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Ref: EPR-N

Mr. Paul Bradford, Supervisor
Kootenai National Forest
31374 U.S. Highway 2 West
Libby, Montana 59923-3022

Mr. Richard Opper, Director
Montana Department of Environmental Quality
Post Office Box 20091
Helena, Montana 59620-0901

James I. Winters
United States Army Corps of Engineers
Bismarck Regulatory Office
1513 South 12th Street
Bismarck, North Dakota 58504

Re: Draft Environmental Impact Statement for the Montanore Project (CEQ #20090048)

Dear Mssrs. Bradford, Opper, and Winters:

In accordance with Section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4332(2)(C), Section 309 of the Clean Air Act, 42 U.S.C. § 7609, and the Council on Environmental Quality (CEQ) regulations, 40 CFR Parts 1500-1508, the United States Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the Montanore Project (a proposed copper and silver mine in the Kootenai National Forest (KNF)) and offers the following comments.

EPA's review has identified potential adverse environmental impacts from the KNF's preferred mine alternative (Alternative 4, Agency Mitigated Little Cherry Creek Impoundment Alternative) that are of sufficient magnitude that EPA believes the preferred mine alternative must not proceed as proposed. Our principle objections are that Alternative 4 may have unsatisfactory and unacceptable impacts to wetlands, water quality, groundwater and stream flows. In particular, we believe the analyses of water quality impacts and potential mitigation measures are inadequate. In addition, the analysis of potential financial assurance measures for mine closure and remediation is also inadequate. Our primary issues are summarized below.

Impacts to Aquatic Resources

The DEIS's impact assessment leads EPA to conclude that Alternative 4 would likely not comply with the requirements of the Clean Water Act (CWA) Section 404(b)(1) Guidelines (Guidelines). In general, these Guidelines do not allow for issuance of a CWA Section 404 permit when there are other practicable alternatives to the proposed discharge that would have less adverse effects on the aquatic ecosystem (40 C.F.R. § 230.10 (a)), when the proposed discharge would violate state water quality standards (40 C.F.R. § 230.10 (b)), or when the proposed discharge will cause or contribute to significant degradation of waters of the United States (40 C.F.R. 230.10 (c)). As discussed below, EPA has significant concerns regarding the alternatives analysis, which includes other alternatives that may reflect less environmentally damaging practicable alternatives, as well as the impacts of the project to the aquatic ecosystem, including impacts to water quality, high quality wetland, riparian and aquatic communities, and threatened species under the Endangered Species Act. If these issues remain unresolved, we believe the issuance of a CWA Section 404 permit would be a candidate for elevation under the 1992 CWA Section 404(q) Memorandum of Agreement between EPA and the Department of the Army regarding dispute resolution.

Alternative 4's impacts to aquatic resources in the project area include the diversion of approximately 1.7 miles of the perennially flowing Little Cherry Creek, as well as the loss of approximately 34 acres of jurisdictional wetlands, 3 acres of other waters of the U.S., and 1 acre of non-jurisdictional wetlands. As noted in the DEIS, most of the impacts to wetlands would be at the Little Cherry Creek Impoundment Site. According to the DEIS, these wetlands were characterized using the Montana Department of Transportation's Montana Wetland Assessment Method (MWAM). Category I, II, and III wetland types were found at the impoundment site[1]. Moreover, the DEIS indicates that the riparian habitat condition index for Little Cherry Creek (which would be diverted under Alternative 4) is considered excellent (DEIS, p. 263) and supports many trout species, including bull trout (which are listed as "threatened" under the Endangered Species Act), directly downstream (DEIS, p. 274).

We reviewed the proposed impacts to aquatic resources, using information contained in the DEIS and obtained during our June 11, 2009 field trip to the project site with representatives of the KNF, the U.S. Army Corps of Engineers (USACE), Montana Department of Environmental Quality (MDEQ), and Montanore Mineral Corporation (MMC). EPA believes that based on the high functions and values of the resources observed and the extent of the direct and indirect impacts associated with Alternative 4, Alternative 4 may result in significant degradation to these important aquatic resources (40 C.F.R. 230.10 (c)).

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[1] The MWAM considers Category I wetlands as exceptionally high quality wetlands and are generally rare to uncommon; Category II wetlands as more common then Category I wetlands, and provide habitat for sensitive plants and animals; and Category III wetlands as more common than Category II or I wetlands, generally less diverse, and are often smaller than Category II or I wetlands (DEIS, p. 692).

