

CHAPTER 1. PURPOSE AND NEED

Introduction

The Salmon-Challis National Forest (SCNF) prepared this Final Environmental Impact Statement (FEIS) to analyze the environmental consequences of approving a proposed Plan of Operations, (POO - also referred to as the Plan of Operations or Plan) and alternatives to the Plan for the proposed Idaho Cobalt Project (ICP). Formation Capital Corporation, U.S. (FCC) submitted a proposed Plan of Operations that outlines a mineral development project located in the Panther Creek drainage on the Salmon - Cobalt Ranger District, SCNF, in or adjacent to Sections 8, 9, 15, 16, 17, 20, 21, and 22, Township 21 North, Range 18 East (**Figure 1-1**). The FCC property is composed of several mineral deposits acquired by locating and filing mining claims within the Salmon - Cobalt Ranger District of the SCNF. The property consists of 146 unpatented mining claims covering a total of 2,529 acres of mineral rights.

The proposed ICP would consist of an underground cobalt-copper-gold mine to extract minerals from two separate ore bodies, a processing plant (mill), and associated facilities. The proposed Project is located approximately 45 road miles (or 22 direct miles) west from Salmon, Idaho. Salmon, Idaho, is the county seat of Lemhi County, and has a population of approximately 3,000 people (**Figure 1-1**).

This FEIS has been prepared in compliance with the National Environmental Policy Act (NEPA) and other relevant federal and state laws and regulations. The FEIS analyzes and discloses the direct, indirect, and cumulative environmental impacts on resources in and adjacent to the Idaho Cobalt Project area that would result from SCNF approval of the proposed action or an alternative. This document is organized into seven chapters and appendices as follows:

Chapter 1. Purpose and Need: This chapter includes information on the history of the Project proposal. This chapter details how the Forest Service informed the public of the proposal and how the public responded. Based on the public response a range of issues has been identified. This chapter explains management direction and laws and regulations that guide the SCNF analysis of FCC's Plan of Operations.

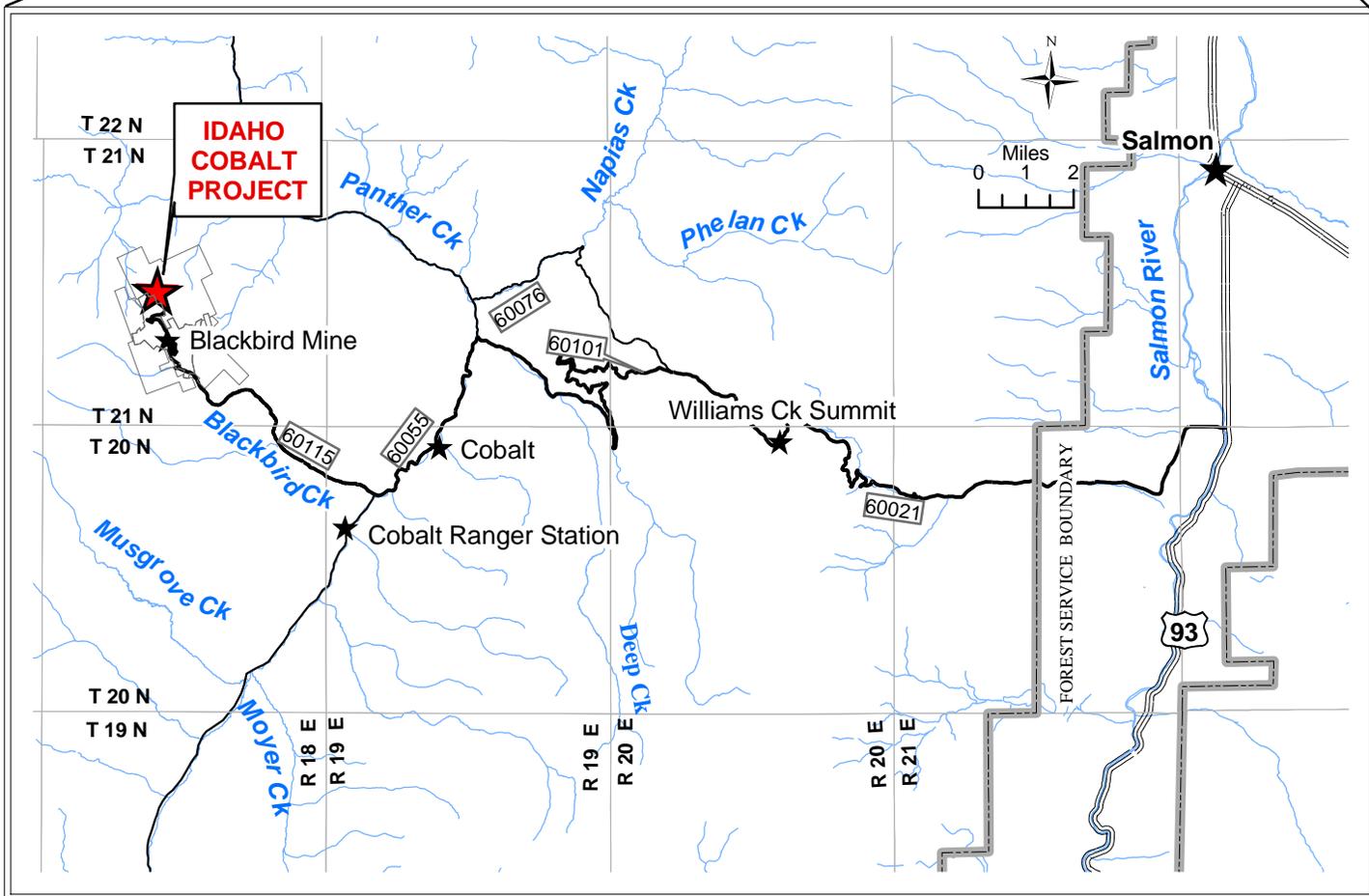
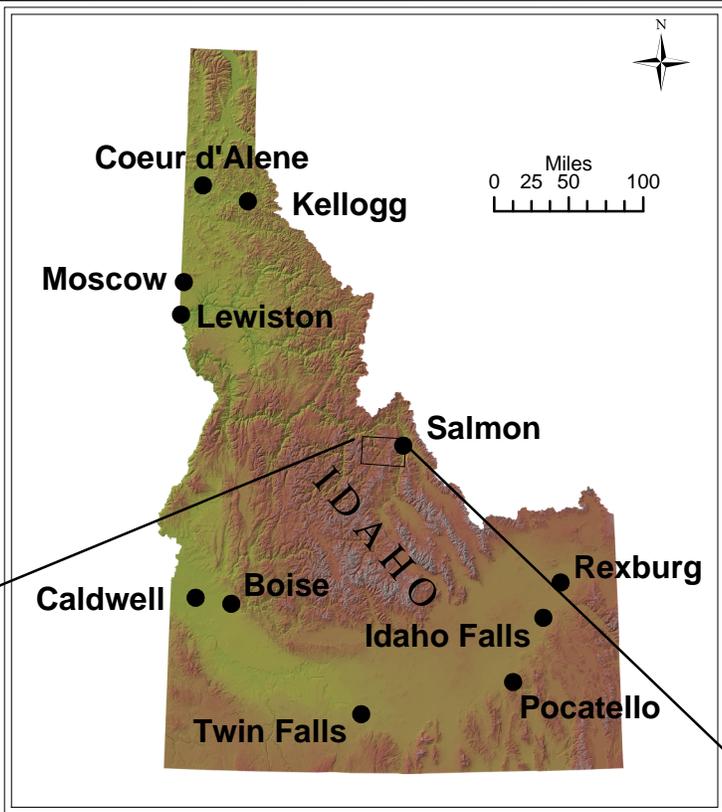
Chapter 2. Alternatives: This chapter provides a more detailed description of the proposed action and alternatives identified for detail analysis. The alternatives were developed based on significant issues raised by the public, SCNF resource specialists, and other agencies and organizations. Alternatives that were considered, but eliminated from detailed analysis are described. This chapter also provides a table comparing the alternatives, and identifies mitigation requirements common to all alternatives, as well as monitoring requirements.

