



Decision Notice and Finding of No Significant Impact Cerro del Pino Pumice Mine Project

USDA Forest Service Region 3
Jemez Ranger District, Santa Fe National Forest
Sandoval County, New Mexico

Decision and Reasons for Decision

BACKGROUND: The Cerro del Pino Pumice Mine Environmental Assessment (EA) describes three alternatives (no action, current management, proposed action) for authorization of a special use permit for a new 5.7-acre pumice mine and 1,200-foot long access road (approximately 0.5 acres) to be located at Township 18 North, Range 3 East, and the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 27 on the Jemez Ranger District of the Santa Fe National Forest. This site is approximately eight miles north of the unincorporated Community of Ponderosa, on the western slope of Cerro del Pino. The EA describes the probable environmental effects of each alternative for the dual purpose of informing the public and enabling a more enlightened decision-making process. It also prescribes project specifications, mitigations and monitoring requirements to avoid and minimize the risk of adverse impacts to natural resources. The EA is available for public review at the Jemez Ranger District Office in Jemez Springs, New Mexico and on the Forest website at <http://www.fs.fed.us/r3/sfe/projects/projects/index.html>.

DECISION: Based on my review of all the alternatives, I have decided to approve Alternative 2, the proposed action, for the mining of common variety pumice under a minerals mining contract and the hauling of pumice through a special use road permit. Alternative 2 best meets the purpose and need for the proposed action as stated in the EA (Section 1.1). This alternative authorizes pumice mining on the proposed 5.7-acre mine site with an access road that extends 1,200 linear feet from the mine site to Forest Road 10 (FR10), and allows up to six loads of pumice per day (12 one-way trips) to be hauled from the mine. Pumice mining will occur in blocks of up to three acres at a time. Once pumice extraction on one block is completed, reclamation must begin before pumice extraction can be started on the next block. No permanent structures will be built and once pumice extraction is completed, which is estimated to be six years, the mine site would then be reclaimed as per the reclamation plan. Pumice hauling will occur through a special use permit which authorizes hauling south from the pumice mine on FR 10.

This decision to approve Alternative 2, the proposed action, includes a project-specific non-significant amendment to the Forest Plan. This amendment modifies the management guidelines for the northern goshawk (Santa Fe National Forest Plan, Amendment #6 October 1996 – pg. 9) to allow a forest opening of up to 6.2 acres without any snags at the location of the Cerro del Pino Pumice Mine. The amendment to the Forest Plan is necessary to maintain compliance with Santa Fe National Forest Plan guidelines for the management of the northern goshawk. Specifically guidelines for management of the northern goshawk in ponderosa pine habitat limit forest openings to four acres and suggest that each acre has two snags. This amendment applies

only to the site of the Cerro del Pino mine, and is based on the analysis of environmental effects of this project.

This decision also includes design specifications (mitigation measures) to avoid or minimize the traffic and environmental impacts from mining activities such as hauling time restrictions, speed limit restrictions, road construction and operational best management practices, and water quality protection requirements (EA, pages 12 - 14). These project design specifications will be written into the minerals mining contract and include the following:

To minimize potential traffic impacts such as safety, noise, increased traffic resulting from the proposed operation and pumice hauling, the following design criteria will be required:

- The operators will be required to apply for a Road Use Permit from the Santa Fe National Forest to use FR 10. The Road Use Permit will require the operator to maintain the road to Forest Service standards.
- Mine traffic is restricted during school days. On school days (when the Jemez Valley School is in session) mine traffic through the village of Ponderosa is not allowed between 7:30 to 8:30 a.m. and 3:00 to 4:00 p.m. (unless other times are agreed to for better coordination with school transportation).
- All pumice hauling will occur Monday through Friday; excluding Memorial Day, Labor Day and Independence Day holidays or holiday weekends; and seasonal restrictions.
- Pumice trucks hauling materials on FR 10 will be limited to 25 mph or as otherwise posted (e.g. near the Paliza Group and Family campgrounds where 10 mph is posted) to minimize dust and facilitate safety

Control surface uses in mineral operations through plans of operation and permits which provide for Threatened and Endangered Species and other wildlife habitat:

- To avoid and minimize impacts to nesting birds, no tree removal will occur between the dates of March 1 to July 31 each year.
- If a goshawk nest is found during operations, the district biologist will be consulted for mitigations to avoid disturbance.

