2015, the Confederated Tribes of the Goshute Reservation (CTGR) sent the Bureau of Land Management (BLM) a letter regarding an "Urgent Request to Place the Proposed Long Canyon Mine Project on Hold." In the letter, the CTGR requested BLM to meet on February 6, 2015 at the Headquarters in Ibapah, UT to discuss the issues in the letter. The letter had seven (7) requests to the BLM.

1) "Place an immediate hold on any project approvals or permits of the Long Canyon Project Final Environmental Impact Statement (FEIS), Plan Of Operation (POO), and Record Of Decision (ROD) until we have determined how this great archaeological site will be documented, until that work has been carried out, and until we have determined the proper process forward from here."
2) "We need a minimum six (6) months for the CTGR to gather information and to conduct our tribal evaluations on the context and significance of the cultural resources that have already been documented. This is a very brief and respectable amount of time to conduct our evaluations. Depending our evaluations, and the extent of incorrect historical context, continuity, and wholeness of the site, that short time frame may need to be pushed back to allow for re-work and complete evaluations."
3) "The CTGR may enter into a Data Sharing Agreement with BLM, but that agreement cannot restrict our use of information and the agreement cannot restrict what cultural information is given to the CTGR. This has been the case in the past where the BLM asked our Tribe to enter into these agreements but placed heavy limitations on use of information. To facilitate the BLM in their trust obligation to CTGR, and to conduct our evaluations of this monumental cultural site, we are presently modifying a Data Sharing Agreement and will send a signed agreement when executed."
4) "A government to government consultation meeting between the CTGR, BLM, and Bureau of Indian Affairs (BIA) must be held immediately to chart a course to protect

our cultural resources and history within the Project Area. As you know, consultation is a meeting with decision makers in attendance. As the CTGR Tribal Council, we are elected tribal leaders and we have the capacity to make necessary high-level decisions on behalf of our Tribe. We need BLM and BIA officials who are the same level …officials who have decision making powers. We request a consultation meeting at CTGR Tribal Headquarters in Ibapah, Utah, on February 6, 2015 beginning at 1:00pm. Please make arrangements to attend, as this matter is urgent."

5) "Re-open and re-negotiate the Programmatic Agreement (PA) once we have conducted our evaluation of the cultural resource information. In light of the massive misrepresentation and underestimation of cultural resources within the Project Area, a new or highly modified PA is warranted. The CTGR is presently reviewing the PA attached as Appendix 3D in the final EIS that is still open for public comment and review."
6) "Identify the regulatory process to follow in this case. In other words, the CTGR wants to hear from BLM what their process is for situations like this when massive archaeological discoveries are made. There is a process to follow to put the Project on hold, to declare this area as an extraordinary cultural and archaeological site, and to carry out the necessary archaeological and historical research to properly document this monumental place."
7) "Possible investigation to determine why such as massive number of cultural resources and sites were missed during inventories and previous years of monitoring. An investigation may also be warranted to determine why cultural clearances were given to construction work in the past with no significant finds of cultural resources. Once the tribal monitors came to work in the Project Area, suddenly and immediately significant discoveries were being made. Those discoveries have been and continue to be extensive. It is also highly noteworthy that there are current construction activities at the Project site."

The BLM met with the CTGR on February 6, 2015 in Ibapah, UT to listen to the concerns raised for the Long Canyon Project. The BLM has the following comments to address CTGR's concerns from the letter and from the meeting on February 6, 2015.

BLM Response:

1. The BLM agreed to postpone any action regarding the signing of the ROD and the issuance of permits to allow for formal consultation between the BLM and CTGR to identify issues with the FEIS and the Long Canyon Project. However, the BLM is no longer able to postpone the signing of the ROD. The BLM has attended multiple Government to Government consultation meetings, received input from the Goshutes on the proposed project, and changed the proposed project to the extent possible.
The BLM has been in contact with the CTGR for the Long Canyon project from the beginning and has asked for comments on the project. The BLM first notified the CTGR on October 5, 2007 with a certified letter regarding the Plan of Operations (POO) for the Exploration Project in the Long Canyon area.

The "archaeological site" is an area consisting of many archaeological sites (some with multiple occupational times) from use of the area over thousands of years. A Programmatic Agreement (PA) was developed for the project in 2013. The CTGR were asked to comment on and were invited to participate in the PA as an invited signatory. The BLM offered the CTGR this opportunity in a letter dated July 11, 2013, and the CTGR chose not to participate in the process. The PA outlines how Section 106 of the National Historic Preservation Act (1966) as amended (NHPA), would be complied with and followed to document and evaluate cultural resources to the National Register of Historic Places. The PA also discussed the steps that would be taken to avoid, minimize, or take into account any adverse effects on historic properties (sites eligible for the National Register) resulting from project activities.

2. On September 3, 2014 Richard Adkins (BLM Elko District Native American Coordinator) notified Chairperson Greymountain via email that the CTGR had access to all of the Long Canyon Project reports. However, due to the lack of a signed Data Sharing Memorandum of Understanding (MOU) between the CTGR and BLM the documents would have to be reviewed in our office and could not be copied or taken from our office. Chairperson Greymountain identified Monte Sanford in the September 3, 2014 email as the tribal representative to consult the Long Canyon Project cultural resource reports at the BLM Elko office. To date, Mr. Sanford has not reached out to the BLM to view the reports. In addition, on July 21, 2014, two tribal monitors (Zelda Johnny and Elmer Moon) from the CTGR met with BLM regarding the mitigation of 76 sites at the Long Canyon Project. The tribal monitors were given BLM guidelines and signed a "code of ethics." The guidelines authorized monitors to look at any confidential site records and documentation while in the field or in our office, however no copies could be kept.

3. The CTGR sent a draft MOU to BLM on February 25, 2015. The BLM Nevada State Office and Washington Office reviewed the draft and made substantial comments. In a March 21, 2015 meeting between the CTGR and the BLM, the Tribal Council, Monte Sanford, and Paul Echo Hawk were provided copies of the BLM's edits to the draft MOU. During the meeting it was suggested that the BLM and the CTGR work out the edits and develop a clean document on a staff to staff level. The NHPA encourages cooperation between Indian tribes and federal agencies in the administration of the national historic preservation program. BLM Elko District is committed to executing a Data Sharing MOU with the CTGR consistent with applicable federal laws, regulations, and policies. Thus far neither Monte Sanford nor Paul Echohawk has reached out to the BLM to arrange a meeting to resolve these edits on the data sharing agreement.

4. The BLM met with the CTGR in formal government to government consultation on February 6, 2015 and March 21, 2015. The BLM will be attending a formal government to government meeting on Friday April 3, 2015. The BIA has no jurisdiction over BLM managed public lands and therefore they have not been invited by the BLM to attend project specific meetings with the CTGR.

5. A Programmatic Agreement (PA) was developed for the Long Canyon Project in 2013. The CTGR were asked to comment on and were invited to be an Invited Signatory of the PA. CTGR chose not to participate in the PA process. As noted above, the PA outlines how Section 106 of the NHPA would be complied with and followed to document and evaluate cultural resources to the National Register of Historic Places. The PA also documents the steps that would be taken to avoid, minimize, or take into account any adverse effects on historic properties (sites eligible for the National Register) resulting from project activities. The BLM has not misrepresented and/or underestimated the cultural resources within the project area. The FEIS contains the number of sites identified and number of sites to be mitigated. Letters were sent to the CTGR regarding mitigation of sites on August 6, 2010 and May 2, 2014. The CTGR were also invited to participate as an invited signatory in the PA Amendment One (1) on November 7, 2014 but failed to respond. The PA is adequate to take into account adverse effects resulting from the Long Canyon Project The BLM remains open to discussing how the PA has been utilized and how it is expected to be utilized in the future in cultural resource site protection and mitigation.

6. The BLM is required to protect archaeological resources to the extent possible regardless of size. Size alone does not 'trigger' a change in process or outcome. Under law the BLM is required to take into account adverse effects to historic properties. In order to protect archaeological resources the BLM has implemented the following protection measures for archaeological resources:
    - The cultural resource contractor has conducted surveys to identify areas that have potential for surface resources according to BLM Nevada's Guidelines and Standards for Archaeological Inventories (January 2012). Geomorphology testing was also completed to identify the extent and potential distribution of subsurface resources.
    - Since this project is phased in nature and has the potential for "adverse effects (as defined under Section 106)" the BLM entered into a PA with the Nevada State Historic Preservation Office (SHPO) to define the Section 106 compliance process and enhance protections for archaeological resources.
    - In areas that will be developed as part of this project the BLM in consultation with SHPO developed a Historic Properties Treatment Plan (HPTP) to define how adverse effects would be taken into account. The HPTP provides details of how adverse effects will be taken into account through data recovery in the event that historic properties cannot be avoided.
    - The BLM has identified an area in and around the valley floor as "sensitive" for archaeological resources as outlined in the PA. These areas have had newly identified features that were not visible on the surface but were encountered in mitigation outlined in the HPTP.
    - On archaeological sites already mitigated where a potential for subsurface deposits exist and in the archaeologically "sensitive" area, the BLM is requiring Newmont to provide archaeological monitors as part of the mitigation. These monitors will be in place during ground disturbing activities and are present to halt construction and document any previously unknown artifacts and/or features that may be uncovered.

7. The cultural resource surveys for the Long Canyon Exploration Project were conducted and reviewed in accordance to BLM Guidelines and Standards for Archaeological Inventory (January 2012) and concurred upon by the Nevada SHPO. The cultural contractor is permitted by the BLM Nevada State Office and meets the Secretary of the Interior Standards. The mitigation of archaeological sites, as outlined in the HPTP, is ongoing with addition of tribal monitors being present during excavations. Only after mitigation is complete and a summary report are reviewed, approved, and concurred upon by BLM and the SHPO, is a Notice to Proceed (NTP) given to Newmont in the area of the mitigated site.

On March 21, 2015, BLM met with the CTGR again in a formal government to government consultation to further converse about CTGR concerns with the Long Canyon Project. Below are BLM's comments in response the concerns that were communicated by the council during the meeting.

