



August 1, 2022

TO: Wallowa-Whitman National Forest  
FROM: Kelly Fuller  
ATTN: Kendall Cikanek  
VIA: Project webpage portal (<https://cara.fs2c.usda.gov/Public//CommentInput?Project=45945>)

**Subject: Powder River Mining Project #45945 DEIS comments**

Please accept the following comments from Oregon Wild concerning the Draft Environmental Impact Statement (DEIS) for the Powder River Mining Project #45945

(<https://www.fs.usda.gov/project/?project=45945>). Oregon Wild represents 20,000 members and supporters who share our mission to protect and restore Oregon's wildlands, wildlife, and water as an enduring legacy. Our goal is to protect areas that remain intact while striving to restore areas that have been degraded. This can be accomplished by moving over-represented ecosystem elements (such as logged, roaded, and mined areas) toward characteristics that are currently under-represented (such as roadless areas and complex old forest).

We incorporate by reference our previously submitted scoping comments, dated April 23, 2018 (attached). We and three other environmental organizations asked in those scoping comments if the Forest Service (FS) has verified the validity of all of the mining claims involved in this proposal. The DEIS presents no evidence that those examinations have taken place. Unless the FSW has examined all of the mining claims and determined they are valid, the basis for this EIS is legally flawed, nor can the FS assume that it cannot choose the no action alternative, as it does in this DEIS (DEIS at iii).

That said, we appreciate that the FS has prepared alternative three and included more environmental protection measures in it than in the original applications (analyzed as alternative three). Alternative two is completely inadequate to protect wildlife species, including ESA-listed species. We still have a number of questions and concerns regarding alternative three.

We are concerned that mature and/or old-growth trees may be removed for the Return Group's proposed operations (and for other proposed operations that might not be disclosed in the DEIS). The DEIS states that 120-year old trees may be removed and used for reclamation after mining (DEIS at 87), but the number of 120-year old trees to be removed is not quantified, nor is their use in later reclamation guaranteed. This is especially significant given that the FS appears not to have verified the validity of all of the mining claims, which means the FS could be approving the

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removal of 120-year-old trees without actually being required to do so by mining laws. This contradicts the intent of President Biden's recent Executive Order on mature and old growth trees. It is also questionable given the recent the 9<sup>th</sup> Circuit Court of Appeals decision affirming the Arizona federal court ruling against the FS's approval of the Rosemont Mine, which centered on the FS's failure to verify mining claim validity

(<https://cdn.ca9.uscourts.gov/datastore/opinions/2022/05/12/19-17585.pdf>).

In addition, we would like to know if the FS will determine and mark which mature and/or old growth trees it will allow the operators to cut? If not, what guidance will the FS provide to the operators to avoid the loss of these trees?

The DEIS does not appear to analyze the greenhouse gas emissions of the proposed actions and that should be remedied. These will include truck and vehicle emissions produced by travel to and from the proposed mine sites, diesel generators operated on site, and on-site logging.

According to the DEIS, existing or future beaver dams will be protected (DEIS at 74). Has the FS identified where beaver dams are currently present and provided that information to the 22 applicants? What monitoring will take place during or after mining to ensure that beaver dams are not damaged or removed? During June 2018 visits to the proposed mining sites, two Western Watersheds Project employees (Kelly Fuller, Paul Ruprecht) observed beaver dams at or very near some of the proposed mine sites.<sup>1</sup>

The DEIS also states that stream fords, temporary roads, and ATV bridges will be designed to FS standards (DEIS at 76, 77). What monitoring will take place during construction and operation to insure that these fords and temporary roads meet standards? Without monitoring, FS will not be able to ensure that these mitigation measures are effective because it will not know they have been implemented.

We remain concerned about the potential impacts of water withdrawals on stream temperatures and the consequent effects on bull trout, red band trout and other fish. The DEIS states that even after mitigation measures, these withdrawals would take place when stream temperatures tend to be the highest and that thus the stream temperature impacts would remain (DEIS at 78, 212-213). How will these increased stream temperatures affect bull trout and other fish? How does the FS plan to reconcile this conflict between approving mining and protecting ESA-listed fish?

Despite this acknowledgement in the DEIS of the potential to raise stream temperatures, Table 23 (asserts that there will not be pollutant impacts to ESA-listed fish, either from raised temperatures or sediment discharge (DEIS at 79-80). FS does not propose to monitor all four of the streams where this may take place, but instead only proposes monitoring "at least two" of the

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<sup>1</sup> Kelly Fuller is now an employee of Oregon Wild.

four where these impacts may occur (DEIS at 116). Without monitoring all four streams repeatedly, FS will not be able to ensure that these mitigation measures are effective because it will not know if they are working.

We are also concerned about the potential for harm due to acid mine drainage. The DEIS states that waste rock piles will be monitored during operation for potential acid mine drainage during the operation of the mine (DEIS at 72). How often will they be monitored and what is the plan if acid mine drainage is detected during operations? How often will they be monitored after operations cease and what is the plan if acid mine drainage is detected after operations cease? Will the applicants post sufficient bond to treat the drainage and repair the damage, either short term or worst case, in perpetuity?

Furthermore, will road widening, resurfacing, or reconstruction be required for any of the proposed lode mines, either during construction, operation, or de-commissioning? If so, what will those impacts be? We are especially concerned about the Barbara lode mine, which according to the DEIS will have dump trucks and heavy equipment going to it (DEIS at 171). We did not see analysis of such road changes specifically for the Barbara lode mine in the DEIS (and would appreciate the FS pointing to that analysis in the DEIS if we just missed it). When Western Watersheds Project employees visited the mine sites in June 2018, it took serious 4WD to get to the Barbara lode mine location. Unless there have been significant improvements to the road since then, it seems difficult to believe that a commercially viable lode mine could be developed there without roadwork first. Unless done very carefully with many measures to prevent erosion, such road changes could result in sediment going into creeks, with subsequent impacts to fish and other aquatic species.

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Thank you for this opportunity to assist the Forest Service with its decision-making process. Please send us notification of the Record of Decision, per 36 CFR 220.5(g) by contacting Rob Klavins ([rk@oregonwild.org](mailto:rk@oregonwild.org)) and Doug Heiken ([dh@oregonwild.org](mailto:dh@oregonwild.org)).

Sincerely,



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