Reduce disturbance in peregrine falcon suitable habitat area during the early breeding season. These mitigations are based on an interim site plan for the peregrine falcon and may be modified to reflect updates to the site plan.

- To reduce disturbance to potential nesting habitat:
 - 1) From March 1 through May 15, pumice trucks will not pass through the suitable breeding habitat area until after 10 a.m.
 - 2) From March 1 through May 15, Jake brake use is restricted in the suitable breeding habitat area.

Because of site confidentiality, specific locations are not included in this document, but are listed in the Biological Assessment/Biological Evaluation.

Control surface uses in mineral operations through plans of operation and permits which provide for minimizing long-term impacts and meeting Visual Quality Objectives

- No stockpiling of mining material on site (stockpiling of material for reclamation purposes is authorized).
- No permanent structures will be constructed as part of the mine; although at least one self-contained portable toilet is required to be on the site during all operations.
- Mining operations will avoid visual impacts as seen from FR 10 by maintaining a vegetation buffer between the mine and FR 10.

Reclamation will be required to restore resource damage, improve visual integrity, and remove public safety hazards (see reclamation plan, Appendix I):

- The site will require concurrent reclamation so that no more than three acres will be unreclaimed at any one time.
- The project site will be seeded with natives and mulched with weed-free straw.

Control surface uses in mineral operations through plans of operation and permits which provide for preservation of water quality and protecting watershed value:

- Erosion control barriers consisting of certified weed-free straw bales, straw wattles, and/or silt fencing will be constructed as needed during mining or reclamation to prevent erosion from occurring.
- During mining, the mine pit areas will be designed to be internally draining.
- Soil should be stockpiled in situ and replaced so that the “A” horizon is back on the surface.
- Culvert placement needs to be at grade.
- Oil, fuel, and hydraulic fluids from machinery or equipment shall be changed, collected, and disposed of off of National Forest System lands.
- No storage of petroleum products will be permitted at the project site.
- A spill kit will be kept on site and spills would be contained and contaminated pumice will be disposed of in an authorized facility off of Santa Fe National Forest lands.

Monitoring will include annual/periodic inspections of both the minerals mining contract and the special use road permit to ensure compliance with contract requirements, and permit terms and conditions. Compliance with the contract and special use permit will be monitored more frequently on an as needed basis should there be complaints from nearby landowners or Forest users.

Issues raised during the planning process were addressed through project design, the application of Forest Plan standards and guidelines and project-specific mitigation measures, and the development of alternatives to the proposed action. Traffic impacts resulting from pumice hauling from the mine was the one key issue identified during scoping. Alternative 2 and Alternative 3 were developed in the EA to include options that differed in number of loads per day to address this issue. The EA included an in-depth traffic analysis for each of the alternatives to determine the expected impacts of each of these alternatives. Other issues such as effects to soil and water resources, wildlife, and heritage resources were also analyzed for each alternative.

In making this decision, I considered the probable environmental effects of the proposed action and alternatives disclosed in the EA and the social-economic effects on the livelihood and well-being of the pumice mining applicants, nearby residents, and other Forest users. Overall, I believe Alternative 2 (proposed action) appropriately balances sustainable management of National Forest System lands and resources with the applicant's need to maintain an economically viable business.

PUBLIC INVOLVEMENT AND SCOPING: Scoping for the Cerro del Pino Pumice Mine was conducted together with scoping for a proposed 100-acre expansion to the unrelated Southpit Pumice Mine operated by Copar, Inc. A scoping letter from the Jemez District Ranger was mailed with the water bill to all 120 Ponderosa residents on October 3, 2006 and posted on the mailboxes outside of nearby communities including Sierra los Pinos and La Cueva. The letter was also mailed to ten interested or potentially affected individuals, groups, organizations, tribes, state and other federal agencies on October 6, 2005. The letter described the proposed action, purposed and need, invited public comments on the proposal, and announced two dates for public meetings to be held later in the month.