In contrast, Alternative 3 (Agency Mitigated Poorman Creek Impoundment Alternative) presents considerably fewer impacts by not requiring a diversion of a perennial stream, and would result in less impacts to wetlands and other waters (i.e., the loss of approximately 10 acres of jurisdictional wetlands, 0.5 acres of other waters of the U.S., and 3.5 acres of non-jurisdictional wetlands). In addition, there are no Category I wetlands impacted under Alternative 3 (the wetlands impacted under this alternative are characterized as Category II and III wetlands). Consequently, it appears that there are practicable alternatives with fewer impacts to aquatic resources than Alternative 4, making it unlikely that the discharges associated with Alternative 4 could be considered as meeting the requirements of the Guidelines (40 C.F.R. 230.10(a)). EPA also notes that although Alternative 3 may have fewer impacts to aquatic resources than Alternative 4, Alternative 3 may also result in significant degradation to important aquatic resources (40 C.F.R. 230.10(c)).

Additionally, Executive Order (EO) 11990 - Protection of Wetlands (May 24, 1977) states that each Federal agency shall take actions to minimize the destruction, loss or degradation of wetlands. The DEIS does not contain any information regarding consideration of EO 11990 by the Federal agencies involved in the Montanore project. The revised or supplemental draft needs to address how the Federal agencies will address EO 11990.

Analysis of Water Quality Impacts and Water Treatment Systems

The DEIS contains insufficient information to assure that beneficial uses of surface and ground water will be protected. Groundwater drawdown due to mine inflows and pumping may result in lake dewatering and reduction of stream baseflow negatively impacting water quality. The limited water quality data presented suggests water quality standards will be exceeded in East Fork Rock Creek, East Fork Bull River, Little Cherry Creek and Libby Creek. Further uncertainty in the geochemical characterization of wastes, water management and treatment, all contribute to outstanding concerns with all of the alternatives presented. Limited mitigation measures and lack of contingencies worsen the potential for detrimental environmental impacts.

We are also concerned that the DEIS appears to inappropriately rely primarily on the water quality standards set in the Montana Board of Health and Environmental Sciences ("BHES") 1992 Order (and confirmed in subsequent permit renewals) for the Montanore Mine's Libby Adit discharges to the Libby Creek drainage. The current project proposal includes several additions to the original project design, including three additional adits and a tailings impoundment. These new project features will likely result in point source discharges to three additional drainages, i.e., Ramsey Creek, Poorman Creek, and Little Cherry Creek. Given these new project features, we suggest that the proposed Montanore project, as presented in the DEIS, should be considered a "new or increased source" (ARM 17.30.702(18)). Consequently, we believe that the DEIS should use current State water quality standards to assess the water quality impacts of the alternative mine proposals, rather than the standards outlined in the original 1992 Order.

The DEIS does not adequately describe the proposed water treatment systems or assesses the potential for elevated metals to occur in runoff, leachate from ore and waste rock, and in seepage from mill tailings. An understanding of the geochemistry of the ore, waste rock, and mill tailings is critical to predicting the proposed action's potential environmental impacts and determining appropriate alternatives and measures to avoid those impacts. Uncertainty regarding future water quality impacts is further exacerbated by the lack of information on water treatment and lack of clarity in the water balance for all conditions that may be encountered. EPA cannot determine whether the mine systems and procedures will prevent groundwater or surface water contamination, and consequently, the proposed action could result in unmitigated exceedances of the water quality standards on a long-term basis.

Mitigation Measures

The proposed mitigation measures do not appear to be sufficient to address the environmental impacts of this project. In regard to the tailings impoundment, we believe there are additional mitigation measures and/or engineering controls that have been implemented at other mines throughout the western U.S. that should be included for this proposal. For example, EPA recommends that the mitigation and design measures that were included in the nearby Rock Creek Mine Project be examined as potential means to reduce the environmental risks presented by the Montanore Project. In developing these measures, we recommend that a more detailed water balance analysis be conducted. We also recommend the development of a water treatment plan sufficient to ensure that water quality standards will be met, and inclusion of alert levels and detailed contingency/corrective action plans sufficient to protect water quality. These plans should include water treatment to remove dissolved contaminants-metals (e.g., lime treatment and clarification, reverse osmosis); and a year by year and closure/post-closure detailed water balance. In regard to aquatic resource mitigation, EPA believes the proposed mitigation measures are not sufficient to compensate for lost ecosystem functions and do not meet the requirements of the CWA Section 404 Guidelines. EPA recommends that you review the recent publication by EPA/U.S. Army Corps of Engineers of regulations addressing compensatory mitigation for losses of aquatic resources (73 Fed. Reg. 19594 (April 10, 2008)) and revise the proposed mitigation measures to be consistent with these regulations.