1. What is the status of Data Sharing Agreement?
    a. Bryan Mulligan provided the Tribal Council, Monte Sanford, and Paul Echo Hawk with copies of the BLM's edits to the data sharing agreement. During the meeting it was suggested that the BLM and the CTGR work out the edits and develop a clean document on a staff to staff level. The BLM offered to meet at a midpoint location at a time that is convenient for both of the CTGR counsel. Counsel requested time to review the BLM edits and would then arrange a meeting after their review. At this time CTGR counsel has not contacted the BLM to arrange a meeting.
2. BLM was asked to investigate an alleged incident where Newmont blew up a culvert full of rattlesnakes last year.
    a. On April 1, 2015, Elisabeth Puentes spoke with Dan Anderson, Gordon Mountford, and Steve Grosz of Newmont about the alleged rattle snake incident in Long Canyon Project Area. Newmont assured the BLM that this is just a long standing rumor that is not true. Newmont discourages employees from harming or harassing any wildlife. As of recent they have an Industrial Artificial Pond Permit that requires them to report any wildlife mortality to NDOW. BLM also reached out to Adam Berg from ASM Affiliates. Adam could not substantiate the rumor and confirm that the incident had occurred.
3. BLM should encourage Newmont to attend a tribal council meeting, and BLM should not sign the ROD until the meeting happens.
    a. Since the March 21st meeting with CTGR, Jill Silvey and Bryan Mulligan have both had conversations with different levels of Newmont management to encourage them to meet with CTGR at their earliest convenience prior to the signing of the ROD. The CTGR lawyers met with Newmont lawyers on 4/5/2015.
4. Tribe would recommend that all of the data recovery is completed before the ROD is signed.
    a. If the data recovery was complete before the ROD was signed the EIS would then only analyze what was there. The increased information would not change the end result that all artifacts would have been collected or the manner in which the

artifacts were collected. The EIS analyzes archaeological resources based on surface expression of these sites and understands the way in which archaeological resources may have been deposited subsurface. A PA is in place that directs how BLM will comply with Section 106 of the NHPA. A HPTP was developed as a result of the PA which outlines how each site will be mitigated. After mitigation of a site is complete, a summary report is sent by the cultural contractor to BLM for review. Upon acceptance, the BLM forwards that summary report to SHPO and seeks concurrence. A notice to Proceed (NTP) will be issued after the site is mitigated and in some circumstances will have stipulations attached that will require monitoring of the site during any construction.

5. CTGR wants to look at previous documents related to Long Canyon to understand the information that is in our files, including previous EAs and Agreements.
    a. Copies of the Draft EIS and FEIS for the Long Canyon Mine have been provided to CTGR prior to publishing as agreed to in the Cooperating Agencies MOU. As requested, Bryan Mulligan sent Paul Echo Hawk and Monte Sanford a digital copy of both Long Canyon Exploration Plan of Operations and associated Environment Assessments on March 24, 2015. BLM has also provided a copy of the Programmatic Agreement on July 11, 2013 and a signed copy of the Cooperating Agencies MOU on February 20, 2015. BLM would be happy to provide additional copies of these documents if needed.
6. What are the triggers now that this is a much larger site?
    a. The BLM is required to avoid historic properties to the extent possible regardless of size, and if avoidance is not feasible, then to minimize or take into account adverse effects. Size alone does not 'trigger' a change in process or outcome. In order to comply with the NHPA through the PA, BLM is required to ensure that the following measures are undertaken:
        - The BLM has conducted extensive surveys to identify areas that have potential for surface resources. Geomorphology testing was also completed to identify the extent and potential distribution of subsurface resources.
        - Since this project is phased in nature and has the potential for "adverse effects (as defined under Section 106)" the BLM entered into a Programmatic Agreement with SHPO to define the Section 106 compliance process and enhance protections for archaeological resources.
        - In areas that will be developed as part of this project the BLM in consultation with SHPO developed a HPTP to define how data recovery will occur. The HPTP provides extensive protection on how archeological resources will be documented, recovered, and analyzed.
        - On archeological sites with the potential for buried deposits that go beyond data recovery the BLM is requiring Newmont to hire archeological monitors. These monitors will be in place during ground disturbing activities and are designed to identify and recover any additional artifacts that may be uncovered.
7. How does the mining law play into BLM's decisions?
    a. The majority of the proposed pit is on split estate with the BLM owning the surface and Newmont owning the sub surface mineral rights. Newmont has

requested from the BLM the ability to use the surface area as necessary to extract these minerals. Under law the BLM has an obligation to allow Newmont the access to their subsurface rights. Newmont's legal right to extract these minerals does not remove the BLM's responsibility as the surface owner to comply with the NHPA. Throughout this process the BLM has worked extensively with Newmont and has achieved the best possible environmental protections.

8. What are BLMs trust and consultation responsibilities?
    a. The BLM is committed to establishing meaningful working relationships with local Tribes to identify traditional values and practices important to the Tribe. The BLM is guided by cultural resource laws, regulations, Executive Orders, and BLM policy (Manual 8120) to involve the Tribes in government to government consultation regarding any undertakings on publically managed lands. The BLM seeks out tribal input on issues and considers those issues brought forth in the decision making process in land use planning.
9. The tribe has wildlife concerns, would like to talk to a biologist about Pygmy Rabbit, sage grouse, Relic Dace.
    a. Wildlife species were of great concern to the BLM from the beginning of this process. The BLM has worked extensively with multiple partners to identify potential risks and impacts to wildlife species. Some of the wildlife species found in the area will be affected by this project either through the direct loss of habitat or through indirect effects. In order to reduce these impacts the BLM has identified extensive environmental protection measures and mitigation measures that will protect these sensitive wildlife species. At this time the BLM feels that the EIS adequately describes and addresses these impacts and they've been mitigated to the extent possible.
10. Current Road Clearing – needs a monitor
    a. The BLM will require construction monitoring in the archaeologically sensitive area on the valley floor and around the margins. So far, Newmont has discovered two (2) isolated hearth features not associated with any previously recorded sites while grading existing roads and reported them promptly. Newmont is required under the PA immediately halt work within 100 meters of any new discovery and to report any new discoveries within 24 hours to BLM.
11. Tribal monitor for any earth moving
    a. The BLM will require construction monitoring in the archaeologically sensitive area on the valley floor and around its margins where potential depth of subsurface deposits are found. A map of the area is currently under production. The BLM will require both archaeological and tribal monitors to work within these areas as a stipulation of the Notice to Proceed (NTP) to Newmont for mitigated sites.

In addition, below are BLM's responses to additional concerns that were communicated to the BLM during the March 6, 2014 meeting with CTGR.

1. The tribe reiterated their concern for a need of tribal monitors on ground disturbing activities and emphasized that they would like some of the monitors to be CTGR monitors.

a. BLM will require tribal monitors on ground disturbing activities within sensitive areas and as part of the clearance or notice to proceed to Newmont on mitigated sites around the springs, on and around the valley floor, and for ground disturbing activities adjacent to these sites.

2. Can the tribe gaining access to view the artifacts that are recovered from the site.
   a. Artifacts recovered from public lands will be curated at Nevada State Museum. The person/person who would like to view the specific collections would need to contact the Curation director first to schedule an appointment.
3. What happens if a grave site is found? Will construction cease?
   a. Yes, during construction activities if human remains are discovered, all work stops immediately around the vicinity. Newmont or the cultural contractor has to notify BLM within 24 hours of any new discovery. BLM will then immediately notify SHPO. There are different laws depending on if the find is on privately owned land or public lands. SHPO would have the responsibility for human remains discovered on private lands and would follow applicable state law. For public land, BLM is the responsible party and complies with NAGPRA if the burial is of Native American ancestry. The tribal monitors should also be contacting the Tribe regarding human remains upon discovery.

For further information or to address any of your questions please contact me by phone at (775)-753-0200 or by email at jsilvey@blm.gov.

Sincerely,

Jill C. Silvey

Jill C. Silvey
Bureau of Land Management
Elko District Manager

cc: Neil Kornze, BLM Director
Amy Leuders, State Director
Paul Ecko Hawk, CTGR Counsel
Monte Sanford, CTGR Counsel

EXHIBIT 7

THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. 3317

Subject: Department of the Interior Policy on Consultation with Indian Tribes

Sec. 1 **Purpose**. The purpose of this Order is to update, expand, and clarify the Department's policy on consultation with American Indian and Alaska Native tribes; and to acknowledge that the provisions for conducting consultation in compliance with Executive Order (E.O) 13175 (Consultation and Coordination with Indian Tribal Governments) and applicable statutes or administrative actions are expressed in the Department of the Interior Policy on Consultation with Indian Tribes.

Sec. 2 **Background**. Based on a renewed commitment to assess its practices and the opportunities to enhance consultation with Indian tribes, the Department consulted with tribal leaders, engaged Department leadership from across the organization, and convened a working group of tribal and Department officials to recommend new approaches to consultation. These efforts produced a policy document that guides how the Department engages Indian tribes when meeting the Department's responsibilities to consult Indian tribes and how the Department can maximize the benefit of consultation.

Sec. 3 **Authority**. This Order is issued in accordance with the authority provided by 25 U.S.C. sections 2 and 9; and Section 2 of the Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended.

Sec. 4 **Policy**.

a. Government-to-government consultation between appropriate Tribal officials and the Department requires Departmental officials to demonstrate a meaningful commitment to consultation by identifying and involving Tribal representatives in a meaningful way early in the planning process.

b. Consultation is a process that aims to create effective collaboration with Indian tribes and to inform Federal decision-makers. Consultation is built upon government-to-government exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility. Communication will be open and transparent without compromising the rights of Indian tribes or the government-to-government consultation process.

c. Bureaus and offices will seek to promote cooperation, participation, and efficiencies between agencies with overlapping jurisdictions, special expertise, or related responsibilities when a Departmental action with Tribal implications arises. Efficiencies derived from the inclusion of Indian tribes in all stages of the tribal consultation will help ensure that future Federal action is achievable, comprehensive, long-lasting, and reflective of tribal input.

