Midnite Mine Superfund Site

100 ~~PRELIMINARY (90~~ Percent Design~~) DESIGN~~

Appendix~~APPENDIX~~ M – Regulatory~~REGULATORY REQUIREMENTS DOCUMENTATION~~

~~Note: This documentation of preliminary Substantive Environmental~~ Requirements Documentation~~is presented herein at a 90 Percent level of detail. This documentation will continue to develop along with the RD and will be included with the Final Basis of Design Report.~~

June 2015

~~July 30, 2014~~

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Table of Contents

Midnite Mine Superfund Site 1

June 2015 1

M1.0 INTRODUCTION 1

M2.0 PROJECT AREAS 1

M3.0 REGULATORY REQUIREMENTS 21

M3.1 Clean Water Act (33 USC 1251 et seq.) 43

M3.1.1 Section 304 – Water Quality Standards 43

M3.1.2 Section 402 – National Pollution Discharge Elimination System (33 USC § 1342) 43

M3.1.3 Section 404 – Discharge of Dredge or Fill into Waters of the U.S. (33 USC § 1344) 46

M3.2 Protection of Wetlands – Executive Order 11990 51

M3.3 Rivers and Harbors Act (33 USC § 403) 51

M3.3.1 Section 10 – Navigable Waters 51

M3.4 Section 401 – Water Quality Certification (33 USC § 1341) 52

M3.5 Spokane Tribe of Indians Surface Water Quality Standards Resolution 2010-173, February 25, 2010 53

M3.6 Safe Drinking Water Act (42 USC § 300F ET SEQ.) 53

M3.7 Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings, 40 CFR Part 192, ... 54

M3.7.1 Subpart A – Standards for the Control of Residual Radioactive Materials from Inactive Uranium Processing Sites, Table 1: Maximum Concentrations of Constituents for Groundwater Protection 54

M3.7.2 Subpart B – Clean-up of Land and Buildings Contaminated with Residual Radioactive Materials 55

M3.8 Spokane Tribe of Indians Hazardous Substances Control Act (HSCA, Resolution 2004-085) 55

M3.9 National Emissions Standards for Hazardous Air Pollutants (NESHAPs) for Uranium Mill Tailings Disposal Sites (40 CFR Part 61, Subpart T) 56

M3.10 Resource Conservation and Recovery Act, Subtitle D (40 CFR PARTS 257, Subpart A) 56

M3.11 Licensing Requirements for Land Disposal of Radioactive Waste (40 CFR Part 61).....57

M3.12 Endangered Species Act (7 USC § 136, 16 USC § 1531 ET SEQ.) 57

M3.12.1 Section 7 – Consultation 57

M3.13 Fish and Wildlife Coordination Act (16 USC § 661 et seq.).....58

M3.14 Migratory Bird Treaty Act (16 USC §§ 703–712).....59

M3.15 Protection of Floodplains – Executive Order 11988 59

M3.16 Native American Graves Protection and Repatriation Act (25 USC § 3001 et seq.) 60

M3.17 American Indian Religious Freedom Act (42 USC § 1996) (PL 95-341) 61

M3.18 National Historic Preservation Act (16 USC § 470 et seq.) (PL 89-668) Section 106 Consultation (16 USC § 470f).....61

M3.19 Office of Solid Waste and Emergency Response (OSWER).....62

M3.19.1 OSWER Directive No. 9200.4-18, Establishment of Cleanup Levels for CERCLA Sites with Radioactive Contamination (August 2, 1997) 62

M3.19.2 OSWER Directive No. 9200.4-25, Use of Soil Clean-up Criteria 40 CFR Part 192 as Remediation Goals for CERCLA Sites (February 2, 1998).....63

M3.20 Spill Prevention, Countermeasures and Control Rule (40 CFR Part 112.6).....63