Chapter 3. Affected Environment: This chapter describes the affected environment associated with the proposed ICP Plan of Operations.

Chapter 4. Environmental Effects: This chapter describes the environmental effects of implementing the Proposed Action and identified Alternatives, including the No Action Alternative. This analysis is organized by resources as described in Chapter 3 and includes a description of the analysis and identifies impacts identified for the proposed ICP (Alternative II) and agency alternatives and mitigation measures to address identified impacts.

Chapter 5. Consultation and Coordination: This chapter summarizes the scoping and public involvement process and lists the Environmental Impact Statement (EIS) team, SCNF Interdisciplinary Team (ID Team), Cooperating agency members and other agency contributors responsible for preparing the FEIS.

Chapter 6. Acronyms and Glossary: This Chapter provides a listing of Acronyms, Abbreviations and a Glossary (definition) of terms used through this FEIS.



IDAHO COBALT PROJECT
 FORMATION CAPITAL CORP. U.S.
 LEMHI COUNTY, IDAHO

**GENERAL LOCATION MAP
 IDAHO COBALT PROJECT**

November, 2007

Figure

1-1

Chapter 7. References: This Chapter provides a listing of all document references used in the preparation of this FEIS, and supporting baseline and impact analysis information.

Appendices: The appendices provide more detailed information to support the analyses presented in the FEIS. Appendices include:

- Appendix A. List of Supporting Technical Reports, Memos and Other Documents.
- Appendix B. Surface Water and Groundwater Flows and Predicted Water Quality.
- Appendix C. Water Management Goals and Decisions.
- Appendix D. Responses to Comments on the DEIS.

Additional documentation, including technical reports containing a more detailed analyses of Project area resources used to provide the baseline resource descriptions located in Chapter 3, and the impact analyses contained in Chapter 4, are found in the Project Record located at the Salmon-Challis National Forest Headquarters, in Salmon, Idaho.

The Proposed Action

On January 22, 2001, Formation Capital Corporation, U.S. (FCC) submitted a proposed Plan of Operations for the Idaho Cobalt Project (ICP). The proposed Plan contained a description of the major activities that would take place during the construction phase, operating phase, and reclamation phase associated with the ICP, a proposed underground cobalt-copper-gold mining project. In addition, several supporting baseline environmental documents were provided by FCC. The proposed ICP is located on lands managed by the U.S. Forest Service within the Salmon-Cobalt Ranger District of the Salmon-Challis National Forest (**Figure 1-1**). FCC's proposal would result in surface disturbance of approximately 130 acres within 146 unpatented mining claims (total 2,529 acres of FCC mining claims). Since submittal by FCC of the January 2001 proposed Plan of Operations, the SCNF has requested additional information and clarification on the proposed activities, as well as the completion of additional environmental baseline studies. On February 4, 2005, FCC submitted a revised proposed Plan of Operations, including additional supporting technical information. On April 5, 2006 and June 6, 2006 FCC submitted additional revisions to the proposed Plan of Operations. The Forest Service released a Draft EIS (DEIS) in February 2007 and solicited public comments from the date of the Federal Register notice of the DEIS availability (February 23, 2007) through May 24, 2007. The original 60 day public comment period was extended an additional 30 days in response to requests for additional time for review.

The proposed Federal action by the Forest Service is to respond to the proposed Plan of Operations submitted by FCC in accordance with 36 CFR 228.5. The Forest Service may respond either by approving the proposed Plan submitted by FCC or by notifying FCC of changes or additions to the Plan necessary to meet the requirements of the regulations. The requirements of the regulations include: minimizing adverse environmental impacts on National Forest surface resources to the extent feasible, including the following requirements:

- (a) Air Quality. Operator shall comply with applicable Federal and State air quality standards, including the requirements of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).
- (b) Water Quality. Operator shall comply with applicable Federal and State water quality standards, including regulations issued pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.).
- (c) Solid Wastes. Operator shall comply with applicable Federal and State standards for the disposal and treatment of solid wastes. All garbage, refuse, or waste, shall either be removed from National Forest lands or disposed of or treated so as to minimize, so far as is practicable, its impact on the environment and the forest surface resources.
- (d) Scenic Values. Operator shall, to the extent practicable, harmonize operations with scenic values through such measures as the design and location of operating facilities, including

- roads and other means of access, vegetative screening of operations, and construction of structures and improvements which blend with the landscape.
- (e) Fisheries and Wildlife Habitat. In addition to compliance with water quality and solid waste disposal standards required by this section, operator shall take all practicable measures to maintain and protect fisheries and wildlife habitat which may be affected by the operations.
 - (f) Roads. Operator shall construct and maintain all roads so as to assure adequate drainage and to minimize or, where practicable, eliminate damage to soil, water, and other resource values.
 - (g) Reclamation. Upon exhaustion of the mineral deposit or at the earliest practicable time during operations, or within 1 year of the conclusion of operations, unless a longer time is allowed by the authorized officer, operator shall, where practicable, reclaim the surface disturbed in operations by taking such measures as will prevent or control onsite and off-site damage to the environment and forest surface resources.

On May 25, 2006 FCC submitted an application to EPA Region 10 to discharge wastewater to Big Deer Creek under the National Pollutant Discharge Elimination System (NPDES) permit program. EPA reviewed the application and after several supplementary submittals deemed the application complete on July 14, 2006. The Idaho Cobalt Project is considered a "new source," as defined in 40 CFR 122.29(b), and is subject to the New Source Performance Standards (NSPS) requirements at 40 CFR Part 440, Subpart J, (Copper, Lead, Zinc, Gold, Silver, and Molybdenum Ores Subcategory). EPA's issuance of the new source NPDES permit is considered a major Federal action in accordance with the Clean Water Act (CWA) Section 511(c)(1), and is subject to the provisions of the National Environmental Policy Act (NEPA) at 40 CFR Parts 1500-1508 and EPA's NEPA implementing regulations at 40 CFR Part 6, prior to taking a final action on the NPDES permit. EPA is participating as a cooperating agency in preparing the EIS to analyze impacts of FCC's proposed mine project and reasonable alternatives.

Mineral development activities would be conducted pursuant to the 1872 Mining Law, as amended. The Forest Service is conducting an environmental analysis for its approval of the Plan authorized by Forest Service Mining Regulations at 36 CFR 228A governing activities authorized under the U.S. Mining Law, as amended. In accordance with these regulations, the Forest Service decision considered in this analysis is to respond to FCC's proposed Plan either by approving it as submitted, or by notifying FCC of the changes needed in the proposed Plan.