Sec. 5 **Responsibilities**.

a. Tribal Governance Officer. A Senior Departmental Official designated by the Secretary will serve as the Department's Tribal Governance Officer and will, in coordination with the Assistant Secretary – Indian Affairs establish and oversee the activities of a joint Federal Tribal Team, as described more fully in Section 9, below.

b. Tribal Liaison Officer. Heads of bureaus and offices will designate at least one official to serve as a Tribal Liaison Officer to carry out appropriate duties described in this Order.

c. Bureaus and Offices. Within 180 days of the effective date of this Order, bureaus and offices will review their existing practices, revise those practices as needed in order to comply with this policy, and begin a process to reference practices on tribal consultation in their appropriate bureau or office manual.

Sec. 6 **Training Plan**. Within 180 days of the effective date of this Order, the Office of Strategic Employee and Organizational Development will develop and present to the Tribal Governance Officer a plan of action to implement the provisions of this Order, including development and delivery of the training.

Sec. 7 **Reporting Requirements**. Within 180 days of the effective date of this Order, bureaus and offices will provide to the Tribal Governance Officer the results of their efforts to promote consultation with Indian tribes. Reports shall be submitted annually, thereafter, within 60 days of the end of the fiscal year.

Sec. 8 **Certification**. Heads of bureaus and offices will certify in a written statement that is part of the final publication for all regulations under their purview that the regulatory process complies with E.O. 13175.

Sec. 9 **Establishment of Joint Tribal-Federal Team**. A Joint Federal Tribal Team (Team) is established beginning with the effective date of this Order. The Team will convene a minimum of two (2) times annually to identify areas and opportunities for improvements in the Department's consultation practices.

a. Membership. Within 45 days of the effective date of this order, the Tribal Governance Officer will recommend to the Secretary a list of members to serve on the Team. The recommended list of members should represent diversity for the Department and the tribes. Members will continue to serve on the Team at the discretion of the Secretary.

b. Annual Work Plan. The Team will develop an annual work plan that identifies priorities that will improve the quality of the Department's consultation practices with Indian tribes.

Sec. 10 **Establishment of an American Indian and Alaska Native Leaders List**. A single Departmental process shall be established to manage and maintain the contact list for all tribes and Alaska Native Corporation Settlement Act (ANCSA) corporations that are eligible for Federal consultation.

a. Action Plan. In compliance with Departmental consultation policy requirements for enhanced communication; the Tribal Governance Officer, the Chief Information Officer, the Director of the Bureau of Indian Affairs and the Director of the Fish and Wildlife Service will develop a plan of action to establish an electronic database that features an interactive system to update and list all appropriate points of contact for Indian tribes and ANCSA corporations that are eligible for consultation under Federal law.

b. Inter-Agency Outreach. The Assistant Secretary – Indian Affairs will solicit from applicable Federal agency heads any proposals to coordinate the use and access to any communication lists used for the purpose of federal compliance with E.O. 13175.

Sec. 11 **Effective Date**. This Order is effective immediately. It shall remain in effect until its provisions are converted to the Departmental Manual, or until it is amended, superseded, or revoked, whichever occurs first. In the absence of any of the foregoing actions, the provisions of this Order will terminate and become obsolete on December 30, 2012. The termination of this Order will not nullify the Department's consultation policy, effected herein.

Ken Salazar

Secretary of the Interior

Date: DEC 01 2011

EXHIBIT 8

Federal Register
Vol. 65, No. 218
Thursday, November 9, 2000

Presidential Documents

Title 3—

The President

Executive Order 13175 of November 6, 2000

Consultation and Coordination With Indian Tribal Governments

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes; it is hereby ordered as follows:

Section 1. *Definitions.* For purposes of this order:

(a) "Policies that have tribal implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

(b) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(c) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

(d) "Tribal officials" means elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations.

Sec. 2. *Fundamental Principles.* In formulating or implementing policies that have tribal implications, agencies shall be guided by the following fundamental principles:

(a) The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes.

(b) Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights.

(c) The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination.

Sec. 3. *Policymaking Criteria.* In addition to adhering to the fundamental principles set forth in section 2, agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have tribal implications:

(a) Agencies shall respect Indian tribal self-government and sovereignty, honor tribal treaty and other rights, and strive to meet the responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

(b) With respect to Federal statutes and regulations administered by Indian tribal governments, the Federal Government shall grant Indian tribal governments the maximum administrative discretion possible.

(c) When undertaking to formulate and implement policies that have tribal implications, agencies shall:

(1) encourage Indian tribes to develop their own policies to achieve program objectives;

(2) where possible, defer to Indian tribes to establish standards; and

(3) in determining whether to establish Federal standards, consult with tribal officials as to the need for Federal standards and any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and authority of Indian tribes.

Sec. 4. *Special Requirements for Legislative Proposals.* Agencies shall not submit to the Congress legislation that would be inconsistent with the policymaking criteria in Section 3.

Sec. 5. *Consultation.* (a) Each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Within 30 days after the effective date of this order, the head of each agency shall designate an official with principal responsibility for the agency's implementation of this order. Within 60 days of the effective date of this order, the designated official shall submit to the Office of Management and Budget (OMB) a description of the agency's consultation process.

(b) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and that is not required by statute, unless:

(1) funds necessary to pay the direct costs incurred by the Indian tribal government or the tribe in complying with the regulation are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of the regulation,

(A) consulted with tribal officials early in the process of developing the proposed regulation;

(B) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(C) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(c) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications and that preempts tribal law unless the agency, prior to the formal promulgation of the regulation,

(1) consulted with tribal officials early in the process of developing the proposed regulation;

(2) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the

need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(3) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(d) On issues relating to tribal self-government, tribal trust resources, or Indian tribal treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

Sec. 6. *Increasing Flexibility for Indian Tribal Waivers.*

(a) Agencies shall review the processes under which Indian tribes apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by an Indian tribe for a waiver of statutory or regulatory requirements in connection with any program administered by the agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency, or as otherwise provided by law or regulation. If the application for waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

Sec. 7. *Accountability.*

(a) In transmitting any draft final regulation that has tribal implications to OMB pursuant to Executive Order 12866 of September 30, 1993, each agency shall include a certification from the official designated to ensure compliance with this order stating that the requirements of this order have been met in a meaningful and timely manner.

(b) In transmitting proposed legislation that has tribal implications to OMB, each agency shall include a certification from the official designated to ensure compliance with this order that all relevant requirements of this order have been met.

(c) Within 180 days after the effective date of this order the Director of OMB and the Assistant to the President for Intergovernmental Affairs shall confer with tribal officials to ensure that this order is being properly and effectively implemented.

Sec. 8. *Independent Agencies.* Independent regulatory agencies are encouraged to comply with the provisions of this order.

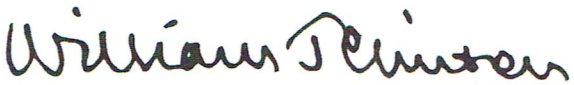
Sec. 9. *General Provisions.* (a) This order shall supplement but not supersede the requirements contained in Executive Order 12866 (Regulatory Planning and Review), Executive Order 12988 (Civil Justice Reform), OMB Circular A–19, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments.

(b) This order shall complement the consultation and waiver provisions in sections 6 and 7 of Executive Order 13132 (Federalism).

(c) Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments) is revoked at the time this order takes effect.

(d) This order shall be effective 60 days after the date of this order.

Sec. 10. *Judicial Review.* This order is intended only to improve the internal management of the executive branch, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law by a party against the United States, its agencies, or any person.



THE WHITE HOUSE,
November 6, 2000.

[FR Doc. 00–29003
Filed 11–8–00; 8:45 am]
Billing code 3195–01–P

EXHIBIT 9

CONFEDERATED TRIBES
of the
GOSHUTE RESERVATION
P.O. BOX 6104
IBAPAH, UTAH 84034
PHONE (435) 234-1138
FAX (435) 234-1162

April 8, 2015

Jill Silvey, District Manager
BLM Elko District Office
3900 East Idaho Street
Elko, Nevada 89801

Sent via pdf email (to: jsilvey@blm.gov*) and parcel post*

RE: CTGR concerns with BLM pre-approval of the Long Canyon Mine Project

Dear Ms. Silvey,

I am very disappointed with your actions as a representative of the Bureau of Land Management. When someone from the United States federal government says something, we, the Confederated Tribes of the Goshute Reservation (CTGR), expect that your words mean something. Unfortunately, we have learned that this is not true.

When you came to the CTGR Council meeting on April 3, 2015, you presented a response to some of our prior comments. That response was marked "Draft". The CTGR requested that you give us until Monday or Tuesday to formulate a response to the "Draft". You agreed. On Monday April 6, 2015, at 1:43pm Bryan Mulligan emailed Monte Sanford (and cc'ed Paul Echo Hawk) to ask "Are you still planning on providing the BLM comments by tomorrow [Tuesday, April 7th, 2015] on the draft letter that we provided the CTGR with on Friday [April 3, 2015]?" Monte Sanford responded to Bryan on April 7th at 5:18am: "Regarding the comments to BLM on the draft letter that was presented to CTGR Council at the April 3rd Council Meeting…. We are meeting with CTGR Council this evening to discuss the letter and get Council's direction before we can send anything." You called Paul Echo Hawk on April 7th at about 9:30am. He returned your call at about 10:00am.

Based on your conversation with Paul Echo Hawk, we are concerned about your indication that you had to immediately sign the ROD to approve the Project because

private mineral rights "trump" other federal laws and regulations. You also indicated to Paul Echo Hawk that you could not wait any longer because the matter had been "elevated" by an authority above you.

It seems hasty to approve this Project at present, especially after you agreed on April 3, 2015, to give the Tribes until Monday or Tuesday to respond to your "Draft". In your conversation with Paul Echo Hawk you would not even agree to wait until midnight tonight for the Tribes' comments. The gold at the Long Canyon Mine project site is not going anywhere. In contrast, the destruction of Tribal cultural resources and remains is permanent and federal law affords the Tribes a right to consultation and comment before federal action to approve such mining activity.

Before your conversation with Paul Echo Hawk, the CTGR had been working quickly to respond to your "Draft" and identify concerns that must be addressed and completed before the Project FEIS/ROD is approved. In addition to our prior comments, we have the following concerns and comments on the Long Canyon Mine Project.