In addition to scoping letters, two public meetings were held (announced through the letters and an article in the Albuquerque Journal) to discuss the proposed action and collect public input. There were also four parties notified of the proposed action and public meetings by e-mail.

Comments received during the scoping period were used to help identify the issues, design alternatives, and guide environmental analysis. Twenty-seven responses were received from scoping efforts. Throughout the planning process, numerous meetings were held with the mine applicants and consultation with the neighboring interested tribes was conducted. The project was also listed on the Santa Fe National Forest online *Schedule of Proposed Actions* beginning in October 1, 2005 to the present.

On April 23, 2006; a legal notice inviting the public to comment was published in the Albuquerque Journal and the preliminary EA was mailed to twenty-eight parties and posted online at: <http://www.fs.fed.us/r3/sfe/projects/projects/index.html>. The preliminary EA was sent to those parties that showed interest in the scoping letter or had notified the Forest Service of their desire to be mailed preliminary EAs. The public comment period closed on March 16, 2006 and two responses were received.

I reviewed all comments from the 30-day comment period. Those comments not already addressed in the EA and the project record or in this Decision Notice – Finding of No Significant Impact were subsequently addressed by supplementing the effects analysis disclosed in the final EA.

ALTERNATIVES CONSIDERED: Comments received during scoping directed the alternative development process. Three of the alternatives developed from scoping were considered but eliminated from detailed study. These three alternatives are described in more detail below:

Hauling north through Sierra los Pinos

A comment that was discussed more than once during scoping was that the environmental analysis for the Cerro del Pino proposed pumice mine should consider only allowing pumice trucks to transport pumice north on FR 10 from the mine site, through the community of Sierra los Pinos, to State Highway 4. This requirement would change the current route of hauling trucks, which are required to go south on Forest Road 10, to State Highway 290 through Ponderosa, and emptying onto the southern portion of State Highway 4.

Requiring at least a portion of pumice hauling to go through Sierra los Pinos would seem to be a more equitable alternative; however, this option would most likely result in additional safety and economic impacts. Requiring pumice trucks to go the northern route would mean that a larger amount of drivers are impacted by pumice hauling, and it would not address traffic along Highway 4. Additionally, none of the 20 comments received from private citizens that discussed traffic showed concern about Utility Block pumice truck drivers. Many concerns on this issue were received from Ponderosa residents, but these all focused on pumice truck drivers from other companies.

Less than four loads per day

This potential alternative was identified as a result of scoping, which found traffic and traffic-related impacts resulting from pumice hauling as a primary concern of local communities. An alternative to authorize the proposed mine with a condition that less than four loads of pumice are hauled per day would result in logistical and economic impacts for the mining operator. Should the mine be authorized to haul less than four loads per day, it is unlikely that all of the pumice at the site would be able to be removed within the term of the Special Use authorization (project record).

Increase in loads per day (more than six)

An increase in pumice hauling truck loads per day above the current six loads/per day was discussed as a possible alternative. This option was eliminated from further study based on the results of scoping, which identified traffic and traffic-related impacts resulting from pumice hauling as a primary concern of local communities.

The alternatives considered in detail appropriately defined the scope of the analysis and represented a range of reasonable alternatives within that scope. They include Alternative 1 – No Action (no mining); Alternative 2 – proposed action (no more than six loads per day); and Alternative 3 – current management (no more than four loads per day).

Alternative 1 was not selected. This alternative would not support Forest Plan management direction (Forest Plan pp. 81) to respond to requests for large quantities of mineral materials.