Inadequate Information on Financial Assurance

Financial assurance information for mine closure and remediation is not provided in the DEIS. Long-term post-closure monitoring, water treatment, and other remedial actions may be necessary to protect water quality, and specific assurances are needed that a sufficient financial instrument will be maintained to ensure adequate funds are available as long as they may be needed for this purpose. Given the history of adverse environmental effects resulting from some hard rock mines, and the expenditure of public funds used in some cases to address environmental problems caused by mining, EPA believes it is necessary to analyze these factors in the DEIS. Financial assurance could make the difference between a project sufficiently managed over the long-term by the site operator and an unfunded/under-funded post-closure site that becomes an unreclaimed liability for expenditure of public funds. We believe that a

sufficient financial assurance mechanism needs to be in place to ensure that the necessary funds are available as long as they may be needed for long-term monitoring and mitigation of potential environmental impacts.

Additional Comments

EPA believes that additional information is necessary regarding air quality impacts, including the potential need for a Clean Air Act general conformity analysis in the Libby, Montana $PM_{2.5}$ and PM_{10} nonattainment areas. EPA's additional comments on water resources and air quality are provided in the enclosure to this letter.

Conclusion

For the reasons discussed above, EPA has rated this DEIS as "Environmentally Unsatisfactory - Inadequate Information" (EU-3) in accordance with EPA's national rating system. It is our recommendation that a supplemental or revised DEIS be prepared to address the gaps in analysis identified and to assess the project's unsatisfactory environmental impacts. We would be glad to assist you in completing the NEPA and CWA processes and identifying a project alternative that is environmentally acceptable. If we are unable to resolve our concerns, this matter would be a candidate for referral to the Council on Environmental Quality for resolution. EPA's additional comments on the DEIS and a full description of EPA's EIS rating system is enclosed.

We appreciate the opportunity to review this DEIS and will be contacting you to continue working with you to resolve these significant concerns. If you have any questions, please contact me or your staff may contact John Wardell, Director of the EPA Region 8 Montana Office at (406)457-5001, or Larry Svoboda, Region 8 NEPA Program Director, at (303) 312-6004.

Sincerely,

Carol Rushin

Carol Rushin
Acting Regional Administrator

Enclosures

cc: Gene Lynard
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EPA Additional Comments on the Montanore Project DEIS

Water Resources

1. Wetland Impacts

The DEIS does not adequately address the potential indirect impacts to wetlands and other aquatic resources, and recommends that a more complete analysis be completed. EPA recommends that more detailed information be provided to describe the wetland functional assessment methods and results. This information should allow reviewers to understand the rationale and assumptions used, as well as the specific data for each assessed wetland area. In addition, we recommend that specific information be provided as to the number of acres of wetlands impacted by each functional category, along with a detailed map showing, with an appropriate scale, wetland locations.

2. Geochemistry-Acid Rock Drainage-Metals Leaching

Based on our review of the DEIS and references, we believe that some waste rock lithologies may have the potential to generate acid or release metals. EPA believes there is uncertainty regarding the potential for elevated metals levels to occur in runoff and leachate from ore and waste rock, and in seepage from mine tailings.

EPA recommends a detailed acid rock drainage and metal leaching testing plan be included in the supplemental or revised DEIS for implementation during the Libby Adit evaluation phase, and that selective waste rock handling criteria be defined. Furthermore, the plan should clarify which fraction of the waste rock would be brought to the surface, and when more information about waste rock is available along with updated predictions of metal loading for tailings, these sources needed to be incorporated into mass load calculations.

3. Water Quantity/Management

Water Balance

EPA believes that the water balance evaluation presented in the DEIS is inadequate and information was not provided in the DEIS regarding changes in water flow patterns for surface water basin modifications, mine/adit inflow, groundwater aquifer dewatering, surface water dewatering, water use, land application and discharge (LAD) systems, pond storage and discharge, (especially during winter operations), including backup options, as needed, to address water management concerns from mine start-up through all years of operation and closure and post-closure. The evaluation is merely a rough estimate, rather than a prediction, of the possible water flows (projected as inflows and outflows) at each of the facilities during the full mining life cycle. The water balance discussion in the DEIS (DEIS pages 58-65, 112-115, 153) is difficult to follow, and there are gaps in the information. Lack of information is affirmed by numerous references in the DEIS to: lack of information to model, inadequate data and the need to develop "excess water contingency plans" in the future (DEIS page C-25).