In their revised proposed Plan of Operations submitted June 6, 2006, FCC proposes to develop the Idaho Cobalt Project (ICP). The minerals to be mined would be cobalt, copper, and gold. Under their proposed Plan, FCC would develop, operate, and ultimately reclaim an 800-ton per day mine and mill complex. Underground mining methods would be used to extract ore from two deposits; the Ram and the Sunshine. Ore would be trucked from the mines to the mill. Ore from the Ram mine may eventually be conveyed by an overhead tram to the mill. Concentrate from the mill would be shipped to an off-site processing facility. There would be three main phases in the life of the ICP; the construction phase, the operating phase, and the reclamation phase.

- The construction phase would include preparing, constructing, and developing the mine and mill facilities.
- The operating phase would include mining, ore processing and disposal of waste products including tailings, waste rock and excess water. Mine development would include improving existing roads, construction of a power line, mill, mine facilities, TWSF, wastewater storage ponds, wastewater treatment plant, and pipeline for disposal of excess water during operations. Following development of the Ram Mine, the Sunshine Mine would subsequently be developed to supplement production from the Ram Mine.
- The reclamation phase would occur as facilities mature or are no longer needed. Reclamation would begin concurrently during the construction and operating phases where feasible.

Mine and mill facilities would include the Ram and Sunshine Mine portals, the tram, the mill/plant, the tailings and waste rock storage facility (TWSF – see description in Chapter 2), water management ponds, water treatment and discharge facilities, new and existing improved roads, borrow areas, and a soil stockpile area. Ancillary facilities would include power lines, fuel storage tanks, water ditches, warehouse and maintenance facilities, staff offices, change house, and domestic water disposal (septic and drain field). FCC's proposed Plan of Operations includes an operational and post-operational monitoring plan for surface water and groundwater quality. Detailed information regarding FCC's proposed monitoring plan, as well as monitoring plans associated with other project alternatives developed during the preparation of this FEIS, is provided in Chapter 2.

The Ram and Sunshine Mine portals would be located on the slopes above Bucktail Creek. Declines would be developed from portals located above the groundwater level and would be designed to ensure that water does not drain from the portals. There would be two ventilation shafts at the Ram Mine and one at the Sunshine Mine. Ore and waste rock would be hauled directly to the mill or TWSF, as appropriate, in 20-ton trucks (approximately 0.8 mile distance from the Ram and 1.5 miles from the Sunshine).

The mill and ancillary facilities would be located on the Big Flat, a relatively flat area located between the drainages of Big Deer Creek and Little Deer Creek. At full production, the mill would produce approximately 32 dry tons of concentrate and 768 dry tons of tailings per day.

FCC's Plan of Operations provides for disposal of waste rock and tailings in a lined storage facility. The liner would consist of an impermeable soil (or engineered clay) layer and a synthetic liner. A drainage collection system would be constructed over the liner to collect water that infiltrates the tailings and waste rock. This water would be conveyed to the nearby water management ponds. Approximately half of the tailings produced at the mill would be used underground as mine back-fill.

A series of wells would be installed below the Ram and Sunshine Mines to intercept groundwater from the mine after mining ceases. If monitoring indicates that groundwater will not meet water quality goals, water would be pumped from the wells, treated in a water treatment plant and discharged to Big Deer Creek under an NPDES permit.

Power for the Project would be obtained from an existing power line that delivers power to the adjacent Blackbird Mine Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) site. Emergency power would be supplied with diesel generating equipment.

Access to the ICP from Salmon, Idaho would be via the Williams Creek, Deep Creek, Panther Creek and Blackbird Creek roads (see **Figure 2-2; Chapter 2**). The anticipated personnel requirement at full production is 157 employees. The work force numbers are anticipated to be temporarily higher during construction and start up. During closure and reclamation, the work force would be reduced significantly. It is anticipated that most of the Project employees would live in the Salmon, Idaho area. Personnel would be transported to the Project in vans or buses.

A more detailed description of FCC's proposed Plan is provided as Alternative 2 in Chapter 2.

Purpose and Need For Action

FCC is entitled to conduct operations that are reasonably incident to exploration and development of mineral deposits on its unpatented mining claims pursuant to the United States Mining laws. Under regulations of the Secretary of Agriculture, FCC must conduct mining operations in accordance with the regulations at 36 CFR 228A, and with a Plan of Operations that has been approved by the Forest Service. The need for the proposed Federal actions is that the Forest Service is required to respond to a proposed Plan of Operations to conduct mining operations pursuant to the Mining Laws.

Under 36 CFR 228.5, the Forest Service must determine whether to approve the Plan of Operations submitted by FCC as it is proposed, or to require changes or additions deemed necessary to meet

the requirements of the regulations for environmental protection. The purpose of the proposed action and the evaluation of alternatives to the proposed action are to determine if changes or additions to the Plan of Operations are required to meet the requirements of the regulations for environmental protection set forth in 36 CFR 228.8.

EPA will make a NPDES decision based on the information and analysis of the EIS.

Decisions to be Made

The Forest Supervisor of the Salmon-Challis National Forest, the deciding official for this Project, has determined that preparation of an EIS is required for approval of the proposed Plan of Operations under Forest Service (FS) regulations governing locatable mineral activities on National Forest System (NFS) lands (36 CFR 228A) and Council on Environmental Quality (CEQ) regulations implementing the NEPA (40 CFR 1500-1508).

Given the purpose and need for federal action, the Forest Supervisor reviews the proposed Plan of Operation, the other alternatives, and the environmental consequences in order to make the following decisions:

1. Approve the Project as proposed; or
2. Notify the proponent of changes or additions to the Plan of Operations necessary to minimize or eliminate adverse environmental impacts from mineral development activities on NFS lands, as required by Forest Service regulations (36 CFR 228A); and
3. Determine if approval of a Plan of Operations will be consistent with the Forest Plan, or if an amendment to Forest Plan will be required.
4. Determine the appropriate type and amount of financial assurance to cover costs of reclamation.

Prior to approval of a Plan, the SCNF would require financial assurance or a reclamation bond to ensure that the lands involved with the mining operation are reclaimed in accordance with the approved Plan of Operation and reclamation requirements (CFR 228.8 and 228.13).

Following issuance of this FEIS the SCNF Supervisor will issue a decision on FCC's proposal in a Record of Decision (ROD). The ROD contains changes or additions to the Plan of Operations necessary to minimize or eliminate adverse environmental impacts from the proposed mineral development activities on NFS lands. This decision will be appealable. FCC may appeal the decision pursuant to 36 CFR Part 215 or 251. Other parties may appeal the decision pursuant to 36 CFR Part 215.

Following resolution of any appeal, FCC must change the Plan as described in the ROD and resubmit it to the Forest Service along with a reclamation bond or other financial assurance that is required. Once the FS determines that the Plan has been changed as required, and that the bond or financial assurance instrument is acceptable, it will notify FCC that the Plan is approved.

The U.S. Environmental Protection Agency (EPA) considers its decision to issue, issue with conditions, or deny Formation Capital Corporation's (FCC) application for a new source National Pollutant Discharge Elimination System (NPDES) permit a major federal action with the potential to significantly affect the quality of the human environment.

As a cooperating agency, EPA participated in the development of the EIS and in the identification of the agency preferred alternative. EPA's decision whether to issue an NPDES permit will be based upon the analysis in the Final EIS. Following public review of the FEIS, EPA will issue a ROD that will document EPA's decision on FCC's permit application.