Alternative 3 was not selected. While this alternative would support Forest Plan management direction (Forest Plan pp. 81) for responding to the mineral materials requests and while it meets Forest Plan management direction for the protection of water and biological resources, it would result in unnecessary restrictions for pumice hauling. According to the EA (Final EA, pages 29 and 32) the differences in potential traffic –related safety impacts between four and six pumice loads/day is negligible. Furthermore, it is unclear whether the 5.7-acre mine could be completed in six years (as required by the minerals mining contract with an optional one year extension) given a maximum authorization of four loads per day.

Alternative 2 was selected. Like the previous alternative it supports Forest Plan management direction (Forest Plan pp. 81) for responding to the mineral materials request and meets Forest Plan management direction for the protection of water and biological resources. This alternative best meets the purpose and need of responding to the plan of operations submitted by Utility Block Company, Inc. while maintaining consistency with Forest Plan management direction. Additionally this ensures minimum impacts resulting from pumice hauling traffic and includes design criteria to minimize potential environmental impacts.

Appeals and Implementation

This decision is subject to appeal pursuant to 36 CFR 215 by individuals or organizations that submitted comments during the comment period (36 CFR 215.6). The appeal must be filed (regular mail, fax, e-mail, hand-delivery, or express delivery) with the Appeals Deciding Officer. Submit appeals to: Appeal Deciding Officer, Harv Forsgren, Regional Forester, Southwestern Region, 333 Broadway, SE, Albuquerque, NM 87102, fax: (505) 842-3173, e-mail: appeals-southwestern@fs.fed.us (email, .doc, .rtf, or .txt formats only). If hand delivered, the appeal must be received at the above address during business hours (Monday – Friday 8:00 am to 4:30 pm), excluding holidays. The appeal must have an identifiable name attached or verification of identity will be required. A scanned signature may serve as verification on electronic appeals.

Appeals, including attachments, must be in writing, fully consistent with 36 CFR 215.14, and filed (postmarked) within 45 days following the date the legal notice was published in the *Albuquerque Journal*. This publication date is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon any dates or timeframes provided by any other source.

The Cerro del Pino Pumice Mine permittees may appeal the Decision under 36 CFR 215 or 36 CFR 251, but not both. Under 36 CFR 251, a Notice of Appeal must be consistent with 36 CFR 251.90 and filed simultaneously with Regional Forester, Harv Forsgren, Appeal Deciding Officer (above listed address) and Santa Fe National Forest Acting Forest Supervisor, Martin Chavez (1474 Rodeo Road, Santa Fe, NM 87505; fax: 505-438-7834) within 45 days from the date of publication of the legal notice in the *Albuquerque Journal*.

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, five business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

Finding of No Significant Impact

After considering the environmental effects disclosed in the EA, I have determined that these actions will not have a significant effect on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an Environmental Impact Statement will not be prepared. I base my finding on the following:

1. *Beneficial* as well as *adverse impacts* were considered (EA, Section 3) in this decision. No adverse impacts were found to be significant. My finding of no significant environmental effects is not biased by the beneficial effects of this action such as contributions to the local economy.
2. There will be no significant effects on *public health and safety*. Project design specifications prohibit pumice hauling during weekends and summer holidays when the conflicts between public and hauling traffic is greatest. Additionally, hours of operation and pumice hauling limitations have been designated to ensure safe conditions on Forest

Roads and nearby state routes. Implementation of Forest Plan standards and guidelines will avoid or minimize potential sedimentation to existing watercourses and streams, thus reducing the potential for impacts to recreational users.