At 4:25pm April 7, 2015, we received via email your final signed letter (final version of the "Draft"). The letter strongly mischaracterized and misrepresented the CTGR, and our consultation and commenting efforts. The "Draft" and final letter falsely assert that Mr. Sanford and Mr. Echo Hawk have not made efforts to get the Data Sharing Agreement finalized to further the CTGR's efforts at proper consultation and commenting. This is just one example where the BLM has manipulated the facts and records in an effort to cast the CTGR as uncooperative and unresponsive. Nothing could be further from the truth.

I. The BLM has Failed to Engage the CTGR in Proper Consultation and has not Completed Consultation

The BLM has failed to engage the CTGR in meaningful government-to-government consultation. Pursuant to the Secretary of Interior Order No. 3317, entitled "Department of Interior Policy on Consultation with Indian Tribes, the BLM is required to engage with Indian tribes on a government-to-government basis through "meaningful consultation[.]" The BLM was supposed to strive to "strengthen its government-to-government relationship with Indian Tribes and begin a new era of consultation." By consulting properly the BLM would comply "with the Presidential Memorandum of November 5, 2009, which affirms this relationship and obligates the [BLM] to meet the spirit and intent of [President Obama's Executive Order] 13175." By the actions taken on this Project, the BLM has violated the Secretary of Interior's Order and the Executive Order of the President of the United States by not engaging in meaningful consultation.

Even as the Administrative Draft Environmental Impact Statement was released, we requested an opportunity to have a fair opportunity to review the cultural resources inventories (among other technical information). As the BLM admitted during a meeting with CTGR on March 21, 2015, the significance of cultural resources and historic

properties is established based on the context of those resources. Both Jill Silvey and Bryan Mulligan have identified that the contextual significance placed on cultural resources and sites at the Long Canyon Project Area was "a Caucasian perspective." Section 106 of the National Historic Preservation Act (NHPA) requires that the Tribes have a fair and reasonable opportunity to provide that context and significance. Afterall, the cultural resources are those of the Tribes—tribal resources, tribal ancestors, and tribal history. But instead, BLM has worked diligently to ensure that the CTGR's context, significance, and other perspectives would be excluded from the cultural resources context and the Project EIS.

We have requested copies of the cultural resources inventories so that the CTGR can have a fair and reasonable opportunity to review that information, present that information to tribal elders and members, and provide our input on the cultural resources/sites, impacts on those resources/sites, and resolution of impacts. But that opportunity continually has been truncated in several ways.

(1) The BLM has refused to provide the cultural information to the CTGR unless the CTGR signs a Data Sharing Agreement that waives certain legal rights. The CTGR requested copies of the cultural resources data since early in the Project EIS process. The CTGR also sent to BLM a draft Data Sharing Agreement on February 25, 2015. When we met with BLM on March 21, 2015, and inquired about the status BLM's approval of the Agreement, Bryan Mulligan indicated that BLM's review and comments on the Data Sharing Agreement was not complete. Mr. Mulligan proposed to work with Paul Echo Hawk and Monte Sanford to set up a meeting in the coming weeks where they would go through the Data Sharing Agreement to discuss and make changes recommended by the BLM. The BLM then offered a draft mark-up version ("notations"). These were understood to be an incomplete set of BLM's comments on the draft Data Sharing Agreement, with more specific comments to come. Please provide the complete comments so that we can respond.

(2) Even as the CTGR and BLM work to finalize a Data Sharing Agreement, the BLM has indicated that after the Project EIS and Record of Decision were approved the BLM would still work with the CTGR to execute the Agreement. The BLM is fully aware that one of the CTGR's primary reasons for obtaining the cultural resources information is so that the CTGR can have a real opportunity to understand what resources are out at the Project site, which is essential to our consultation process and commenting process on the EIS. By restricting what information has been provided to CTGR, the BLM necessarily has truncated the consultation obligations and NEPA commenting opportunities. How can we be expected to have a fair opportunity to consult and comment on the Project if BLM restricts our access to cultural information? How can we understand and comment on proposed project impacts if the BLM will not give us access to the very cultural information and data directly related to the project? These NHPA and NEPA requirements must be completed before Projects are approved -- not after.

(3) To appear as though the BLM has offered the CTGR opportunities to review cultural information, the BLM has suggested that CTGR could send a representative to the Elko District BLM Office to carry out their reviews. No copies of cultural information could be made. The draft data-sharing agreement BLM has presented to the Tribes purports to restrict the Tribe's use of the information and prohibit using the information to protect tribal interests if the Tribal Council deems any administrative or legal action is necessary. The BLM also insists that the information also could not be taken out of the BLM Office. When the CTGR asked the BLM how much cultural information we would need to go through and review, Mr. Mulligan indicated on March 21, 2015, that the technical information was many feet of paper documents, which covered multiple years of data collection. When the CTGR asked the BLM how long they would expect a person would need to review that information, Mr. Mulligan indicated that at least several weeks would be needed. To read and review the information is only the beginning for the CTGR. The CTGR requires much more than a quick read-through of the cultural information. We share that information with knowledgeable tribal members and elders. We ask for their input of tribal history as part of our process to identify the context and significance of tribal cultural resources and cultural sites. Then, we use all of the information to identify tribal significance and context, to identify what the cultural impacts will be, and to offer resolution of adverse impacts. But, the BLM has repeatedly worked to restrict our Tribes' ability to carry out that process. It is much like playing a game of cards with the BLM; however, the BLM will not let us see our own cards so we can have a fair game.

In addition, we must note that the consultation process is not satisfied just because BLM and the CTGR meet or exchange communications. We could meet 100 times and still not satisfy the requirements of consultation if the BLM has already made a decision and does not address our concerns and attempt to resolve adverse effects of the proposed Project. Consultation is not a process where the BLM listens to CTGR's concerns after making a decision and thereafter purports to address concerns by offering communications stacked against the CTGR (note the "Draft" letter by BLM presented at the April 3, 2015 CTGR Council Meeting). The BLM, as the federal trustee, should be working diligently on the side of the CTGR to ensure that our concerns are actually taken into consideration as part of the NHPA and NEPA process—before a decision is made on the proposed Project.

Because of these above-mentioned issues, and those issues we have previously detailed to BLM, the consultation process has not been properly conducted and the consultation process has not been completed. We request that the BLM not approve the Long Canyon Mine Project until the CTGR has had the opportunity to review tribal cultural information and data in BLM's possession and actually consult and comment on this Project after issues described in I.1-3 above have been completed.

The CTGR previously submitted comments on the Draft EIS to the BLM via email to Whitney Wirthlin on September 3, 2014 (comment letter dated September 2, 2014) and comments submitted to BLM on February 3, 2015 (letter dated January 30,

2015). We incorporate by reference those comments as part of this letter rather than reiterate them here. We also have the following comments that must be addressed properly before this Project can be approved.

II. The BLM Has Failed to Fully Disclose Impacts on Cultural Resources and Failed to Require Sufficient Mitigation

We have previously explained to BLM that cultural resources mitigation (known as "data recovery") is insufficient. BLM has explained to CTGR that "data recovery" involves the collection of cultural resources from the Project Area, the transport of those resources to a restricted-access facility in Boise, Idaho, where they undergo analysis, and the storage of those resources in restricted-access facilities either in Boise, Idaho, or Reno, Nevada.

To the CTGR, "data recovery" is a cultural resource impact itself that was not analyzed in the FEIS. Removing cultural resources from the sacred ground on which they were intended to lay, and from the sacred ground on which tribal members have deeply spiritual connections to, significantly impacts Tribal people. Where in the FEIS was this impact analyzed, disclosed and mitigated? The answer is nowhere.

And nowhere under NEPA mitigation requirements is mitigation allowed as a subsequent and significant impact on cultural resources. Part of the significance of cultural resources and cultural historic properties is the "feeling and association" that our Tribal people have that is connected to those resources and properties. To authorize the removal of cultural resources as part of "data recovery" process doesn't provide mitigation for the very people who hold those resources as an inviolable part of our Tribal cultural history.

Meaningful mitigation under NEPA is clearly defined. However, avoiding cultural resource impacts are not accomplished by taking the resources to far-distant, restrict-access places where the Tribes are not going to go, or are disproportionately unable to go. Minimizing impacts on cultural resources are not accomplished by shipping the resources to far-away, restricted-access facilities, off the sacred ground on which they were intended, and into the hands of people who are not progeny of our ancestors and who do not carry on our tribal spiritual ways. Rectifying impacts on the cultural resources doesn't happen by collecting, analyzing, and storing the resources away from Goshute people. Where is the mitigation requirement to repair, rehabilitate or restore the affected cultural resources and our peoples' connection to those resources? Perhaps the BLM has attempted to reduce or eliminate the destruction of cultural resources through "data recovery." But at the same time the BLM's attempt at data recovery mitigation has only added more impact. And the BLM required no mitigation to compensate for the impact by replacing or providing a substitute resource or environment.

We ask the BLM why there has not been any requirement to truly and meaningfully mitigate impacts on cultural resources? For sage grouse mitigation, project

applicants that destroy sage grouse habitat are required to conserve habitat off-site. If wetlands are destroyed, wetlands have to be reconstructed, restored or protected locally or offsite. Nothing similar has been provided for the cultural resources mitigation in the FEIS/ROD. We view "data recovery" at the Project Area as the BLM and Newmont contractors taking our history and culture away from us.

There are many ways to provide meaningful mitigation. Mitigation could involve compensating for the impact by replacing or providing substitute resources or environments where our people can actually have an opportunity to connect and learn from the resources *ad lib*, in a tribal environment, and without clearance and surveillance. To CTGR, reducing or eliminating impacts by preservation would involve preservation of those resources on the Goshute Reservation, where our people can preserve their connection to our cultural and history. It would involve the work to protect cultural resources and sites locally and in other offsite locations.

Part of consultation process after we have an opportunity to review the cultural resources information is to identify actual mitigation that is meaningful. But yet again, in BLM's apparent haste to sign the ROD, our rights to be actively engaged in meaningful consultation and commenting are being eliminated.