Management Direction

Salmon National Forest Land and Resource Management Plan

This analysis is tiered to the Salmon National Forest Land and Resource Management Plan (Forest Plan) Environmental Impact Statement. The Forest Plan was approved in January 1988 by the Regional Forester. The Forest Plan establishes long-term direction for the management and use of surface resources on the Forest, including those which could be affected by locatable mineral exploration and development activities. Forest Plan direction is referenced in this FEIS where applicable, and will be considered as part of all project alternatives. The proposed ICP mining project is located in Management Prescription Area 5B, which carries a management emphasis on a medium level of commercial sawtimber production. Forest Service approval of a Plan of Operations must be consistent with the Forest Plan. The Forest Plan includes as a management goal for minerals to: "Encourage the legitimate exploration and extraction of leasable and locatable minerals from National Forest lands while maintaining or improving other resource values."

Project Record

The Project Record contains Specialist Reports and other technical documentation used to support the analysis and conclusions in this FEIS. Many of these Specialist Reports and supporting documents are referenced in this FEIS; key reports are available on the project website located through the Salmon-Challis National Forest home page www.fs.fed.us/r4/sc.

The use of Specialist Reports and the Project Record meets provisions of the Council on Environmental Quality (CEQ) regulations to reduce NEPA paperwork (40 CFR 1500.4), to make EISs analytic rather than encyclopedic, and to keep EISs concise and no longer than absolutely necessary (40 CFR 1502.2). The Project Record includes information used in the decision-making process; however, not all documents in the Project Record are referenced or incorporated by reference in the FEIS. The objective is to furnish enough site-specific information to demonstrate a reasoned consideration of the environmental impacts of the alternatives and how these impacts can be mitigated, without repeating detailed analysis and background information available elsewhere. The Project Record is available for review at the Salmon-Challis National Forest Headquarters located in Salmon, Idaho.

Public Involvement

The CEQ defines scoping as "...an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action" (40 CFR 1501.7). Among other things, the scoping process is used to invite public participation, to help identify issues, and to obtain public comment at various stages of the EIS process. Although scoping is to begin early, it is really an iterative process that continues until a decision is made.

Scoping is a process designed to identify environmental issues related to the proposed action. The first opportunity for public involvement occurred when the SCNF received the proposed Plan of Operations in 2001 and public "scoping" was conducted.

An initial information packet was distributed to interested parties on July 10, 2001 with a request for written comments, concerns, or suggestions regarding the proposed ICP and EIS being developed by the SCNF. A public meeting was held by the SCNF on July 20, 2001, at the City Center in Salmon, Idaho, and a comment form was provided for those wishing to provide written comments. Subsequent to the July 20, 2001 meeting, a Notice of Intent (NOI) to prepare an EIS for the proposed mining project was published by the Forest Service in the Federal Register on September 10, 2001. The NOI invited comments on the proponent's Plan of Operations and the environmental analysis for the Plan of Operations. Formal public scoping meetings were held by the SCNF in Challis, Idaho, on October 10, 2001, and Salmon Idaho, on October 11, 2001. The SCNF also solicited comments from more than 150 interested parties on a Forest-wide mailing list. Outreach was made to the Nez Perce

Tribe and the Shoshone-Bannock Tribes through formal letters to the Tribal Chairmen, meetings, and field reviews.

In response to these 2001 scoping activities, the SCNF received oral and/or written comments from 58 private individuals, federal agencies, groups, Native American Tribes, local governments, businesses, and the Blackbird Mine Trustees. Since the 2001 scoping meetings, several EIS project update and informational letters inviting project-related comments have been sent to Interested Parties on the Forest-wide mailing list. In addition, several Idaho Joint Review Process (JRP) meetings have been held to receive participating agencies' comments on identified Issues, Concerns, and Opportunities (ICOs). On November 1, 2006, the Forest Service published a second NOI in the federal register to supplement and update the Notice provided in 2001. Comments received are part of the Project Record and are available for public review pursuant to the Freedom of Information Act. Additional information on public involvement is provided at Salmon-Challis National Forest in Salmon, Idaho or in Chapter 5.

Availability of the Draft EIS

Availability of the Draft EIS was announced in the Federal Register on February 23, 2007 and in notices in local papers. These notices started a 60-day comment period. The FEIS was mailed to federal and state agencies, Tribal and municipal offices, and anyone else who had requested them. The FEIS is also available for review on the SCNF website at: www.fs.fed.us/r4/sc.

Issues

Using the comments from the public, the Tribes, and other agencies and organizations, the Interdisciplinary (ID) Team developed a list of issues to address in the environmental analysis. Issues are defined as a point of discussion, debate, or dispute about environmental effects. Issues were separated into two groups: significant issues and non-significant issues. The CEQ regulations specify only significant issues be analyzed. Issues determined not to be significant or that have been covered by prior environmental review are discussed only briefly and eliminated from detailed study [40 CFR 1500.1(b), 1500.2(b), 1500.4(c), 1501.7(3), 1502.2(b), 1506.3].

Significant issues are issues used to formulate alternatives to the proposed action, prescribe mitigation measures, or analyze environmental effects. The major issues identified through the public scoping and JRP are summarized below.

Non-significant issues include issues that are: outside the scope of the proposed action; already decided by law, regulation, Forest Plan, or other higher level decision; irrelevant to the decision to be made; or are conjectural and not supported by scientific or factual evidence. Non-significant issues are identified below with rationale for why they are non-significant.

Significant Issues - The significant issues identified during the scoping and analysis process include:

<u>Issue No. and Issue</u>	<u>Resource Section</u>
1) Blackbird Mine CERCLA Remediation & Restoration	Blackbird Mine Site Activities
2) Groundwater Quality/Panther Creek Watershed	Water Resources
3) Surface water Quality/Panther Creek Watershed	Water Resources
4) Water Use, Management, Treatment and Disposal	Water Resources
5) Sediment Delivery (Storm Water Management)	Water Resources
6) Roads and Access	Transportation
7) Transport of Product, Chemicals, and Fuel	Transportation
8) Socio-Economics	Socio-Economics
9) Vegetation/Reclamation	Vegetation/Reclamation

Issue No. and Issue

Resource Section (continued)

10) Wetlands and Other Waters of the U.S.	Water Resources
11) Fish Populations and Habitat of Concern	Aquatic Biology
12) Air Quality/Visual Resource/Wilderness Experience	Air Quality/Visual Resources/Wilderness
13) Wildlife Populations and Habitat of Concern	Wildlife
14) Cultural Resources and Tribal Trust Responsibilities	Cultural Resources
15) Planning	Land use

- Issue #1:** The effects of the proposed activities on the Blackbird Mine CERCLA Remediation and Natural Resources Restoration.
- Issue #2:** The effects of the proposed activities on groundwater quality/Panther Creek Watershed.
- Issue #3:** The effects of the proposed activities on surface water quality/Panther Creek Watershed.
- Issue #4:** The effects of the proposed activities on water use, management, treatment and disposal.
- Issue #5:** The effects of the proposed activities on sediment delivery (Bucktail Creek, Panther Creek and other streams).
- Issue #6:** The effect of the proposed activities on roads and access management in the analysis area.
- Issue #7:** The effect of the proposed activities as a result of the transportation of product and hazardous materials, chemicals, and fuels.
- Issue #8:** The effect of the proposed activities on socio-economics within the analysis area.
- Issue #9:** The effect of the proposed activities on vegetation/reclamation in the Project analysis area.
- Issue #10:** The effect of the proposed Project activities on Wetlands and Other Waters of the U.S.
- Issue #11:** The effect of the proposed Project activities on Fish Populations and Habitat of Concern (Federally listed species, sensitive species, and Management Indicator Species).
- Issue #12:** The effect of the proposed Project activities on Air Quality, Visual Resources and Wilderness Experience.
- Issue #13:** The effect of the proposed Project activities on wildlife populations and habitats of concern (threatened and endangered wildlife species; Region 4 sensitive species; Management Indicator Species; and Idaho Species of Concern).
- Issue #14:** The effect of the proposed Project activities on cultural resources and tribal trust responsibilities.
- Issue #15:** The effect of the proposed Project activities on Forest planning.