EPA recommends that water balance calculations be presented in the supplemental or revised DEIS for each phase of the mining operation for both steady state and for possible peak flow rates, and for closure and post-closure periods, and including the steady state flows to be calculated for pumping and discharge prior to the mill and tailings pile being constructed.

Subsidence, Groundwater Depression and /Stream Flow Reduction

The DEIS contains inadequate information regarding subsidence and/or hydrologic effects from underground mining. EPA is concerned about the adequacy of the proposed 500-foot vertical and horizontal buffer zone and 100-foot buffer at the Rock Lake Fault in preventing surface subsidence, and hydrologic effects to the wilderness lakes and streams over the long term. The DEIS does not provide sufficient information in regard to the configuration, depth and volume, or volume of sediments in the bottoms of Rock Lake, St. Paul Lake and the Libby Lakes, or relationship to faults for the lakes in the Cabinet Mountains Wilderness Area. The DEIS also does not explain how lake and other surface and ground water leakage into the mine would be managed or potentially treated, and how review and evaluation of study results and final mine design decisions will be made following the issuance of the Record of Decision for this NEPA document.

After pumping stops at mine closure it would take 50 years for the mine void to be filled, and an additional estimated 20 years would be required for the drawdown cone above the mine void to recover to near pre-mining conditions, water collected in the mine void would flow toward the East Fork Bull River (DEIS page 434). It is predicted that metals levels in the mine pool would be "relatively low" (DEIS page 434), but it is also stated that the fate and transport of dissolved metals within the flooded mine void cannot be predicted without significant uncertainty, particularly considering the relatively low surface water quality standards (DEIS pages S-31, 435). EPA is concerned about potential degraded water quality in the underground mine pool and the potential for seepage of contaminated mine pool water to seep to surface water or ground waters, especially if the mine adits are plugged after mine closure.

EPA recommends that the supplemental or revised DEIS identify and describe in detail the mitigation measures and/or contingency actions that would be considered if exceedances of surface water quality standards occurred due to seepage from the underground mine reservoir. Additional information is needed regarding long-term water quality compliance monitoring for the underground mine pool to assure that it meets applicable ground-water quality standards.

4. Water Quality/Water Treatment

Water Quality

The existing water quality in project area streams and lakes is good to excellent, providing important montane headwater habitat for aquatic life. Area waters are particularly sensitive to metals and pH disturbances due to very low ambient hardness and alkalinity and low buffering capacity. Further, those waters within the Cabinet Mountains Wilderness Area are Tier 3 waters (Outstanding Resource Waters) under Montana water quality standards for antidegradation, receiving stringent protection against degradation of existing water quality. The

DEIS fails to adequately describe the value and ambient conditions of these waters, and does not adequately disclose potential water quality impacts of the proposed project.

EPA recommends that the supplemental or revised DEIS provide a more detailed discussion of potential adverse impacts to the existing high water quality in project area streams. This discussion should include contingency actions to address the possibility of elevated metals levels in mine site waters that could impact aquatic life, as well as a description of potential water treatment systems that may be needed to remove nitrogen and metals. The water quality monitoring program should adequately evaluate potential impacts of elevated metals and nutrient levels on aquatic life given the sensitivity of area streams. Mitigation measures must be designed in recognition of the sensitivity of receiving waters, particularly in terms of hardness-corrected water quality standards and waters designated as "Outstanding Resource Waters" within the Cabinet Mountains Wilderness Area.

Clean Water Act Section 303(d) listed streams and TMDL consistency

The DEIS shows three streams in the analysis area on Montana's Clean Water Act (CWA) § 303(d) list of water quality impaired waters, i.e., segments of Libby Creek, Fisher River, Rock Creek (DEIS page 483). There is no information in the DEIS regarding how MDEQ intends to ensure that issuance of National Pollutant Discharge Elimination System (NPDES) permits for a new or increased discharges to these three water quality-limited segments will be done in a manner consistent with those segments' status as impaired waters.