III. The BLM Has Failed to Require Mitigation to Protect the Relict Dace

The best scientific information on the Relict dace within the Project Area demonstrates that this endemic species is a distinct population or subspecies in need of immediate conservation and management attention. On June 27, 2015, the Relict dace was petitioned for an emergency listing under the Endangered Species Act because this distinct population only occurs at Big Springs, which is supported by the Johnson Springs system. Given the groundwater use required to construct and operate the Project, spring flow that sustains the dace will be reduced in an amount that the Project FEIS terms "low to moderate impact". The Project FEIS later identifies that "The potential decline of wetlands could lead to the loss of endemic species including relict dace . . ."

According to Table 4.1-1 in the FEIS, only "major" effects (not low or moderate) are "significant". It seems incorrect to say that the complete loss of an endemic species is not a significant impact. The FEIS itself admits that an impact would be "significant" if a "change affects more than 75 percent of individuals of a population or similar portion of a resource". Given that the FEIS admits that the impacts on springs has the potential to cause the extirpation of the relict dace within the Project Area, the FEIS is false in its conclusion, by its own definitions, that the impact on the dace would be "low to moderate."

The FEIS' determination of a "significant" impact under Table 4.1-1 is profoundly askew, and not based on what is widely accepted as a significant impact in the scientific community. According to the FEIS, an environmental impact is major and "significant" if the impact is: "a large, measureable change in current conditions that is

easily recognized by all human observers. The change affects more than 75 percent of individuals of a population or similar portion of a resource, which leads to significant modification in the overall population, or the value or productivity of the resource. There are profound or complete changes in management or utilization of the resource. An impact that is not in compliance with applicable regulatory standards or thresholds." If the relict dace population dropped by 75%, genetic drift and inbreeding could result in eventual extinction of the species, despite population fluctuations. A simple statistical analysis would undoubtedly show that even a 30-50% reduction in the population (maybe less) could be a statistically "significant" change. But for a species like the relict dace, a species that occurs as a collection of subpopulations (a possible metapopulation), the raw numbers of individuals are not always the best indicator of a population. Other population parameters are also necessary to gauge, including the entire metapopulation dynamic of occupied and unoccupied habitats and the environmental factors that cause subpopulations to blink on and off over time.

The EIS indicated that spring flow reductions will be on the order of several hundred gallons per minute, yet the FEIS failed to analyze how spring flows that support the dace would be impacted under various potential climate scenarios (e.g., wet and dry years, or multiple dry years, etc). Already, drought conditions have reduced spring flows. We are concerned that without proper analysis and modeling of spring flow changes, in addition to the Cities' water rights applications (temporary or otherwise), the BLM has failed to disclose real possibilities for impacts on the dace. That failure has significant implications on mitigation.

The BLM failed to require mitigation on the impacts to the relict dace. Instead, the EIS offered that "monitoring" would occur. The Project EIS asserts: "If there is significant change noted during this monitoring Newmont would inform BLM of the changing conditions and the BLM would then determine if a working group is necessary to develop a management strategy". Of course, NEPA requires actual mitigation, not just monitoring, not Newmont's determination of what constitutes "significant change", not whether significant change was "noted" by Newmont, not the formation of a working group, and not a potential future strategy that has no defined thresholds, triggers, or timeframes. It would all supposedly happen after the FEIS and ROD are approved. BLM has entrusted Newmont with the entire matter of monitoring, reporting of significant changes, and thus the initiation and formation of the working group and management strategy.

Prior to the approval of the FEIS and ROD, the BLM must require actual mitigation. We offer that mitigation can certainly be informed by monitoring, but a monitoring plan with defined parameters of significant changes, thresholds, triggers, and timeframes must be prepared and approved prior to the Project approval.

IV. The BLM Failed to Disclose Impacts on Water Resources and Require Proper Mitigation for Water Resources

We are concerned that the BLM has also failed to disclose impacts on water resources. The FEIS stated that the "Perennial yield . . . for groundwater [in Goshute Valley hydrographic basin] is 11,000 AFY. Currently permitted and certified rights total 11,548.69 AFY after adjusting the total for supplemental rights." This corroborates the Nevada State Engineer's finding that Goshute Valley is over-allocated, or at its allocation limit. On February 20, 2015, the Cities of Wendover and West Wendover applied for 1,428 AFY in Goshute Valley (Section 21 T35N R66E) for municipal use, they applied for several changes in groundwater applications, use, and points of diversion for municipal use of groundwater at Section 21 T35N R66E, and on February 26, 2015, the Cities applied for a change application at a point of diversion of Section 13 T36N R66E for mining and milling purposes. On March 13, 2015, the Cities applied for temporary underground water rights in the amount of 28.96 cfs, or roughly 20,678 AFY at Section 21 T35N R66E. These potential water rights and uses (and temporary use change applications) have potentially very significant impacts, especially for the relict dace.

The Cities' changes in water rights are a part of the Project and clearly tied to Newmont's water use for the Project. However, the FEIS failed to analyze and disclose certain impacts associated with these water rights changes (change applications or new water right applications). The FEIS admitted that if new wells and if all present water rights were used in Goshute Valley, the perennial yield would be exceeded. The FEIS failed to indicate that this would constitute groundwater mining. Groundwater mining is illegal in the State of Nevada. The FEIS then went on to assert that the cumulative impacts on water resources would be "negligible to minor." In the FEIS' own admission, a major and "significant" effect is one where "an impact is not in compliance with applicable regulatory standards and thresholds." An effect is also "significant" if "there are profound or complete changes in management or utilization of the resource." That said, we are concerned that the FEIS did not properly analyze and disclose water resource impacts (direct, indirect and cumulative) that are part of or connected to the Project.

In conclusion, the BLM is proceeding at an incredibly rapid pace, even though it made a commitment to the CTGR to wait until the tribal issues were resolved. Unfortunately, this is a continued pattern of a breach of trust responsibility, which the United States Supreme Court has described as a legal and moral obligation of the most exacting fiduciary standard. Consultation has not been conducted properly, and full disclosure and mitigation have not been addressed. There has been a pattern of blatant disregard for all CTGR's interests and the consultation process mandated by law, which amounts to a breach of trust responsibility.

Because of the expedited timelines, CTGR has not been afforded the full opportunity to address all of the BLM concerns. BLM committed to give CTGR more time to address tribal issues, however, such commitment was not honored. Thus, CTGR

fully reserves the right to submit more information in future memorandum or legal pleadings to address BLM's allegations.

Sincerely,

Madeline Greymountain, Chairwoman

cc: Tribal Council, CTGR
Paul Echo Hawk, Tribal Attorney
Paul Tsosie
Dr. Monte Sanford

EXHIBIT 10

MEMORANDUM OF UNDERSTANDING
for
INFORMATION SHARING
between the
CONFEDERATED TRIBES OF THE GOSHUTE RESERVATION
and the
ELKO DISTRICT OFFICE OF THE BUREAU OF LAND MANAGEMENT

This Memorandum of Understanding is made by and between the Confederated Tribes of the Goshute Reservation ("Tribe") and the Elko District Office of the Bureau of Land Management ("BLM").

RECITALS

WHEREAS, the National Historic Preservation Act ("NHPA") provides in part:

> **§ 302701 Program to assist Indian tribes in preserving historic property**
>
> (a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program and promulgate regulations to assist Indian tribes in preserving their historic property.
> (b) COMMUNICATION AND COOPERATION.—The Secretary shall foster communication and cooperation between Indian tribes and State Historic Preservation Officers in the administration of the national historic preservation program to—
> (1) ensure that all types of historic property and all public interests in historic property are given due consideration; and
> (2) encourage coordination among Indian tribes, State Historic Preservation Officers, and Federal agencies in historic preservation planning and in the identification, evaluation, protection, and interpretation of historic property.
> (c) TRIBAL VALUES.—The program under subsection (a) shall be developed in a manner to ensure that tribal values are taken into account to the extent feasible. The Secretary may waive or modify requirements of this subdivision to conform to the cultural setting of tribal heritage preservation goals and objectives.
> (d) SCOPE OF TRIBAL PROGRAMS.—The tribal programs implemented by specific tribal organizations may vary in scope, as determined by each Indian tribe's chief governing authority.
> (e) CONSULTATION.—The Secretary shall consult with Indian tribes, other Federal agencies, State Historic Preservations Officers, and other interested parties concerning the program under subsection (a).

Comment [HBS1]: Delete

Comment [CPR2]: This is the only one I would keep and I would paraphrase it to take out SHPO, since they aren't signing this.

Comment [HBS3]: Delete

54 U.S.C. § 302701. And, where a "historic property" is defined as:

§ 300308 Historic property

In this division, the term "historic property" means any prehistoric or historic district, site, building, structure, or object included on, or eligible for inclusion on the National Register, including artifacts, records, and material remains relating to the district, site, building, structure, or object.

54 U.S.C. § 300308.

WHEREAS, paragraph (a) above only mentions "historic property" which are those defined as being "eligible for inclusion on the National Register. The National Register Bulletins all use criteria to evaluate a resource for listing on the National Register. Native People did not develop these evaluation criteria, and they were not developed for Native People. These criteria do not reflect the cross-cultural Tribal sensitivity necessary to "assist Indian Tribes in preserving their particular historic properties." Therefore, the criteria outlined in the National Register Bulletins should not be the only criteria used for consideration of the importance of all cultural resources.

WHEREAS, the Tribes propose that a separate ethnographic document be developed entitled "*Tribal Values*" that could be used as a supportive document for this MOU. This document would include the baseline and contemporary ethnographic data necessary to provide for a cross-cultural discussion of Tribal Values as they pertain to the identification evaluation of all natural and cultural resources. This document would provide a much-needed Tribal perspective, which is currently lacking in the National Register Bulletins.

WHEREAS, the United States and it administrative agencies, including the BLM have a trust responsibility to protect and safeguard tribal interests, including but not limited to Tribal cultural resources; and

WHEREAS, the BLM recognizes the historic and traditional interests of Indian tribes in lands and resources potentially affected by BLM's decisions, and seeks to afford these tribes and groups adequate participation in BLM's decision-making process; and

WHEREAS, the BLM may enter into agreements with Indian tribes to facilitate the sharing and maintaining information and records related to cultural resources in a secure manner consistent with applicable Federal laws and regulations; and

WHEREAS, the BLM is the sole federal agency responsible for collecting and maintaining cultural resource information from lands it manages; and

WHEREAS, by law and tradition the Tribe has a significant interest in the proper management and preservation of certain cultural resources, and these interests are best served by the open sharing of cultural resources information that is part of the subject of this MOU; and

Comment [CPR4]: I think it's okay to keep this piece as a separate whereas.