Non-significant Issues - The following issues were identified through the scoping process and project review and subsequently determined to be non-significant:

1. Claim Validity;
2. Water Rights;
3. Public Access and Recreation; and
4. Soil Productivity.

Non-significant Issue #1: Claim Validity - During the public scoping process, a comment was provided that there is “no substantial evidence that mining claims covering this site meet the (validity) requirements.” The Idaho Cobalt Project and associated mining claims are located on National Forest system lands reserved from public domain and open to entry under the mining law. The Forest Service is not required to inquire into claim validity before processing and approving proposed Plans of Operations on these lands.

Non-significant Issue #2: Water Rights - During the public scoping period, a comment was provided requesting: “clarification in the water rights section as to where these rights come from, whom they are junior to and who is impacted as senior users.” Idaho Department of Water Resources (IDWR) administers water rights in the State of Idaho. FCC has applied to the IDWR for several water rights necessary for the proposed pumping of groundwater from the underground mines.

Non-significant Issue #3: Public Access and Recreation - Public vehicle access to the proposed and potentially operational Idaho Cobalt Mine Project site and FCC mining claims is controlled via the main access road to the Blackbird Mine CERCLA remediation site, and public access is restricted unless accompanied by either a Blackbird Mine representative, a FCC representative, or Forest Service representative. Future public access to FCC's proposed operational Idaho Cobalt Mine Project site, via the Blackbird Mine CERCLA remediation site, would continue to be restricted and controlled, via Noranda CERCLA site access requirements.

The EIS/ID Team considered the effects of the proposed action to recreationists using portions of SCNF Forest Roads 021 (Williams Creek Road), 101 (Deep Creek Road), 055 (Panther Creek Road) and 115 (Blackbird Creek Road) proposed to be used for project-related transportation of employees, equipment, product, hazardous materials, chemicals and fuels, as well as along alternative transportation route(s). No public comments were received during the scoping process regarding the effects on recreational opportunities along the proposed or alternative transportation route(s). Recreation activities along these FS roads include use of small road-side campgrounds, sightseeing, travel to trailheads, hunting, fishing, and berry picking. Improvements in road condition may result in a slight increase in recreational road use and may benefit recreation users traveling through the area. Transportation impacts associated with increased mine-related traffic are addressed in Chapter 4, Roads and Access Management Section.

Non-significant Issue #4: Soil Productivity - Forest Plan soil standards are designed to maintain soil productivity within a certain proportion of an activity area. The standards require:

- A minimum of 80 percent of an activity area will remain in a non-detrimentally disturbed condition. Detrimental disturbance is “The alternation of the natural soil characteristics which result in significant or prolonged degradation of off-site resource quality standards...”
- Total or essentially total soil resource commitment will not exceed 5 percent of an activity area. Total soil resource commitment is defined as: “A conversion of a productive site to an essentially nonproductive site for a period of more than 50 years.”

The Forest Plan (USFS, 1988) defines an activity area as “The total area for which a ground impacting activity is planned...This definition excludes site intensive developments such as campgrounds, mines, drill sites, aggregate source areas, roads, and water development.” Activities that could affect soils in the ICP Project are mining and mining-related activities, including adits,

portals, ore transportation tram, mine backfill tailing slurry pipeline, mill and associated ancillary facilities, tailing and waste rock storage, water management reservoir areas, surface water and ground water monitoring sites, and mining-related access road construction and use. However, the Project effects are not significant to soil productivity as defined by the Forest Plan as total disturbance for all alternatives would be less than the 80 percent detrimental disturbance criterion and the “total soil resource commitment” is less than 5 percent of the Project area. Impacts to soils from the proposed activities in relation to slope stability and erosion are addressed in the Soil and Water Resources, Fisheries Resource, Roads and Access Management sections of Chapter 4.

Legal Requirements

Table 1-1 identifies major permits, approvals, requirements and consultations potentially required for the Idaho Cobalt Project. Following this table is a description of regulatory issues addressed by this FEIS.

TABLE 1-1. Major Permits, Approvals, and Consultations Potentially Required for the Idaho Cobalt Project			
Issuing Agency/Permit or Approval Name	Nature of Permit Action	Applicable Project Component	Status of Permit or Approval Action
FOREST SERVICE (SALMON – CHALLIS NATIONAL FOREST)			
Approved Plan of Operations; Mine and Reclamation Plan	Compliance with the mining operation and reclamation requirements of 36 CFR 228A; compliance with the management direction of the Salmon National Forest Land Resource Management Plan	All ICP proposed mining and reclamation activities	On-going review and consideration of Alternatives; required for issuance of Record of Decision (ROD)
National Environmental Policy Act (NEPA)	Action on Plan of Operations under 36 CFR 228A requires NEPA review	All ICP proposed mining and reclamation activities	Forest Service is lead agency in developing EIS; FEIS required for issuance of ROD
Endangered Species Act Section 7	Consultation with the U.S. Fish and Wildlife Service (USFWS) and National Oceanic and Atmospheric Administration (NOAA)	All ICP proposed mining and reclamation activities	On-going consultation with the USFWS and NOAA; completion required prior to issuance of ROD
Migratory Bird Treaty Act of 1918	Compliance with Executive Order 13186; Responsibilities of Federal Agencies to Protect Migratory Birds	All ICP proposed mining and reclamation activities	On-going consideration of potential impacts/effects
1872 General Mining Law as amended (3.)	Compliance required as portion of FS review of ICP Plan of Operations, Mine and Reclamation Plan	All ICP proposed mining and reclamation activities	On-going review; compliance required prior to issuance of ROD
Consultation with Indian Tribes	Compliance with the consultation requirements included in various Acts and Executive Orders	All ICP mining and reclamation activities that may potentially affect religious practices, other traditional cultural uses, as well as cultural resource sites and remains associated with American Indian ancestors	Consultation with the Shoshone-Bannock and Nez Perce Tribes is on-going