3. There will be no significant effects on *unique characteristics* of the area because no parklands, wetlands, floodplains, prime farmlands, wild and scenic rivers, or ecologically critical areas will be negatively impacted since none of these exist in the project area.
4. The effects on the quality of the human environment are not likely to be *highly controversial*. The effects disclosed in Section 3 of the EA are based on the best available information and judgment of resource management professionals, who have applied their knowledge and expertise to similar projects on National Forest System lands and resources in the past. The predicted environmental consequences are based on known effects of actual management practices in this area, common resource management practices described in agency directives, prescribed in Forest Plans, and used by other land management agencies.
5. The environmental effects are typical for this type of project and do not involve *unique or unknown risks*. As stated previously, the effects described in the EA are based on the best available information and the judgment of resource management professionals. The EA does not indicate there will be any highly uncertain impacts.
6. The action is not likely to establish a *precedent for future actions* with significant effects. Future actions will be evaluated through the NEPA process and will stand on their own as to environmental effects.
7. The *cumulative effects* for wildlife, watershed, cultural resources, and other resources were considered and disclosed in Section 3 of the EA. All past, present, and reasonably foreseeable future actions were evaluated and it was determined that none of these actions will combine with the effects of this project to cause cumulatively significant impacts.
8. The pumice mining and hauling proposed in Alternative 2 (Section 3.5) will not adversely affect properties listed in or eligible to the National Register of Historic Places, and will not cause the loss or destruction of significant scientific, cultural, or historic resources. Consultation with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act was not necessary for this project because there was a 100 percent survey of and there were no sites identified in or near the project area (see Project Record for Heritage Resource Survey/Clearance Report).
9. The pumice mining and hauling proposed in Alternative 2 will not adversely affect any plants or animal species listed or proposed for listing under the Endangered Species Act known to inhabit or frequent the area with the mitigation measures identified in the EA (Section 2.3). Consultation with the U.S. Fish and Wildlife Service has been completed and they concur with the resource specialist's determination of "*No Effect*" for the Mexican spotted owl (see Project Record for Biological Assessment).

10. The pumice mining and hauling proposed in Alternative 2 *will not violate Federal, State, and local laws* or requirement for the protection of the environment.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS: The 6.2-acre Cerro del Pino Pumice Mine is located entirely in Management Area P, which emphasizes “cultural resource location, inventory, nomination, and protection.” Management Area P does not include any management direction specific to minerals material sales; however, Alternative 2 is fully consistent with Forest-wide Plan standards and guidelines for minerals management (Forest Plan, pages 80-82).

Pumice mining under Alternative 2 with the stated project design specifications, meets Forest Plan wildlife and fish, soil and water, and riparian goals (Forest Plan page 19-20). The decision to approve Alternative 2, the proposed action, includes a project-specific amendment to the Forest Plan. This amendment modifies the management guidelines for the northern goshawk (Santa Fe National Forest Plan, Amendment #6 October 1996 – pg. 9) to allow a forest opening of up to 6.2 acres without any snags at the Cerro del Pino Pumice Mine. The amendment to the Forest Plan is necessary to maintain compliance with Santa Fe National Forest Plan guidelines for the management of the northern goshawk. Specifically, guidelines for management of the northern goshawk in ponderosa pine habitat limit forest openings to four acres and suggest that each acre has two snags. This amendment applies only to the site of the Cerro del Pino mine, and is based on the site-specific analysis of environmental effects of this project.

Implementing Alternative 2 will not threaten any wildlife species or habitats, including those classified as Region 3 sensitive species, management indicator species in the Forest Plan as well as migratory birds (EA, Section 3.3). A Biological Assessment and Evaluation for threatened, endangered, and Region 3 sensitive species is included in the project file.

Alternative 2 will not impair land productivity and is therefore, consistent with the Multiple-Use Sustained Yield Act of 1960, as amended. Utility Block Corporation, Inc. will be required to dedicate finances in a ‘reclamation bond’ to ensure that reclamation is completed to a satisfactory level to meet Forest Plan standards (Forest Plan, page 82).

A heritage resource clearance has been completed via a 100 percent survey of the project area. No group of people, including racial, ethnic, or socio-economic group will bear a disproportionate share of the consequences of this action.

INFORMATION CONTACT PERSON: For additional information concerning this decision, contact: Larry Gore, Santa Fe National Forest Geologist, Cuba Ranger District, P.O. Box 130, Cuba, NM, 87013. Phone: (505) 829-3264.

/s/ Martin Chavez, Jr.

MARTIN D. CHAVEZ, JR.
Acting Forest Supervisor

July 6th, 2006

Date

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TTD). USDA is an equal opportunity provider and employer.