Comment [CPR5]: Maybe instead of the language they have proposed here, copy out of the national PA the section on Indian Tribes with the (1), (2), (3) and (4) pieces that indicate how tribes can assist.

Comment [HBS6]: Agree with Ranel. Delete and add language from nPA as suggested.

Comment [CPR7]: I think it's great that they want to develop and provide such a document to support the MOU. We assume that BLM would, of course, not be required to pay for the development of this document.

Comment [HBS8]: Delete.

Comment [CPR9]: The tribe seems to have been very careful not to use the term trust asset (as in public lands / cultural resources are NOT trust assets according to our 8120 and handbook), but they use the words trust responsibility. I worry about the term "tribal interests" being used in lieu of trust assets?

Comment [HBS10]: Agree with Ranel. I would delete this Whereas, as BLM holds no trust assets per se.

Comment [CPR11]: Maybe call out the NEPA process here, so it is tied to the decisions we make through that.

WHEREAS, by law and tradition the Tribe has a significant interest in the proper management and preservation of all natural resources within their aboriginal territories, and these interests are best served by the open sharing of information that is part of the subject of this MOU.

Comment [HBS12]: Agreed. Delete.

Comment [CPR13]: This MOU is about cultural resources, not natural resources. I would strike this, else you need to make this broader and determine how the Tribe will interact with other programs.

I. Purpose

Archaeological material, information, and data are invaluable cultural resources of the Confederated Tribes of the Goshute Reservation ("Tribe"). The location and undisturbed state of these areas in the Tribes' aboriginal territory and directly connected to the Tribes' culture and traditions. These areas and materials are sacred and should be protected and preserved. The Federal Government has a trust responsibility to protect these resources and share this information with the Tribes because they resources are directly connected to the practice and preservation of tribal culture, religion, and ceremonies. The Tribes and the Elko District Office of the Bureau of Land Management ("BLM") desire to establish a process and procedure to allow for the free exchange and security of otherwise confidential (exempt from the Freedom of Information Act as per 16 U.S.C. § 470) information between the Tribe and the BLM.

Comment [CPR14]: This is interesting.

Comment [HBS15]: Agree with Ranel. We need to be careful here, as laws and regulations call out areas and items of 'cultural and religious significance', which do not pertain to many types of material items such as subsistence remains, lithic scatters etc. It is understood that some tribes consider any and all items "sacred", but under the law and regulation not all items are treated as such.

Comment [CPR16]: Preservation is not guaranteed under the laws we manage lands under.

Comment [CPR17]: I would disagree. This sentence is too generic tied to the Federal Government. Watch that and make it just for BLM.

II. Background

Since time immemorial, the people of the Tribe have lived on the lands that are now owned by the Federal government and managed by the BLM. Both the Tribe and the BLM (hereinafter referred together as "the Parties"), have a vested interest in the best management of all aspects of the lands and its resources. Further, the Tribe has a continued interest in maintaining knowledge of those resources for purposes of consultation, protection of the Tribe's history and culture, and the continuation of the Tribe's culture and traditions.

As part of the BLM's legal responsibilities, government-to-government consultation and information sharing are not only required, but a necessary part of land management practices and cultural protection and preservation. This legal responsibility is outlined in numerous laws, rules, regulation, executive orders, and federal manuals. The BLM is directed to maintain open lines of communication on all projects, providing proper opportunities for the Tribe to provide input, reviews, and evaluations on all projects proposed on or affecting BLM-administered public lands.

As these BLM-administered lands are part of the aboriginal territories of the Goshute people, it is the sovereign right and responsibility of the Tribal government and its administration to be knowledgeable about all projects on these lands, to keep the Tribal community aware of these activities, and to have a clear and informed voice in the types of analysis needed as well as defining potential adverse effects to all resources of importance to the Tribal community.

For informed decision-making by the Tribal government and its staff, to allow the Tribal community to maintain their immemorial connection to their aboriginal territories, and for the Tribe to maintain and manage the historical knowledge of their people, the Tribe seeks to have access to any relevant data collected and/or held by the BLM. The BLM and its agents are not qualified to adequately substitute for Tribal leaders, elders, monitors, and representatives in

Comment [CPR18]: I would not include these words. They can provide input, but they do not review or evaluate projects or BLM decisions.

Comment [CPR19]: Here is where they will hang their hat on doing tribal surveys in the future.

Comment [CPR20]: I see this as a federal agency responsibility, not a tribal one.

Comment [HBS21]: Agree with Ranel on comment above. BLM can seek tribal input on final decisions of potential adverse effect, which the decisions are BLM's (with tribal input).

Comment [CPR22]: A lot of these words are too loaded.

Comment [CPR23]: This seems to be more than just for cultural resources. I would make a decision whether this MOU is just for cultural resources or is it for all resources that BLM manages. This statement might also provide a problem similar to what Stan has been involved in – one tribe wanting the data from another tribe's homeland area.

Comment [HBS24]: Yes, too broad of a statement. Needs to be changed or deleted.

Comment [CPR25]:

possessing, understanding, interpreting, documenting, and analyzing cultural resources and archaeological items and data relating to the Tribe and tribal ancestors.

Much of the culturally sensitive data, including but not limited to cultural resource data and confidential tribal ethnographies, are defined as exempt from the Freedom of Information Act (FOIA), and cannot be delivered directly to the Tribe for their use. To allow for the exchange of information from the BLM to the Tribe, the Federal Government has defined the use of a Memorandum of Understanding for Information Sharing (MOU) as the appropriate legal instrument to comply with the law and the Government's trust responsibility owed to the Tribe.

Comment [HBS26]: Agree with Ranel. I would delete this sentence.

Comment [CPR27]: This statement makes me very concerned that the tribe might start saying archaeologists can't determine eligibility of any prehistoric site without their input. I'm not sure we can go there.

Comment [CPR28]: Culturally sensitive how? So as to preclude sharing data with SHPO?

Comment [HBS29]: No. MOU'sa re not legal documents. They are hand-shake agreements. Only MOA's and PAs are legally binding.

The MOU defines the purpose for the data sharing need, the types of data to be shared, and the methods in which the data will be secured and utilized by the Tribe.

III. Authorities – *Consultation and Coordination*

Consultation and coordination with Indian Tribes is required by federal statute and is articulated through Executive Orders. For example, statutes of particular relevance include:

- National Historic Preservation Act (NHPA – PL 113-287, An Act to enact Title 54 "National Park Service and Related Programs") (formerly 16 U.S.C. §470 *et seq*)
- The National Environmental Policy Act (NEPA - Pub.L. 91-190)
- The Federal Land Management and Policy Act (FLMPA - (Pub.L. 94–579)
- American Indian Religious Freedom Act (AIRFA - 42 U.S.C. §§1996 and 1996a)
- Archaeological Resources Preservation Act (ARPA - 16 U.S.C. §470aa-mm)
- Native American Graves Protection and Repatriation Act (NAGPRA - 5 U.S.C. § 3001 *et seq.*).

Applicable Executive Orders include:

- Executive Order 11593 – Protection and Enhancement of the Cultural Environment
- Executive Order 12898 – Federal Actions to Address Environmental Justice in Low Income and Minority Populations
- Executive Order 13007 – Indian Sacred Sites
- Executive Order 13175- Consultation and Coordination with Indian Tribal Governments.

Other documents under which the BLM is accountable to consultation with tribal governments include, but are not limited to:

- 36 CFR 800.1a – Purposes of the section 106 process, 800.2(a)(4) – Participants in the Section 106 process
- BLM Manual 8120 – Tribal Consultation Under Cultural Resources
- State Protocol Agreement between The Bureau of Land Management, Nevada and The Nevada State Historic Preservation Office for Implementing the National Historic Preservation Act, Revised January 2012
- Programmatic Agreement Among the Bureau of Land Management, the Advisory Council on Historic Preservation, and the National Conference of State Historic

Preservation Officers Regarding the Manner in Which the BLM will Meet its Responsibilities Under the National Historic Preservation Act, February 2012

IV. Statement of Mutual Interests and Responsibilities

The Tribe and BLM are Signatory Parties to this Memorandum of Understanding. The Parties share a common interest in and responsibility for the stewardship and enhancement of the environment. The Parties also share a common desire to foster a strong working partnership, through effective coordination, collaboration, open and timely communication, and the meaningful consideration of Tribal interests and priorities as they pertain to the management of the aboriginal territories of the Tribe now managed by the BLM. Although located on federally managed public land, the water, air, land, animal, historic, and all other resources therein are of the utmost significance to the Tribe and accordingly deserve careful, thoughtful, and collaborative management.

Comment [CPR30]: Again, they bounce back and forth between just dealing with cultural resources and other times citing all resources. Pick one or the other.

The Tribe views the continued availability and use of resources within their aboriginal territory as critical to perpetuating their culture and identity as a people. The land and its resources serve a purpose unique to the Tribal understanding, and allow the Tribal people to maintain and perpetuate their cultural life-ways rooted in their land since time immemorial. The Tribe understands, and the BLM respects, that the land and its resources connect the Tribe to all things and that the land must be conserved and protected.

Comment [CPR31]: Do they have treaty rights? If not, then this statement seems to imply they could go out and hunt on BLM land without a license, etc.

Comment [CPR32]: The BLM cannot conserve and/or protect everything. We understand the Tribe's connection with the land…however BLM must manage the land for many uses.

Comment [HBS33]: . I would delete. And again it references more than cultural resources.