TABLE 1-1. Major Permits, Approvals, and Consultations Potentially Required for the Idaho Cobalt Project (continued)			
Issuing Agency/Permit or Approval Name	Nature of Permit Action	Applicable Project Component	Status of Permit or Approval Action
National Historic Preservation Act (Section 106)	Consultation with Idaho State Historic Preservation Officer (SHPO) on cultural resources that may be impacted	All proposed surface disturbance associated with the ICP mining and reclamation activities	Cultural and Historic resources surveys have been completed and potential impacts/effects included in the FEIS
Forest Road Use Permit	Regulation of the construction, reconstruction, use, signing and maintenance of Forest System Roads	ICP proposed transportation route on Forest roads, and all required Forest road improvements	A Forest Road Use Permit for the ICP transportation route and necessary safety improvements will be obtained prior to project implementation
U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA)			
National Pollutant Discharge Elimination System (NPDES) Permits under Section 402 of the Clean Water Act	Authorizes the discharge of wastewaters and stormwater under conditions of the NPDES permit. Permit conditions based on CWA, NPDES regulations, and state water quality standards	All project components that will result in a point source discharge of pollutants to waters of the US, including: mine drainage, runoff from waste storage areas, discharge from TWSF, stormwater	A draft new source permit for the discharge of wastewater will be public noticed with the draft EIS. FCC intends to apply for coverage under the construction stormwater general permit and industrial multisector stormwater general permit prior to construction and operations, respectively. EPA will make decisions on stormwater permit coverage after FCC submits the NOI and/or applications
Spill Prevention Control and Countermeasure (SPCC) Plan	Provides management direction for spills	Bulk petroleum products storage	Review of ICP's SPCC is on-going. A SPCC will be required at start of operations
NEPA	Issuance of an NPDES permit to a new source triggers compliance with NEPA. Under Clean Air Act section 309, EPA reviews all federal EISs	All parts of the Project	EPA is a cooperating agency in development of the EIS. EPA will adopt the EIS and issue a NEPA ROD after the final EIS is issued
ESA, Section 7	Consultation with the USFWS and NOAA	NPDES discharge and permit	Consultation must be complete before issuance of the NPDES permit and ROD
National Historic Preservation Act (Section 106)	Consultation with Idaho State Historic Preservation Officer (SHPO) on cultural resources that may be impacted	All proposed surface disturbance associated with the ICP mining and reclamation activities	Heritage resource surveys completed and potential impacts/effects addressed in FEIS
Consultation with Indian Tribes	Compliance with the consultation requirements included in various Acts and Executive Orders	All ICP mining and reclamation activities that may potentially affect religious practices, other traditional cultural uses, as well as cultural resource sites and remains associated with American Indian ancestors	Consultation with the Shoshone-Bannock and Nez Perce Tribes completed and documented in FEIS

TABLE 1-1. Major Permits, Approvals, and Consultations Potentially Required for the Idaho Cobalt Project (continued)			
Issuing Agency/Permit or Approval Name	Nature of Permit Action	Applicable Project Component	Status of Permit or Approval Action
U.S. FISH AND WILDLIFE SERVICE(USFWS)/ NATIONAL OCEANIC ATMOSPHERIC ADMINISTRATION (NOAA)			
Endangered Species Act compliance	Protection of threatened and endangered species	Any ICP activity, including habitat disturbance, potentially affecting listed or proposed threatened and endangered species	Biological Assessment/Biological Evaluations (BA/BE) have been prepared; consultation is on-going
Magnuson Stevens Fishery Conservation and Management Act	Establishes Essential Fish Habitat (EFH)	Any ICP activity, including habitat disturbance, potentially affecting EFH	BA/BE has been prepared and consultation is on-going
Migratory Bird Treaty Act	Protects migratory birds	All ICP surface disturbing activities	BA/BE has been prepared and consultation is on-going
Bald Eagle Protection Act	Protects bald and golden eagles	All ICP surface disturbing activities	BA/BE has been prepared and consultation is on-going
U.S. ARMY CORPS OF ENGINEERS (COE)			
Permit to discharge dredged or fill material (Clean Water Act, Section 404)	Authorizes placement of fill or dredged material in waters of the U.S. or adjacent jurisdictional wetlands	Any ICP operating or reclamation activities directly affecting wetlands or waters of the US by dredge or fill	Jurisdictional wetlands would be affected by road and pipeline disturbance; ICP has not yet submitted a 404 permit application or Preconstruction Notice (for nationwide permit)
Endangered Species Act Section 7	Consultation with the U.S. Fish and Wildlife Service (USFWS) and National Oceanic and Atmospheric Administration (NOAA)	Wetlands disturbances	Consultation with the USFWS and NOAA; completion required prior to issuance of ROD; certification of compliance with ESA in Preconstruction Notice
National Environmental Policy Act	Required for significant federal actions including issuance of 404 permit	404 Permit	Required prior to issuance of Permit/ROD; completed for nationwide permits
National Historic Preservation Act (Section 106)	Consultation with Idaho State Historic Preservation Officer (SHPO) on cultural resources that may be impacted	All proposed surface disturbance associated with the ICP mining and reclamation activities	Heritage resource surveys completed and potential impacts/effects addressed in FEIS
BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS			
Explosives User Permit	Possession of explosives	Blasting in underground mines	Personnel involved in blasting activities require appropriate certification
IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY (IDEQ)			
Air Quality Permit	Compliance with the requirements and air quality standards of the State of Idaho (Idaho Clean Air Act) regarding the release of air pollutants	Elements that contribute to air quality issues, such as blasting or hauling emissions	An ICP Air Quality permit application is pending
Resource Conservation and Recovery Act program (RCRA)	Management of hazardous waste	Storage and off-site disposal of hazardous waste associated with ICP	A Spill Prevention and Response Plan (SPRP) has been prepared for the ICP
Storm Water Pollution Prevention Plan (SWPPP)	Compliance with Non-degradation Water Quality Standards	Storm water discharges from ICP facilities	Plan required for ICP operations

TABLE 1-1. Major Permits, Approvals, and Consultations Potentially Required for the Idaho Cobalt Project (continued)			
Issuing Agency/Permit or Approval Name	Nature of Permit Action	Applicable Project Component	Status of Permit or Approval Action
Groundwater Quality Rules	Compliance with groundwater protection standards regarding contaminants	Potential infiltration of contaminants to groundwater associated with project operations i.e. water management ponds, Land Application Treatment, and post-mining management of groundwater in underground mines	Compliance will require demonstration of compliance with applicable narrative and numeric groundwater quality standards, except as allowed under the Active Mineral Extraction provisions in the Ground Water Quality Rule
Water Quality Certification, Section 401, Clean Water Act	Application of State Water Quality Standards, including certification of any permit authorized by section 402 or 404 of the Clean Water Act.	Wetlands and Other Waters of the U.S. (as defined by the Clean Water Act) affected by the ICP and discharge of excess project water to surface water	Certification is required prior to project construction and issuance of CWA 402 (NPDES) and 404 permits
Public drinking water system	Compliance with IDAPA 58.01.08	Potable water source for mine	Notification to DEQ required prior to use "for human consumption"
IDAHO DEPARTMENT OF WATER RESOURCES (IDWR)			
Water Rights	Compliance with state requirements for appropriation of waters with Idaho (IDAPA 37.03.08)	Appropriation of State waters by ICP operations	FCC has applied for several water rights and the applications are under review by IDWR
Underground Injection Permit	Compliance with Injection Well requirements IDAPA 37.03.03	Mine tailings backfill and TWSF infiltration gallery	Notification or permit application would occur prior to backfill/injection
Stream Channel Alteration Permit	Compliance with IDAPA 37.03.07	Construction activities in stream channels	Permit(s) required for construction activities within a stream channel
IDAHO STATE HISTORIC PRESERVATION OFFICE (SHPO)			
National Historic Preservation Act compliance (Section 106)	Protects cultural and historical resources	All ICP surface disturbing activities	Consultation with the SHPO regarding cultural and historical resource on-site surveys will be required
EAST IDAHO PUBLIC HEALTH DISTRICT			
Septic System Permit	Authorize on site sewage disposal	Septic System	Required prior to construction
LEMHI COUNTY			
Building Permit	Compliance with Lemhi County building codes and approved land uses	Construction of all ICP buildings	Permit approval required prior to construction of ICP buildings

The Endangered Species Act (ESA) of 1973, as amended

The purposes of this Act are to provide for the conservation of threatened and endangered species and their habitats. Federal agencies (SCNF, EPA, COE) are required by the ESA to ensure that any actions it approves will not jeopardize the continued existence of threatened and endangered species or result in the destruction or adverse modification of critical habitat. The SCNF and EPA are preparing a biological assessment that evaluates the potential effects of proposed activities on threatened and endangered species or critical habitat that may be present in the analysis areas. The

assessments include any measures the SCNF and EPA believe are needed to minimize or compensate for effects on the species.