Water Treatment

The DEIS includes many references to potential construction of additional water treatment facilities "if needed" to treat adit discharges, waste rock runoff and leachate and/or tailings seepage of other mine site waters (DEIS pages S-35, 61, 74, 100, 114, 437, 510). The existing water treatment plant at the Libby Adit site currently only includes filtration treatment systems for sediment removal (DEIS page 114), and does not include treatment systems capable of removing nitrate/nitrogen or metals. Few details are provided regarding potential treatment systems that would be used for nitrate/nitrogen and/or metals removal. EPA is concerned that there is potential that additional water treatment and long-term water treatment may be needed and inadequate information is provided.

EPA recommends that detailed information regarding the potential additional water treatment and long-term treatment (particularly for nitrogen and metals) be provided in a supplemental or revised DEIS. Likely water management and treatment methodologies that would be utilized should be identified. A more detailed schematic diagram(s) showing the proposed water handling and treatment schemes through mine start-up, operations, closure and post-closure is also needed. Effectiveness of the proposed treatment methodology for removal of specific potential contaminants addressing challenges due to seasonal or additional flows should be discussed (i.e., particularly nitrate and metals removal).

Land Application Discharge (LAD) Operations

Various DEIS discussions regarding Land Application Discharge (LAD) application rates are confusing and appear to include multiple and inconsistent rates (DEIS pages 61, 62, 63, 107, 439, 444, 471, 487, Appendix G). Rain-on-snow events are common in the area causing high streamflows, unstable hill slopes, leading to bank erosion and landslides, and such effects could be exacerbated by overloading of LAD areas that can cause groundwater levels to rise, and likely result in surface water runoff or increased spring and seep flow on the downhill flanks of the LAD areas. The DEIS states that "slow rate land application treatment" of wastewater would be used so that discharged water can receive "significant treatment" as it flows through the plant root/soil matrix (DEIS pages 464, 502). Yet treatment is not identified as a basic consideration for the LAD areas on DEIS page 438, and there are concerns about nitrogen removal efficiencies with proposed LAD application rates.

EPA recommends that the supplemental or revised DEIS include a detailed description of LAD operations using consistent application rates throughout the document. Additional information is also needed to explain contingencies that would be used to manage higher volumes of water than anticipated, particularly during winter operations and during rain-on-snow events. In addition, we recommend that the supplemental or revised DEIS include a discussion of the adequacy of the proposed LAD sites to avoid surface runoff and springs/seeps downgradient of the LAD areas and the erosion and sediment transport associated with increased runoff.

EPA also recommends that the supplemental or revised DEIS include additional analysis and discussion regarding to the ability of the proposed LAD areas to accept nitrogen and metal loadings and remove nitrogen and metals adequately to allow water quality standards to be met. Treatment efficiency should be included among the basic considerations in LAD area design discussion, and treatment efficiency under varying LAD application rates should be further discussed (i.e., nitrogen and metals removal efficiency).

5. Monitoring and Contingency/Corrective Actions

EPA recommends that a Monitoring Alert Levels and Contingency/Corrective Action Plan be included in the monitoring plan, as was done for the Rock Creek Mine (See Appendix K of Rock Creek Mine ROD, page 13). Such a Plan identifies alert or trigger levels for particular monitoring parameters, which when exceeded would trigger more intense follow-up monitoring and/or investigation, and/or contingency or corrective or remedial actions that would correct or avoid worsening of a developing problem. EPA recommends that the water resources monitoring plan include provisions for long-term monitoring of levels of Rock Lake, St. Paul Lake and the Libby Lakes. This monitoring should include appropriate water quality stations to evaluate the effect of reduced groundwater flows on water quality/dilution capacity of streams, and after mine closure, the potential for seeps from the underground mine pool to contaminate surface water and groundwater. EPA also recommends that the supplemental or revised DEIS provide more detailed information regarding the quantity of the "relatively large" reductions in base flow of the upper reaches of Rock Creek drainages and the East Fork Bull River that are likely to occur from combined mining, pumping and dewatering activities associated with

operation of both the Rock Creek Mine and Montanore Mine. In addition, the process for ensuring that surface water discharges, runoff and mine site seepage/leakage to groundwater meet all applicable water quality criteria should be more clearly described (e.g., location of monitoring wells for points of compliance, sampling and analysis program, and a clear understanding of what constitutes compliance with water quality criteria.)