M3.21 Clean Air Act (42 USC §7401 ET SEQ.) 64

M3.21.1 Introduction 64

M3.21.2 Overview of the CAA and EPA's implementing regulations.....64

M3.21.3 AIR EMISSIONS INVENTORY 69

M3.21.4 ANALYSIS 75

M3.21.5 AIR EMISSIONS CONTROL TECHNOLOGY 77

M3.21.6 AIR MONITORING PROGRAM 81

M3.22 NUCLEAR ENERGY AND RADIATION CONTROL ACT (RCW 70.98 AND WAC 246-220 AND 246-255).....81

M3.23 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (OSHA) (PUBLIC LAW 91-596 84 STAT. 1590) 82

M3.24 HAZARDOUS MATERIALS TRANSPORTATION ACT (49 CFR 105-180) 82

M3.25 Bald and Golden Eagle Protection Act (16 USC § 668-668c) 83

M3.26 Paleontological Resources Protection Act (16 USC § 470aaa(4)) 83

M3.27 Indian Affairs Manual, Environmental and Cultural Resources Management, Paleontological Resources 83

M3.28 Archaeological Resources Protection Act of 1979 (93 STAT. 721; 16 USC § 470 AA et seq.) (PL 96-95) 84

M3.29 Invasive Species – Executive Order 13112 84

M3.30 Integrated Resource Management Plan for the Spokane Indian Reservation 84

M3.31 Stevens County 89

M3.31.1 Administrative Conditional Use Permit (3.03.090) 89

M3.32 State Environmental Policy Act (RCW 43.21) 90

M3.33 Forest Practices Permit (RCW 76.09, RCW 6.13 RCW, AND WAC 222-16-010) 90

M3.34 Surface Mining Reclamation Permit (WAC 332-18 AND 78.44) 91

M3.35 Sanitation Standards for General Industry (29 CFR 1910.141 (a)(2)) 91

M4.0 REFERENCES 92

Table of Tables

Table M-1. Project Areas and Jurisdiction 2
Table M-3. Environmental Requirements by Project Components 9
Table M-4. Permit/Coordination Schedule 20
Table M-5. Summary of Regulatory Requirements 22
Table M-6. National Ambient Air Quality Standards 64
Table M-7. Tribal NSR Rule Thresholds for Attainment Areas. 66
Table M-8. Midnite Mine Stationary Emission Sources (existing and anticipated). 69
Table M-9. Potential to Emit Emissions (TPY) 73
Table M-10. Estimated Actual Emissions (TPY). 73
Table M-11. Estimated Actual HAPs emissions (TPY), including fugitive sources 74

Table of Figures

Figure M-1. Project Area Locations 22
Figure M-2. Midnite Mine Project Areas..... 24
Figure M-3. Ford Borrow Area. 25

Attachments

Attachment M-1. Wetland Delineation, Midnite Mine – Revision 2 (placeholder)
Attachment M-2. Biological Assessment, Midnite Mine – Revision 2~~1~~
Attachment M-3. Air Emissions Inventory Calculations, Midnite Mine

LIST OF ACRONYMS

ARAR - Applicable Relevant and Appropriate Requirements
ARD – Acid Rock Drainage

BODR - Basis of Design Report
BOR - U.S. Bureau of Reclamation

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act of
CFR - Code of Federal Regulations
COCs – Contaminants of Concern

EPA - U.S. Environmental Protection Agency
ESA - Endangered Species Act

FR - Federal Regulation
FARR - Federal Air Rules for Reservations
FWS - U.S. Fish and Wildlife Service

Haul Roads – Eastern and Western Haul Roads
HSCA - Spokane Tribe of Indians Hazardous Substances Control Act

LRNRA - Lake Roosevelt National Recreation Area
LSA - Low Specific Activity Group

NA - Not applicable
NCP - National Oil and Hazardous Substances Pollution Contingency Plan
NEPA - National Environmental Policy Act of 1969
NHPA - National Historic Preservation Act
NMFS - National Marine Fisheries Service
NOC - Notice of Construction
NPDES - National Pollutant Discharge Elimination System
NPS - National Park Service
NWP - Nationwide Permit

OSHA - Occupational Safety and Health Administration

RA - Remedial Action
RCRA - Resource Conservation and Recovery Act
RCW - Revised Code of Washington
RDWP - Remedial Design Work Plan

SEPA - State Environmental Policy Act
SHPO - State Historic Preservation Officer
SWMP - Stormwater Management Plan

THPO - Spokane Tribe of Indians Tribal Heritage Protection Officer

LIST OF ACRONYMS, cont.