The National Environmental Policy Act of 1969 (NEPA) (PL 91-190)

This Act requires Federal agencies to consider the potential environmental effects of a proposed action, and alternatives to the proposed action, in an environmental document and appropriate analyses. NEPA ensures that environmental information is available to public officials and citizens before actions are taken. The proposed federal actions in this instance include the approval of a proposed Plan of Operations (SCNF), approval of an NPDES permit (EPA), and approval of a 404 permit (COE). The SCNF is the lead agency for preparing this FEIS. The EPA, a cooperating agency, and the COE may adopt the FEIS in accordance with 40 CFR 1506.3 to satisfy NEPA compliance for their jurisdictional permits.

The Migratory Bird Treaty Act of 1918

The purpose of this Act is to establish an international framework for the protection and conservation of migratory birds. Additional information on the Migratory Bird Treaty Act can be found in the Wildlife Resources section, Chapter 3.

The Federal Water Pollution Control Act of 1972 (PL 92-500) as amended in 1977 (PL 95-217) and 1987 (PL 100-4), also known as the Federal Clean Water Act (CWA)

The primary objective of this Act is to restore and maintain the integrity of the nation's waters by: 1) Eliminating the discharge of pollutants into the nation's waters; and 2) Achieving water quality levels that are fishable and swimmable. Section 401 of the CWA requires that states certify that proposed major federal actions (in the case of the ICP permits under sections 402 and 404 of the CWA) will comply with applicable State laws and regulations; the State of Idaho will undertake 401 review and certification of the NPDES and 404 permits for the ICP. Section 402 of the CWA established the National Pollution Elimination Discharge System (NPDES) permit program that regulates discharge from point sources to waters of the U.S.; NPDES permits for discharges of process wastewater and stormwater will be required for the ICP. Section 404 of the CWA regulates discharge of dredge or fill material to wetlands and waters of the U.S.; a 404 permit will be required for the ICP. The Clean Water Act establishes a non-degradation policy for all federally proposed projects to be accomplished through planning, application, and monitoring of Best Management Practices (BMPs). Identification of BMPs is mandated by Section 319 of the Water Quality Act of 1987 (also referred to as the Clean Water Act), which states, "It is national policy that programs for the control of non-point sources of pollution be developed and implemented."

The Clean Air Act, as amended in 1990

The purposes of this Act are "...to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population; to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution; to provide technical and financial assistance to State and local governments in connection with the development and execution of their air pollution prevention and control programs; and to encourage and assist the development and operation of regional air pollution prevention and control programs." Additional information on the Clean Air Act is provided in the Air Quality section, Chapter 3.

Federal Noxious Weed Act of 1974

This Act provides for the control and management of non-indigenous weeds that injure or have the potential to injure the interests of agriculture and commerce, wildlife resources, or the public health. The Act requires that each federal agency develop a management program to control undesirable plants on federal lands under the agency's jurisdiction; establish and adequately fund the program; implement cooperative agreements with state agencies to coordinate management of undesirable plants on federal lands; establish integrated management systems to control undesirable plants targeted under cooperative agreements. Additional information regarding noxious weeds is provided in the Vegetation section, Chapter 3.

The Preservation of American Antiquities Act of 1906

This Act makes it illegal to "...appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned by the Government of the United States...". Concurrence has been reached with the Idaho State Historic Preservation Office regarding impacts to cultural resources in the Idaho Cobalt Mine Project area. Additional information regarding cultural resource compliance is provided in the Cultural Resources section, Chapter 3.

The National Historic Preservation Act

This Act requires federal agencies to consult with State and local groups on Federal undertakings before nonrenewable cultural resources, such as archaeological sites and historic structures are damaged or destroyed. Section 106 of this Act requires federal agencies to review the effects that project proposals may have on the cultural resources in the Project area. It requires agencies to consider the effects of undertakings on properties eligible to or listed in the National Register of Historic Places by following the regulatory process specified in 36 CFR 800. Additional information regarding compliance with Section 106 is provided in the Cultural Resources section, Chapter 3.

Consumers, Civil Rights, Minorities, and Women

All Forest Service actions have potential to produce some form of impacts, positive or negative, on the civil rights of individuals or groups, including minorities and women. The need to conduct an analysis of this potential impact is required by Forest Service Manual and Forest Service Handbook direction.

Environmental Justice

On February 11, 1994, President Clinton signed Executive Order 12898. This order directs each federal agency to make environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The President also signed a memorandum on the same day, emphasizing the need to consider these types of effects during NEPA analysis. To meet this direction, the USDA requires that where proposals have the potential to disproportionately adversely affect minority or low-income populations, these effects must be considered and disclosed (and mitigated to the degree possible) through the NEPA analysis and documentation. Additional information is provided in Chapter 3.

Salmon-Challis National Forest Responsibilities to Federally Recognized Tribes

American Indian Tribes are afforded specific rights under various federal statutes that include: the National Historic Preservation Act (NHPA) of 1966 (as amended); the National Forest Management Act of 1976 (P.L. 4-588); the Archaeological Resources Protection Act of 1979 and Regulations 43 CFR Part 7; the Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 and

Regulations 43 CFR Part 10; the Religious Freedom Restoration Act of 1993 (P.L. 103-141); and the American Indian Religious Freedom Act (AIRFA) of 1978. Federal guidelines direct federal agencies to consult with modern Native American Indian Tribal representatives who may have concerns about federal actions that may affect religious practices, other traditional cultural uses, as well as cultural resource sites and remains associated with American Indian ancestors. Any Tribe whose aboriginal territory occurs within a Project area is afforded the opportunity to voice concerns for issues governed by NHPA, NAGPRA, or AIRFA.

Federal responsibilities to consult with Indian Tribes are included in the National Forest Management Act of 1976 (P.L. 4-588), Interior Secretarial Order 3175 of 1993 and Executive Orders 12875, 13007, 12866, and 13084. Executive Order 12875 calls for regular consultation with tribal governments; and Executive Order 13007 requires consultation with Indian Tribes and religious representatives on the access, use, and protection of Indian sacred sites. Executive Order 12866 requires that federal agencies seek views of Tribal officials before imposing regulatory requirements that might affect them; and Executive Order 13084 provides direction regarding consultation and coordination with Indian Tribes relative to fee waivers. Another Executive Order that pertains to American Indian Tribes includes Executive Order 12898, which directs federal agencies to focus on the human health and environmental conditions in minority and low-income communities, especially in instances where decisions may adversely impact these populations (see the “Environmental Justice” discussion above). The 40 CFR 1500-1508 regulations of the NEPA invite Indian Tribes to participate in forest management projects and activities that may affect them.

The Idaho Cobalt Mine Project area is located within the aboriginal lands of the Shoshone-Bannock Tribes. In the Fort Bridger Treaty of 1868, Article 4, the United States of America and the Shoshone-Bannock Tribes mutually agreed that the Tribes retain the right to:

“...hunt on the unoccupied lands of the United States so long as game may be found thereon...”

