

## **FINDING OF NO SIGNIFICANT IMPACT**

### **Restoration Plan for the French Gulch Natural Resource Damage Assessment and Adoption of U.S. Forest Service's Swan River Stream Restoration Environmental Assessment**

The U.S. Fish and Wildlife Service (USFWS), on behalf of the Department of the Interior (DOI), proposes to use Wellington Oro/French Gulch Mine Site (French Gulch) Natural Resource Damage Assessment (NRDA) settlement funds to implement stream and riparian restoration and enhancement of Swan River habitat. The proposed projects will be funded jointly by the USFWS, U.S. Forest Service (USFS), Summit County, Town of Breckenridge, other organizations, and private donors. The USFWS is proposing to partially fund 1) decommissioning of an existing road and stream crossing through the Swan River into the Muggins Gulch area; 2) road improvement; 3) wetland enhancement; and 4) stream, riparian, and upland restoration activities, all of which are restoration actions described in detail and analyzed in the Final Environmental Assessment (EA) for Swan River Stream Restoration (USFS 2014).

The USFWS proposes to adopt the USFS's EA and Finding of No Significant Impact (FONSI) prepared in compliance with the National Environmental Policy Act (NEPA). The USFWS has conducted its independent evaluation of the EA and FONSI consistent with procedures described at 40 CFR 1506.3 and the DOI USFWS's NEPA requirements at 516 DM 1-6 and 550 FW 3 and determined the EA and FONSI meet all the requirements for adoption. This FONSI will also serve as the USFWS's NRDA restoration plan for French Gulch consistent with the DOI NRDA regulations at 43 C.F.R. Part 11, authorized under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

#### **Background**

The French Gulch Mine Site is located near the town of Breckenridge in Summit County, Colorado. The site is located approximately 2.2 miles upstream, east of the confluence of French Gulch and the Blue River. The French Gulch valley includes several abandoned mine and mill sites, the largest of which was the Wellington-Oro mining complex. The French Gulch NRDA case refers to three abandoned hard rock mine sites located near the town of Breckenridge in Summit County, Colorado. These three sites include the Wellington Oro Mine, the Jesse Mine and Mill, and the IXL/Royal Tiger Mine and Mill.

The Wellington Oro, Jesse, and IXL/Royal Tiger mines and mills were owned by the same group of responsible parties. These mines produced gold, silver, lead, copper, and zinc from the late 1800s to the early 1930s. Mine wastes exist both above and below ground and consist of exposed pyritic rock, that have contaminated groundwater continue to release environmental contaminants (metals) to surface waters at concentrations that are toxic to aquatic organisms. Downstream of the Wellington Oro Mine, fish are largely absent and aquatic invertebrates are severely limited. Fish and invertebrate populations remain limited downstream of the confluence

of French Gulch with the Blue River. Studies to conclusively determine adverse impacts to migratory birds from mine site-related environmental contaminants have not been conducted; however ecological risks indicating significant potential injury to migratory birds, their prey and forage bases, and the in-stream, riparian, and wetlands habitats that support them were identified in the ecological risk assessment for this site performed by the Environmental Protection Agency (EPA). The Wellington Oro site is being addressed by EPA as a non-time critical removal action pursuant to the CERCLA. The other two sites are being remediated under the State of Colorado Brownfields voluntary cleanup program. Although the Wellington Oro removal action, which resulted in construction and operations of a water treatment facility, is expected to improve water quality of the mine discharge, future water quality in French Gulch and a portion of the Blue River are still expected to exceed aquatic toxicity benchmarks.

The United States and the State of Colorado reached an agreement in 2005 to settle the liabilities of the responsible parties, under the CERCLA, the Clean Water Act, and the Colorado Water Quality Control Act, pursuant to a Settlement Agreement and Consent Decree. Among other things, the Consent Decree addresses damages for injury to, destruction of and loss of natural resources, including fish, migratory birds, other wildlife, and their habitats, resulting from the release of hazardous substances. The DOI received \$165,000 for the NRDA restoration settlement. As described in this FONSI, the Trustees have elected to use NRDA settlement funds for habitat restoration and enhancement implementation.

The need to pursue restoration actions is based upon the implementing regulations of the DOI's CERCLA NRDA regulations (43 C.F.R. Part 11). CERCLA establishes liability for the injury to, destruction of, or loss of natural resources caused by releases of hazardous substances. Damages recovered for these losses must be used to restore, replace, rehabilitate or acquire equivalent natural resources or services, in accordance with a restoration plan developed by designated Natural Resource Trustees. In this case, the sole Trustee agency is the USFWS acting on behalf of the DOI. The purpose of the restoration actions is to make the environment and the public whole for injuries resulting from the release of hazardous substances by implementing restoration actions that return injured natural resources to baseline (pre-release) conditions.

#### Summary of Injury to DOI Trust Resources

The primary DOI trust resources of concern at French Gulch are migratory birds and their supporting habitat. Existing data in EPA's ecological risk assessment for the French Gulch Mine Site clearly document impacts from metals contamination to fish and aquatic invertebrate communities that are the primary food source for a variety of birds.