USC - United States Code
USGS - U.S. Geological Survey

WA - Washington
WAC - Washington Administrative Code
WCA – Waste Containment Area
WTP - Water Treatment Plant

M1.0 INTRODUCTION

This document describes the compliance with substantive environmental requirements and permitting as part of the Midnite Mine Final Basis of Design Report (BODR). This appendix has been updated for the 100 ~~90~~ percent design submittal and has been updated to address comments with the 90 percent BODR and the current status of ongoing regulatory compliance and permitting requirements.~~.~~ As stated in the Remedial Design Work Plan (RDWP), this section of the BODR in the final~~90 percent~~ design report includes a list of known or anticipated compliance obligation with substantive requirements and off-site permits. This document also discusses the project areas and components, regulatory framework, project applicability, and a permitting and compliance strategy. Although the remedial design is at the 100 percent design level, there are regulatory compliance and permitting requirements that are still ongoing. These requirements are described below, specifically NPDES, 404 CWA, CAA, Section 106, and other permits for off-site activities at the Rhoads Borrow Area. ~~This document will be finalized through the 100 percent design process.~~

M2.0 PROJECT AREAS

The Midnite Mine Superfund Remediation Project is comprised of a number of distinct work areas. The main remediation will generally occur inside the Midnite Mine fence at the Mined Area. Other areas of the remediation project include the Haul Road Clean-up (eastern and western haul roads), Mine Drainage Clean-up (Western, Central, and Eastern drainages), Whitetail Drainage Clean-up, New Access Road construction, and Blue Creek Pipeline.

The EPA has determined that all of these areas are considered to be on-site under CERCLA and are exempt from permit requirements. Areas determined to be off-site and not covered under CERCLA include the ~~effluent discharged at the end of the Blue Creek Pipeline and the off-site~~ borrow areas (e.g., Rhoads Borrow Area or Ford Borrow Area). Section 121(e) of CERCLA, 42 U.S.C. § 9621(e) and 40 CFR § 300.400(e) of the NCP states:

> *(1) No federal, state, or local permits are required for on-site response actions conducted pursuant to CERCLA Sections 104, 106, 120, 121, or 122. The term on-site means the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the response action.*

Other agencies that have jurisdictions or regulatory authority over portions of this project include Spokane Tribe of Indians (Spokane Tribe), Stevens County, ~~Bureau of Reclamation,~~ and Washington State. Table M-1 shows the project areas and the regulatory jurisdiction associated with each. Table M-2 shows a summary of the applicable regulatory requirements by project area. The regulatory requirements for the Remedial Action are discussed below by project area and are summarized in Table M-3. Figure M-1 show the project locations, Figure M-2 shows the Midnite Mine project areas and Rhoads Borrow Area, and Figure M-3 shows the Ford Borrow Area option.

Table M-1. Project Areas and Jurisdiction

	Mines Areas	Eastern and Western Haul Road Clean-up	Mine Drainage Clean-up	New Access Road	Blue Creek Pipeline (including discharge and mixing zone)	Rhoads Borrow Area[2]	Ford Borrow Area[3]	~~Lake Roosevelt Discharge~~
CERCLA On-Site	●	●	●	●	●	●[1]		
Spokane Indian Reservation	●	●	●	●	●	●		~~●~~
Stevens County Fee Land						●	●	
Washington State						●[2]	●	
~~Bureau of Reclamation~~					~~●~~			~~●~~

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[1] *Whitetail Drainage Clean-up~~Creek~~, an ephemeral drainage in the Rhoads Borrow Area, and the effluent pipeline are ~~is~~ considered on-site.*