6. Bonding/Financial Assurances

EPA recommends that the supplemental or revised DEIS identify the estimated bond amounts needed for each closure and reclamation activity for the proposed project facilities including: identification of the responsible party for any post-closure cleanup actions should they be necessary; projected long-term engineering and monitoring costs of each activity, as well as the financial assumptions used to estimate the funding level; projected trust fund growth rate; and mechanics of the trust fund. All of the requirements that KNF and MDEQ would impose on the mine operator to establish a trust fund to ensure post-closure care should be described. Financial assurances must be kept current as conditions change at the mine, and KNF and MDEQ should ensure that the form of the financial assurance does not depend on the continued financial health of the mine operator or its parent corporation. The supplemental or revised DEIS should discuss whether and how the KNF and MDEQ can modify the bond during the course of operations if temporary, long-term, or perpetual treatment and/or remediation needs are discovered during operations.

If a long-term treatment plan is needed, a long-term trust fund or other funding mechanism should be established to ensure adequate funding will be available to implement the post-closure plan. EPA has expertise in this area and would like to work with the KNF and MDEQ to develop appropriate cost estimates and fund criteria should the need arise.

7. Tailings Impoundment Design/Operations

The DEIS states that the Poorman Impoundment Site is amenable to high-density tailings deposition from the upstream perimeter slopes, whereas the Little Cherry Creek site has limited capacity for high density tailings deposition from slopes upstream of the impoundment (DEIS page 102). As a result, a smaller footprint for the Little Cherry Creek Impoundment site was not considered. Despite this brief explanation, it is not clear to EPA why the slopes upstream of the Little Cherry Creek Impoundment site will not allow deposition of high density tailings, especially since slopes can be modified with site grading.

EPA believes that if tailings can be thickened for application at the Poorman Creek site, thickened paste tailings could also be used at the Little Cherry Creek site to reduce the footprint for the tailings disposal and to reduce seepage volumes. EPA recommends that the supplemental or revised DEIS include more information to demonstrate why placement of high density tailings would not be a viable option at the Little Cherry Creek site.

In addition, EPA recommends that the feasibility of adding amendments to the tailings to address potential metal leaching, stability or reclamation issues be considered in the supplemental or revised DEIS.

EPA recommends that the supplemental or revised DEIS consider tailings disposal mitigation measures to reduce the potential for development of tailings seepage or leachate containing elevated metals levels (e.g., adding lime to the tailings during final operations to enhance the neutralization potential of the final lift of tailings). Placement of a thicker, denser impoundment cap would also both reduce oxygen flux to slow down oxidation of the tailings, and reduce hydraulic conductivity and water movement down through the tailings.

EPA recommends that the supplemental or revised DEIS re-examine the feasibility and economics of using paste backfill and paste tailings deposition with cement addition, especially given the acceptance of the use of paste tailings deposition in the Rock Creek Mine EIS.

8. Single Stage Evaluation and Mine Design Process

EPA recommends that there be an opportunity for the public and other agencies to review and evaluate data and information collected during the Libby Adit evaluation program. We recommend that the supplemental or revised DEIS describe a conceptual public participation process associated with the evaluation program and modifications to the final mine plan and design.

Air Quality

1. Clean Air Act General Conformity Analysis

The DEIS does not address General Conformity requirements pursuant to the Clean Air Act (CAA or Act). While not a part of the NEPA requirements that must be included in the EIS, before finalizing an approval of this project, the CAA requires that the USFS conduct a general conformity analysis for any project emissions occurring in an area designated as nonattainment or maintenance for the NAAQS. The CAA states that in such areas, a determination must be made that the emissions (either direct or indirect) from a federal action will not exceed a *de minimis* threshold level measured in tons per year for the criteria pollutant of concern. If the action exceeds the *de minimis* level, then a conformity determination is required to document how the federal action will affect implementation of the applicable implementation plan to reach attainment.

The proposed project includes the Libby Loadout, which would be located within the Libby PM_{10} and $PM_{2.5}$ non-attainment areas at the Kootenai Business Park (which is in close proximity to a residential area). (DEIS pages 223-224). The loadout facility would be used for concentration storage and shipping (DEIS page 45). Activities within the non-attainment areas that could result in $PM_{2.5}$ and PM_{10} air emissions include: relocating the concentrate loadout facility to the Kootenai Business Park (DEIS page 7); initial construction traffic (DEIS page 636); truck traffic carrying the concentrated ore truck traffic to the Libby Loadout (21 trucks each way per day, DEIS page 56); rail yard loadout activities; and any additional rail service.