Information regarding the on-going FS consultation process with the Shoshone-Bannock Tribes, as well as the Nez Perce Tribe is provided in the Cultural Resources section of Chapter 3.

Financial Assurance

The Forest Service is authorized to require an operator to furnish a bond or other financial assurance for Plans of Operations to assure reclamation of surface disturbances to prevent or control damage to the environment, to control erosion, landslides, water runoff and toxic materials and to provide for rehabilitation of fish and wildlife habitat (36 CFR 228.13). The Forest Service has developed guidance for calculating the amount of financial assurance required for mining projects (USDA Forest Service, 2004). FCC will provide financial assurance to cover reclamation and possible water treatment costs before construction begins. In developing the financial assurance amount for the Idaho Cobalt Project, the Forest Service utilizes the 2004 guidance and will include costs to remove structures, regrade and recontour the surface, replace soil and revegetate the reclaimed land. The financial assurance also includes necessary administrative and overhead costs to complete the reclamation if the company were unable or unwilling to do so and costs for long term water treatment, if such treatment were to be required to meet water quality requirements.

Other Agencies Having Permit or Review Authority

Idaho State Historic Preservation Office (SHPO)

Actions that are permitted, approved, or initiated by the Forest Service and that may affect cultural resources must comply with provisions of the National Historic Preservation Act (NHPA) of 1966, as amended, and as implemented by federal guidelines 36 CFR 800. Section 106 of the NHPA requires

a federal agency to take into account the effects of the agency's undertaking on properties listed on, or eligible for listing on, the National Register of Historic Places (NRHP). Before any federal undertaking begins, cultural resources eligible for listing on the NRHP must be identified and documented. Cultural resources recorded in the Project area are evaluated in consultation with SHPO or the Federal Advisory Council on Historic Preservation (ACHP).

U.S. Fish and Wildlife Service (USFWS) and National Oceanic and Atmospheric Association (NOAA) Fisheries Service

The USFWS has responsibilities under the Fish and Wildlife Coordination Act (1934), Endangered Species Act (1973), and Bald Eagle Protection Act (1940). Responsibilities under the Fish and Wildlife Coordination Act require federal agencies issuing permits (i.e., Corps of Engineers §404 Permit) to consult with the USFWS to prevent the loss of or damage to fish and wildlife resources where “waters of any stream or other body of water are proposed...to be impounded, diverted...or otherwise controlled or modified.”

NOAA's National Marine Fisheries Service (NMFS) is the federal agency responsible for the stewardship of the nation's living marine resources and their habitat. The public trust responsibility is derived from numerous laws, primary of which are the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA).

U.S. Army Corps of Engineers (COE)

COE is the permitting authority for the discharge of dredged or fill materials into the wetlands and non-wetland waters of the United States. Any activities that would result in disposal of dredged or fill materials into wetlands and non-wetland waters of the U.S. would require a “404 permit” and Section 401 Water Quality Certification under Sections 404 and 401 of the Clean Water Act (see **Table 1-1**).

U.S. Environmental Protection Agency (EPA)

EPA has primary responsibility for implementing the Clean Water Act (CWA) Sections 301, 306, 311, and 402. The Idaho Cobalt Project is considered a “new source” as defined by 40 CFR 122.29(b), therefore, EPA must comply with the NEPA requirements of 40-CFR 1500-1508 and 40 CFR Part 6 prior to making the final NPDES permit decision. The EPA has oversight responsibility for federal Clean Water Act programs delegated to and administered by the Department of Environmental Quality. In Idaho, EPA administers the National Pollutant Discharge Elimination System program that regulates and grants permits to discharge to surface waters. EPA also has authority under CWA Section 404 to review project compliance with Section 404(b)(1) guidelines and 404 permit veto authority under Section 404(c). Under Section 404(c), EPA may prohibit or withdraw the specification (permitting) of a site upon determination that use of the site would have an unacceptable adverse effect on municipal water supplies, shellfish beds, fishery areas, or recreational areas. EPA also has responsibilities under NEPA and the federal Clean Air Act Section 309 to cooperate in the preparation of EISs and to review draft EISs and federal actions potentially affecting the quality of the environment. EPA advises the lead agencies on the preparation of an EIS and evaluates the adequacy of information in the EIS, the overall environmental impact of the proposed action and various alternatives, and is subject to the provisions of NEPA 40 CFR Part 6.

Idaho Department of Water Resources (IDWR)

IDWR administers water rights in the State of Idaho regarding new appropriation and use of surface and/or groundwaters. Compliance with state requirements for protection of waters within Idaho (Idaho Administrative Code IDAPA 58.01.02) means: “The existing in-stream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected;” and “...wherever attainable, surface waters of the state shall be protected for beneficial uses, which for

surface waters includes all recreational use in and on the water surface, and the preservation and propagation of desirable species of aquatic life.”

IDWR also administers construction, operation and abandonment of injection wells under the authority of IDAP 37.03.03.

Idaho Department of Environmental Quality (IDEQ)

The IDEQ is responsible for implementing environmental protection laws and programs for the State of Idaho. IDEQ develops and implements state Water Quality Standards and Total Maximum Daily Loads and other surface water quality programs authorized by the Clean Water Act and state law. IDEQ is also responsible for applying the Idaho Ground Water Quality Rule. IDEQ administers the CAA and RCRA programs in Idaho, and also regulates non-hazardous solid waste and waste treatment and disposal facilities, including sewage disposal facilities.

Under the Idaho Ground Water Quality Rule (IDAPA 58.01.11), groundwater must (a) be managed in a manner which maintains or improves existing ground water quality through the use of best management practices and best practical methods to the maximum extent practical (IDAPA 58.01.11.150.01 and 58.01.11.301); (b) not result in the violation of the ground water quality standards in section 200 of the Rule (IDAPA 58.01.11.150.01 and 58.01.11.200); and (c) not result in the violation of surface water quality standards or the impairment of beneficial uses for interconnected surface water (IDAPA 58.01.11.150.03 and the Idaho Water Quality Standards, IDAPA 58.01.02). Idaho DEQ has a policy (IDAPA 58.01.11.006.06) that explicitly indicates the States intent to protect ground water and also allow for the extraction of minerals above and within ground water. Idaho also can authorize a groundwater mineral extraction zone: “Naturally occurring constituents found in ground water within a specified area surrounding an active mineral extraction area, as determined by the Department, will not be considered contaminants as long as all applicable best management practices, best available methods or best practical methods, as approved by the Department, are applied.” (IDAPA 58.01.11.400.06)

Section 054 of the Idaho Water Quality Standards (IDAPA 58.01.02), requires that there be no new or increased discharge of pollutants which have caused the water quality impairment to impaired (303(d) listed) streams unless the total load of such pollutants remains constant or decreases within the watershed. Idaho's anti-degradation provision requires that the existing level of water quality necessary to protect existing uses be maintained (IDAPA 58.01.02.051). Section 080.01 and the numeric and narrative water quality criteria prohibit the discharge of pollutants from a single source, or in combination with pollutants discharged from other sources, which will or can be expected to result in violation of the water quality criteria applicable to the receiving water body or injure designated or existing beneficial uses.

Idaho Department of Health and Welfare

The Idaho Department of Health and Welfare East Idaho Health District (#7) reviews and authorizes permits for on-site sewage disposal (septic systems).

Lemhi County

Lemhi County requires building permits for industrial and commercial building within the county and will review plans and issue permits for the ICP site.