The Parties recognize that Tribal cultural continuity is tied to the natural and cultural resources within their aboriginal territory. Therefore, this agreement is much more than a piece of paper. It is also an instrument to acknowledge the Goshute Tribal historical legacy and their respect for the land. The Tribe is bound to the land and its resources with a time immemorial connection. In all areas of the Tribe's aboriginal territory, cultural and other natural resources connect Tribal people to the significance of resources and places. The people of the Tribe have the capacity to re-establish lost historical and cultural connections with places based on cultural and natural resource discoveries. Accordingly, sharing of information important to the Tribe is needed to develop accurate cultural contexts of resources and cultural sites. Tribal interpretations of cultural and natural resources are essential to properly document the significance of resources and sites.

Comment [HBS34]: The reasons for the agreement have already been said several times above. Should delete.

The BLM is a federal land-management agency bound by a duty and obligation to the greater community, and in this MOU specifically, to the Tribe to be a responsible management agency and provide prudent and responsible stewardship of the Tribe's aboriginal territory. That stewardship will be strengthened and ultimately successful only with the concerted and direct involvement and assistance of the Tribe.

Comment [CPR35]: Delete. Not needed. This is a Data Sharing agreement.

This Agreement, entered into between the Parties, memorializes both the processes for Data Sharing, and the commitment of the Parties to consult, share information, and work directly for the benefit of the lands and resources of concern.

Comment [HBS36]: I would say "MOU", and make sure it says MOU consistently throughout the document. "Agreement" usually refers to either an MOA or a PA, which this MOU is neither.

It is, therefore, in the interest of both Parties, through this MOU, to clarify protocols and procedures for Data Sharing, to facilitate effective communication, between the Parties and to outline their roles and responsibilities.

STIPULATIONS

I. The BLM shall ensure that the following measures are carried out for sharing of FOIA Exempt information (cultural resource, ethnography, and/or any other information that has Tribal Value (hereinafter "cultural information")):

A. BLM will provide the Tribe, through the Tribal Chair or Tribal Representative designated by the Tribal Council, with access to BLM Elko District Office cultural information, consistent with applicable federal laws, as follows:

1. Upon a written request from the Tribal Chair or Tribal Representative for specific cultural information, the BLM will provide the Tribe with one electronic copy and one paper copy of the relevant cultural information for the Tribe's use. At the Tribe's request either a paper or electronic copy may be sent.
   a. The BLM will maintain a log of documents provided to the Tribe through this MOU. This log will be made available upon a written request to the Tribe within thirty (30) days written notice.
   b. The Tribe bears no responsibility to the BLM for the cost of BLM providing information within BLM's possession to the Tribe under this MOU.
   c. As the lead agency, the BLM shall make sure that all cultural information generated by or specifically for the BLM meets applicable BLM standards.
   d. Any sharing of cultural information by the BLM with the Tribe through this MOU is subject to applicable Federal and Tribal laws and regulations pertaining to the confidentiality of such information.
   e. Upon written request to the BLM from the Tribe, BLM will maintain the confidentiality of specific information received from the Tribe, and recognize the intellectual property rights of Tribal people as noted under Stipulation IV, consistent with applicable Federal and Tribal laws and regulations.

2. Non government-to-government (staff-to-staff) information sharing
   a. BLM will formally designate a BLM representative to work with a Tribal representative to further cultural information sharing. BLM and the Tribe will also designate a legal representative to be available to address legal issues and questions that may arise.
   b. BLM will notify the Tribal Chair and Tribal representative within ten (10) working days of any change in the designated BLM representative.

II. The Tribe shall ensure that the following measures are carried out:

Comment [HBS37]: Delete.

Comment [HBS38]: Careful! This MOU should come with a boundary map that establishes the Goshute aboriginal territory, which in fact is not all that large within the state of Nevada. Only those documents located within that boundary should be made available to the Goshute Tribe, otherwise other tribes and bands might take offense that the Goshutes are intruding in their aboriginal territory. Further, I would tie the exchange of information on a case-by-case basis through the NEPA/Project applications process, rather than simply "the BLM will make copies of any project reports ever completed within their aboriginal lands within 30 days", which is what the draft MOU states now!

Comment [CPR39]: Electronic copies are easy to share. However printing costs are extremely expensive and should be shared costs.

Comment [HBS40]: We already have this mandate through the Protocol. This is not the place to put such a statement. Delete.

Comment [CPR41]: Maybe make #1 G2G and #2 nonG2G?

Comment [CPR42]: A solicitor?

A. Sharing of FOIA Exempt information (cultural resource, ethnography, and/or any other information that has Tribal Value (hereinafter "cultural information")):

1. The Tribe agrees to maintain the confidentiality of records containing any cultural information received from the BLM under this MOU by ensuring all information is kept in a centralized secure location, with access limited to the Tribal Chair and a designated Tribal representative(s) for purposes as designated by law. The Tribal Council may authorize access to other internal Tribal staff or legal representative if the Council deems it necessary to protect and further Tribal interests. The Council may appoint more than one authorized Tribal representative if the Council deems it necessary under the circumstances.

2. The Tribe agrees that the cultural information provided by the BLM will not be duplicated or shared outside of the Tribe except where the Tribal Council determines by resolution that duplication and/or sharing outside the Tribe is important to protect and further important Tribal interests.

B. Non government-to-government consultation

1. The Tribe agrees to cooperate with the BLM and to consult with the BLM on specific land-use proposals in a timely manner and to ensure that the Tribe shares relevant cultural and other resource information with the BLM in a timely manner.

2. The Tribe will appoint a Tribal representative, who will have the authority to represent the Tribe in implementing this MOU and the primary responsibility for maintaining the records received under this Memorandum in a secure locked file.

3. Because the Tribal representative may vary depending on proposed projects, the Tribe agrees to notify the BLM of the Tribal representative as the occasion arises.

4. The Tribe agrees to notify the BLM within ten (10) working days of any change in the designated Tribal representative on a project-specific basis.

III. Joint Responsibilities

A. The BLM and the Tribe agree to cooperate in the consultation process to identify Tribal concerns related to archaeological resources and to properties of religious and cultural importance potentially affected by specific proposed Federal actions and to work together to develop alternatives to address such effects.

B. The BLM and the Tribe agree to work cooperatively to protect archaeological sites and properties of religious and cultural importance on lands administered by BLM.

Comment [CPR43]: Delete

Comment [CPR44]: I don't believe there can be any exceptions for sharing outside the Tribe.

Comment [HBS45]: Agreed. The tribe should not have the sole authority to authorize this type of sharing because under the law and regulation the responsible person who is held legally liable for the protection of historic properties is the Authorized Officer of the federal agency, in our case either the FM and/or DM.

Comment [AW46]: 30 days? This should be defined as a specific timeframe.

Comment [CPR47]: Maybe need to include that the BLM still has the decision making authority.

Comment [CPR48]: I would use the avoid, minimize, mitigate phrasing here rather than protect.

IV. Intellectual Property Rights of Tribal People

A. The BLM understands that, initially, all the data they receive from any source, including but not limited to the Tribe, will remain the Tribe's intellectual property until either party has given BLM permission to release any portion or all of it. This understanding pertains to notes, documents, emails, photographs, recordings, maps, GPS data, and any other information collected from the informants or Tribe.

Comment [CPR49]: I do not think we can agree to this. The data belongs to BLM. This statement could effectively preclude BLM from sharing data with the SHPO.

Comment [HBS50]: Agreed. Delete. We cannot agree to this.

Comment [HBS51]: This decision is the Authorized Officer under law and regulation.

V. Modification, Termination, and Remaining Authority, Rights and Legal Responsibilities

A. This MOU may be amended as necessary through mutual written agreement of the BLM and the Tribal Chair with approval of the Tribal Council by resolution.

Comment [HBS52]: Watch this wording. This could be interpreted that ultimately only a tribal council resolution can amend the MOU.

B. Either party to this MOU may terminate the same upon written notice from the BLM to the Tribal Chair or from the Tribal Chair to the BLM. Before terminating this MOU, the decision-makers for the parties agree to meet face-to-face to disclose and discuss the specific reasons for termination and attempt in good faith to resolve any concerns.

C. Unless terminated by written notice, this MOU shall be reviewed at least every ten (10) years. The BLM and Tribal Chair must mutually agree upon any renewal in writing with the approval of the Tribal Council by resolution.

D. Any changes in Tribal chairpersons, BLM managers, or designated BLM or Tribal representatives do not constitute revisions or modifications to the terms of the MOU.

E. This MOU shall not limit or affect in any way the authority, rights, or legal responsibilities of the Tribe or of the BLM.

F. This MOU shall not be used in any way to prejudice or harm the Tribe, Tribal interests, Tribal resources, Tribal rights, and Tribal people. Nothing in this MOU constitutes an implied or express waiver of Tribal sovereign immunity.

Comment [HBS53]: Tricky wording; I would avoid stating this.

VI. Non-Funding Obligating Document

Nothing in this MOU shall obligate any signatory to obligate or transfer funds unless provided for within the specific recitals of this MOU. This MOU does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.

VII. Third Parties

This MOU is not intended to and does not create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by any party against the United States, its agencies, its officers, or any person.

VIII. Administrative Provisions

A. This MOU takes effect upon the signature of both parties and shall remain in effect for ten (10) years. This MOU may be extended or amended by mutual agreement in writing signed by both parties.

B. Any changes in Tribal Chairperson, Tribal representative, BLM District Manager, Field Managers, or representative do not constitute revisions or modifications to the terms of this MOU.

C. This MOU shall not limit or affect in any way the authority, rights, or legal responsibilities of the Tribe or the BLM.

SIGNATORY PARTIES:

CONFEDERATED TRIBES OF THE GOSHUTE RESERVATION ("Tribe")

By: _____ Date: _____

Title: _____

BUREAU OF LAND MANAGEMENT, ELKO DISTRICT ("BLM")

By: _____ Date: _____

Title: _____

ELKO DAILY FREE PRESS
elkodaily.com

EXHIBIT 11

LONG CANYON

LONG CANYON IS A GO

Long Canyon is a go: BLM approves plans for mine east of Wells

6 HOURS AGO • MARIANNE KOBAK MCKOWN
MKOBAK@ELKODAILY.COM

ELKO – The Bureau of Land Management gave Newmont Mining Corp. an early 50th anniversary present with the approval of the Long Canyon Mine.

The BLM issued the project's record of decision Wednesday.