EPA recommends that the revised or supplemental DEIS describe whether general conformity analysis is required (i.e., whether the relevant emissions exceed *de minimis*

thresholds) and how the proposed action would comply with the applicable implementation plan. If a general conformity analysis is necessary, EPA recommends it be included in the supplemental or revised DEIS.

2. Criteria and Hazardous Air Pollutants

Based on the presented emission inventory, the proposed project is determined not to be a major source (less than 100 tpy) of any criteria pollutant. However, fugitive PM10 emissions are 138 tpy and mobile source emissions for NOx are 163 tpy. Hazardous air pollutant (HAP) modeling results are not fully presented in the DEIS. The DEIS presents results of updated near field modeling conducted for various pollutants. For detailed information, the reader is directed to previous modeling conducted during 2006 for the existing Montana Department of Environmental Quality Air Permit.

We recommend that the supplemental or revised DEIS include, as an appendix, the 2006 modeling referenced in the current DEIS. We also recommend that information be provided as to which point sources may be subject to the requirements of 40 CFR Part 60, Subpart LL, Standards of Performance for Metallic Mineral Processing Plants, which contains source emission testing and reporting requirements (and seek a determination from EPA on the applicability of Subpart LL as necessary). In addition, we recommend that a more detailed presentation of the modeled HAPs, similar to Criteria pollutant Table 46 of the DEIS, that incorporates the HAPs modeled results with the applicable acute and reference standards of the tables at http://www.epa.gov/ttn/atw/toxsource/table1.pdf and http://www.epa.gov/ttn/atw/toxsource/table2.pdf be included in the supplemental or revised DEIS.

3. Visibility

The visibility analysis conducted for the project refers the reader to the previous modeling conducted during 2006 for the existing Montana Department of Environmental Quality Air Permit. Very little information is supplied in the DEIS to substantiate the presented results of 3-hours of plume impairment from the project. The information supporting the DEIS conclusion is based on 2006 modeling conducted on three point sources from the project (Ramsey, Libby portals and emergency generator sources). It is unclear to EPA which model was used and which scenarios were applied to reach these conclusions. In particular, we are concerned with how project emission fugitive PM10 and mobile source NOx emissions were modeled. In addition to these sources, we are concerned with how project emission fugitive PM10, PM2.5 and mobile source NOx will impact the nearby Class I areas of the Cabinet Mountains Wilderness (CMW) Area (0.25 miles).

We recommend that the supplemental or revised DEIS include a more detailed discussion of the models used, emission inventory sources included and the modeled results. Further, we recommend that additional modeling be conducted that incorporates fugitive emissions and any other additional impacts for the project. Modeling should be performed that predicts maximum impacts to the Class I area from the project including cumulative emissions.

4. Greenhouse Gas Emissions/Climate Change

We recommend the supplemental DEIS include an analysis and disclosure regarding climate change. We suggest a four step approach:

1. Consider the future needs and capacity of the proposed mine to adapt to projected climate change effects.
2. Characterize and quantify the expected annual cumulative emissions attributable to the mine operations, and use CO2-equivalent as a metric for comparing the different types of greenhouse gases (GHGs) emitted.
3. Briefly discuss the link between GHGs and climate change, and the potential impacts of climate change.
4. Discuss potential means to mitigate project-related emissions.

5. Libby Loadout Facility

The proposed Montanore Project loadout facility appears in an area where asbestos contamination has been found. EPA's Libby Asbestos Superfund Site Team has been working with the Kootenai Development Corporation to allow for development of this property while addressing asbestos issues. We also note that the location of the proposed loadout facility may be in the area of contaminated groundwater at the Libby Groundwater Superfund Site, which is a separate site.

The KNF, MDEQ, and MMC should contact the EPA Libby Asbestos Superfund Site Team to address asbestos issues/concerns that may be associated with the loadout facility (contact Mr. Victor Ketellapper in Denver at 303-312-6578, and see Libby Asbestos Superfund Site information at, http://www.epa.gov/region08/superfund/libby/index.html). There may also be a need to coordinate with the EPA Libby Groundwater Superfund Site Team to assure Libby groundwater contamination issues are addressed (contact Ms. Kathy Hernandez in Denver at 303-312-6101, and see Libby Groundwater Superfund Site information at, http://www.epa.gov/region08/superfund/mt/libby_groundwater/index.html).