Willow scrub riparian habitat is present along portions of French Gulch, Gold Run Gulch, Swan River, and the Blue River downstream from the mine sites. Although historic placer gold dredging operations have altered wetland and riparian habitats throughout these drainages, significant migratory bird habitat remains or has been reestablished. Pockets of willow scrub are present along lower French Gulch. Wetlands dominated by willows, narrow-leaf cottonwood, Colorado blue spruce, and thin-leaf alder occur along the Swan and Blue rivers. These wetland areas are fairly continuous but are occasionally interrupted by the remnants of the past gold dredging activities as well as development along the drainages. Similar wetland and riparian

habitats in Summit County support breeding populations of insectivorous songbirds and piscivorous (fish-eating) birds. Given the available documentation of hazardous substances emanating from the mine and mill sites, contamination of the prey base or reduced abundance and diversity of prey is expected to adversely affect successful brood rearing of migratory birds. Use of the contaminated drainages by waterfowl species is expected to be affected by reduced abundance and diversity of aquatic prey.

At least two documented fish kills have occurred in the Blue River immediately downstream from its confluence with French Gulch. One of the fish kills occurred after fingerling trout were released into contaminated water flowing in the Blue River. The other documented fish kill occurred during late spring runoff and killed about 400 fish.

Brown and brook trout collected by the U.S. Geological Survey near the Blue River confluence with French Gulch had accumulated metals (most notably cadmium, copper, and zinc) in their tissues at concentrations that were shown by the EPA to pose significant risk to piscivorous birds. Tissue studies have not been conducted to assess accumulation of metals in aquatic invertebrates that serve as dietary prey for many migratory birds. However, residual injury to migratory birds from contaminated prey or reduced availability of prey that is associated with past, ongoing, and future environmental contamination from these mining sites is probable.

#### Proposed Restoration Actions

USFS's proposed action covers a variety of project elements including: 1) stream, riparian, and upland restoration activities, 2) road projects including decommissioning, expansion of an existing parking lot, and creation of a new road and trail, 3) fish barrier construction, and 4) a hiking trail near the Swan River. All project elements are within a mixed ownership of private, county, town, and National Forest System lands. Stream and riparian restoration as well as new trail construction on private lands would be within public access easements granted to the USFS. USFWS is proposing to contribute French Gulch NRDA settlement funds towards 1) decommissioning of an existing road and stream crossing through the Swan River into the Muggins Gulch area; 2) road improvement; 3) wetland enhancement; and 4) stream riparian, and upland restoration activities.

Due to ongoing and future environmental contamination from mining sites in the vicinity of French Gulch, the USFWS is proposing to implement restoration actions in an adjacent river to French Gulch and within the Blue River Watershed. USFWS's proposed restoration actions will restore and enhance the equivalent natural resources injured, lost or destroyed by releases of hazardous substances from the French Gulch Mine Site. Proposed restoration projects also meet the purpose and need of NRDA restoration of providing the broad restoration goals that are most beneficial to the aquatic resources within the Swan River, a subunit of the Blue River Watershed. The restoration projects also provide a substantial benefit to the public by creating new river habitat that would be accessible for recreational use such as bird watching, hiking, and fishing.

A "No Action" alternative, required by NEPA and CERCLA provisions, was also considered as a project alternative to examine the anticipated condition if Trustee-funded restoration activities are not pursued. Under the No Action alternative, no restoration, rehabilitation, replacement, or

acquisition of habitat would occur. USFS's EA also included a No Action alternative for consideration. The No Action alternative is the baseline against which other actions can be compared. The No Action Alternative is not preferred since it does not meet the restoration goals established by the USFWS and does not restore and enhance the equivalent natural resources injured, lost or destroyed by releases of hazardous substances from the French Gulch Mine Site.

Actions undertaken by the Natural Resource Trustees to restore natural resources or services under CERCLA and other federal laws are subject to NEPA, 42 U.S.C. § 4321 et seq., and the regulations guiding its implementation at 40 C.F.R. Parts 1500 through 1517. The proposed restoration actions have already undergone analysis and public review, and on May 23, 2014, the USFS issued a FONSI for Swan River Stream Restoration. Documents related to the Swan River Stream Restoration EA, including the FONSI, can be found at <http://www.fs.usda.gov/projects/whiteriver/landmanagement/projects>

### Public Involvement

Public involvement, collaboration with state and local governments and private entities, as well as partnership support, has all been vital to the success of this restoration planning effort. Collaboration spanning over three years has been instrumental in completing this planning effort. Partners to date include: Rock Island Land Co. LLC; Good Times Adventures LCC, Trout Unlimited, Blue River Watershed Group, Friends of the Dillon Ranger District, Colorado Watershed Conservation Board, Colorado Parks and Wildlife, Everest Materials, Town of Breckenridge, U.S. Forest Service, as well as Summit County government.

Based on interdisciplinary review of all information received from the scoping process, the project Interdisciplinary Team determined that all key issues for the project, including resource concerns and impacts, could be resolved or mitigated through project design and proper implementation of the proposed action.

USFS published the proposed action for a 30-day public comment period in January, 2014. Four letters were received, two of them were outside the scope of the project and other two were primarily letters of support with minor concerns listed.

### Finding of No Significant Impact

Based upon findings and conclusions in the USFS's EA, we have determined that implementation of the Swan River Stream Restoration projects will not significantly affect the quality of the human environment. The project is expected to provide benefits to the aquatic resources within the Swan River, as well as to create recreational opportunities for the public.

Therefore, it is my determination that the proposal does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (as amended). As such, an environmental impact statement is not required. A final EA has been prepared by the USFS in support of this finding and is available at the link provided in this finding or upon request to the

USFWS representative identified below. It is my determination that the adopted EA meets USFWS NEPA procedures and guidelines.

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#### References

U.S. Forest Service. 2014. Environmental Assessment - Swan River Stream Restoration. White River National Forest, Summit County, Colorado.

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Authorized Official of the U.S. Department of the Interior, French Gulch NRDAR	