The mine site is about 30 miles east of Wells on the eastern side of the Pequop Mountain Range in Elko County and about five miles south of Interstate 80 at the Oasis exit.

"We are very excited to have received the record of decision for our Long Canyon project," said Newmont Director of External Relations Mary Korpi. "This important milestone is due to the efforts of the Newmont Long Canyon team, the work of our federal and state regulatory agencies and the support of key stakeholders. Long Canyon will be an important asset for Newmont, Elko County, our local cities and the state of Nevada."

Newmont Regional Environmental Affairs Manager Dan Anderson said after the company receives the authorization to proceed from state and federal agencies "assuring the reclamation surety is in place, Newmont will start issuing contracts for initial construction activities in the coming months."

"This includes vegetation clearing, topsoil stockpiling, and preparation of the pit and site facilities," he said.

Newmont said the first phase of the development will consist of an open pit mine and heap leach with expected gold production of 100,000 to 150,000 ounces each year over an eight-year mine life. The company expects the all-in sustaining costs of production to range between $500 and $600 per ounce. At current gold prices, the mine is expected to generate about $100 million annually, starting in 2017.

Construction will employ about 300 people and the mine should employ almost 300 people during operations.

"Taking a phased approach to developing Long Canyon gave us the means to lower development capital to between $250 million and $300 million; generate an internal rate of

return of about 17 percent at current gold prices; and reduce the payback period to just over four years after first commercial production, which we expect to reach in the first half of 2017," said Gary Goldberg, president and chief executive officer. " I'm confident that we have the engineering, ore body knowledge and community agreements in place to deliver this project safely, on time and on budget."

The deposit is about three miles in length and 2,500 feet at its widest in the proposed mine plan, Anderson said previously. It is high-grade oxide ore, about three-quarter ounce per ton, and the end of the mineralization has yet to be found.

Public Reaction

Newmont employees weren't the only people excited about the approval of the new mine.

Wells City Manager Jolene Supp said the approval was "fantastic" for the city.

"We are excited to work with Newmont," she said. "Wells and Wendover are trying to position themselves with the growth of mining in Elko County."

Elko County Commission Chairman Demar Dahl, who represents Wells and the surrounding areas and used to own part of the site property, expects the mine to be a significant economic boon.

"I think it's a great project," he said. "I'm glad they finally got the go ahead. It's so important to the economy, to Elko County, and to the state as far as that goes. There will be a lot of good jobs that come out of it."

Once in production, the mine will provide added revenue to county coffers.

"A lot of the mines here fall into Eureka County, so it sees more of the net proceeds (tax money)," said Rob Stokes, Elko County manager. Long Canyon, however, is located within the county borders.

Earlier this year, the county discussed earmarking a portion of tax money collected from Long Canyon to upgrade and maintain certain county roads that receive high volumes of traffic.

"The county has a long history of supporting mining and we're excited to see expansion in that area," Stokes added.

Assemblyman John Ellison, R-Elko, called the announcement "great news" and said he looked forward to working with all the involved parties as the project progresses.

Elko County School District Superintendent Jeff Zander said the approval of the project looks hopeful in terms of more local wealth in the future.

"That's all good news for the school district," Zander said.

The district has already made strides to prepare for an influx of students in the area, including an expansion to the Wells school and an upcoming new elementary school in West Wendover.

"Both those projects are directly a result of the idea of Long Canyon coming in," Zander said.

The school board is scheduled to award a bid for the West Wendover elementary project at its meeting Tuesday.

Elko Mayor Chris Johnson said the news was huge for Elko County and the state of Nevada.

"I think for a sustainability side for northeastern Nevada ... we're going to have a solid economy for decades to come," he said. "It provides a tremendous amount of opportunity for Elko County."

Alternative Plan

A mine's impact on the environment is always an important topic for state and federal agencies, and Long Canyon was no different.

The BLM selected the North Facilities Alternative plan, which included environmental protection measures.

"The North Facilities Alternative was designed in response to environmental issues raised during internal and external scoping for the project," BLM stated.

The Pequop Mountains and adjoining valley provide habitat to an array of wildlife, from raptors to elk and bats to fish, according to the Nevada Department of Wildlife.

NDOW Education Coordinator Joe Doucette said the mine will be a major disturbance, but no species will be critically affected as much as mule deer and sage grouse.

As a significant north-south mule deer corridor, twice a year a stream of deer pass through. And sage grouse leks are found on nearby flats. Meadows are used by the chicken-sized birds for brood rearing.

As part of the permitting, Newmont agreed to address mule deer concerns with "adaptive management" measures. Doucette said the mine will monitor mule deer activity and adapt the operation if there is an impact.

Newmont will mitigate sage grouse disturbance by paying into a fund that can be used for habitat restoration.

The U.S. Fish & Wildlife Service is in the process of determining whether sage grouse will be listed as endangered or threatened under the Endangered Species Act. Loss of habitat is the driving concern for the agency.

"We worked fairly closely with Newmont and the BLM to address wildlife concerns," Doucette said, "and we were happy to be a part of the process."

The alternative plan moved the mine's buildings away from Big Springs, which supplied about one-third of West Wendover's drinking water, and will create a 2,500-foot mule deer migration corridor. The alternative plan had previously been selected as the environmental preferred plan, according to Anderson.

The permitting process for Long Canyon has moved faster than other mines in the past. Some previous mines took seven to 10 years to go from planning to a record of decision being issued. Newmont acquired Long Canyon from Fronteer Gold Inc. in April 2011. The

draft EIS for the mine was published in April 2014 and the final EIS was issued in January.

"State and Federal permit approval and authorizations proceeded in timely fashion generally meeting Newmont's schedule for construction in 2015," Anderson said.

Dahl believes the length of time it took to green light the mine would have been reduced if the federal government wasn't overseeing the endeavor.

He has actively worked with state and national representatives to introduce bills calling for a land transfer.

"It's going to be a good thing when we get the land transferred to the state and these types of projects will be approved by the state," he said. "It's certainly going to help speed things up and make the process more efficient."

Anderson said the company's original plan was better economically, but the alternative plan "eliminates a lot of hassle."

According to the BLM, the associated disturbance will be about 1,707 acres of public land, including 480 acres of split estate lands of federal surface and private subsurface.

The Notice of Availability for the Long Canyon Mine Project Final EIS was published in the Federal Register on Jan. 9, 2015, initiating a minimum 30-day public availability period. The FEIS is available online at http://on.doi.gov/1xYFnbB.

This decision may be appealed to the Interior Board of Land Appeals (Board), U. S. Department of the Interior (DOI) Office of Hearing and Appeals in accordance with the regulations contained in 43 CFR, Part 4.

Free Press writers Dylan Woolf Harris, Elaine Bassier and Heather Kennison contributed to this article.

Nevada Division of Water Resources

EXHIBIT 12

Monthly Report

Monthly Report For The Month of: February 2015 Run Date: 5 May 2015

APP NO.	DATE	CHG	BASIN	OWNER NAME	SOURCE	DESCRIPTION	CO	DIV RATE	MOU	POINT OF DIVERSION SEC	TWN	RNG
84852	Feb-20		187	CITY OF WENDOVER	UG		EL	2.00	MUN	21	35N	66E
	Feb-20		187	CITY OF WEST WENDOVER	UG		EL	2.00	MUN	21	35N	66E
	Feb-20		187	WENDOVER-CITY	UG		EL	2.00	MUN	21	35N	66E
	Feb-20		187	WEST WENDOVER-CITY	UG		EL	2.00	MUN	21	35N	66E
84853	Feb-20	49423	187	CITY OF WENDOVER	UG		EL	2.00	MUN	21	35N	66E
	Feb-20	49423	187	CITY OF WEST WENDOVER	UG		EL	2.00	MUN	21	35N	66E
	Feb-20	49423	187	WENDOVER-CITY	UG		EL	2.00	MUN	21	35N	66E
	Feb-20	49423	187	WEST WENDOVER-CITY	UG		EL	2.00	MUN	21	35N	66E
84854T	Feb-20	49423	187	CITY OF WENDOVER	UG		EL	1.00	MUN	21	35N	66E
	Feb-20	49423	187	CITY OF WEST WENDOVER	UG		EL	1.00	MUN	21	35N	66E
	Feb-20	49423	187	WENDOVER-CITY	UG		EL	1.00	MUN	21	35N	66E
	Feb-20	49423	187	WEST WENDOVER-CITY	UG		EL	1.00	MUN	21	35N	66E
84855T	Feb-20	49423	187	CITY OF WENDOVER	UG		EL	1.00	MUN	21	35N	66E
	Feb-20	49423	187	CITY OF WEST WENDOVER	UG		EL	1.00	MUN	21	35N	66E
	Feb-20	49423	187	WENDOVER-CITY	UG		EL	1.00	MUN	21	35N	66E
	Feb-20	49423	187	WEST WENDOVER-CITY	UG		EL	1.00	MUN	21	35N	66E
84872T	Feb-26	78451	187	CITY OF WENDOVER	UG		EL	0.80	MM	13	36N	66E
	Feb-26	78451	187	CITY OF WEST WENDOVER	UG		EL	0.80	MM	13	36N	66E
	Feb-26	78451	187	WENDOVER-CITY	UG		EL	0.80	MM	13	36N	66E
	Feb-26	78451	187	WEST WENDOVER-CITY	UG		EL	0.80	MM	13	36N	66E

Nevada Division of Water Resources

Monthly Report

Monthly Report For The Month of: March 2015 Run Date: 5 May 2015

APP NO.	DATE	CHG	BASIN	OWNER NAME	SOURCE	DESCRIPTION	CO	DIV RATE	MOU	POINT OF DIVERSION SEC	TWN	RNG
84958T	Mar-13	78451	187	CITY OF WEST WENDOVER, NEVADA; CITY OF WENDOVER, UTAH	UG		EL	28.96	MUN	21	35N	66E
84959T	Mar-13	78451	187	CITY OF WEST WENDOVER, NEVADA; CITY OF WENDOVER, UTAH	UG		EL	0.00	MUN	21	35N	66E
84960	Mar-13	44007	187	T I RANCHES, LLC	UG		EL	0.01	STK	01	29N	63E