[2] *Meetings with Stevens County and State resource agencies~~[2] Recent meetings and discussions~~ have identified that Washington State Department of Natural Resources will require Surface Mine Reclamation Permit~~Permitting~~ and Forest Practices Permit for the portion of the Rhoads Borrow Area that is off-site~~Permitting~~.*

[3] *Only one borrow area will be developed with the Rhoads Borrow Area being the preferred site. The Ford Borrow Area will only be developed if access to~~the approvals for~~ the Rhoads Borrow Area cannot be obtained~~do not work out~~.*

The following project area and components make up the remedial action discussed in this appendix.

On-Site Areas

Mined Areas (507 acres)

- Sediment and stormwater control installation
- Site preparation and clearing
- Decontamination area construction
- Construction support facilities area preparation development
- Drain material processing and Area 5 stockpiling
- Hillside waste rock pile processing for Pit 4 drain rock
- Mine waste rock excavation
- Pit 4 backfilling
- South Pond construction
- Water treatment plant and associated ponds construction
- Water treatment plant effluent pipeline and diffuser construction (Blue Creek pipeline)
- Alluvial groundwater controls installation
- Pit 3 backfilling
- Hillside waste rock processing for Pit 3 drain rock
- Area 5 re-grading
- Backfilled Pit Area remediation
- Existing WTP Building demolition
- West Pond construction
- Pollution Control Pond removal

- South Pond removal
- South Waste Rock Pile remediation
- Central Drainage sediment remediation
- West Pond removal
- Permanent influent pipelines, site maintenance roads, and fencing construction
- Waste rock surface contouring
- Waste rock cap~~Cap~~ cover construction
- Cap and other mined area reclamation
- Pit water, seeps, and groundwater treatment
- Stormwater and sediment control installation/maintenance
- Site reclamation/revegetation
- Clean runoff diversion away from Waste Rock Containment Area
- Long-term monitoring

Blue Creek Pipeline (including discharge and mixing zone) (5 acres)

- Sediment and stormwater control installation
- Impeding tree removal
- Wellpinit – Westend Road traffic control
- Effluent pipeline installation in existing Blue Creek Road
- Effluent pipeline installation in dry portion of Lake Roosevelt
- Outfall diffuser Installation
- Effluent pipeline submersion in inundated portion of Lake Roosevelt
- Site reclamation/revegetation
- Long-term monitoring

Mine Road Remediation (Eastern and Western Haul Road Clean-up) (17 acres)

- Sediment and stormwater control installation
- Road base and sediment excavation
- Site reclamation/revegetation

Mine Drainage Clean-up (Western, Central, and Eastern Drainages) (>3 acres)

- Sediment and stormwater control installation
- Sediment excavation
- Groundwater collection trench installation
- Flood attenuation berm installation
- ~~Sediment and stormwater control installation~~
- Site reclamation/revegetation

New Access Road (1 acre)

- New access road clearing, grading, and paving

Off-Site Areas

Borrow Areas

Rhoads Borrow Area (67 acres)

- Sediment and stormwater control installation
- Site access development
- Haul road construction
- Borrow area development
- Timber harvest
- Slash and stump removal
- Topsoil salvage
- Borrow material extraction
- Site re-contour
- Topsoil placement
- Site revegetation

Ford Borrow Area (30 acres) (if used, Rhoads Borrow is the primary source)

- Sediment and stormwater control installation
- Site access development
- Haul road construction
- Timber harvest
- Slash and stump removal
- Topsoil salvage
- Borrow material extraction and transport
- ~~Haul approximately 50,000 truckloads of fill material~~ to Midnite Mine
- Site re-contour
- Topsoil placement
- Site revegetation
- Commercial purchase and delivery of 200,000 cu. yds. of topsoil from Lane Mountain to Midnite Mine.

~~**Lake Roosevelt Discharge** (discharge of effluent only)~~

Table M-2. Midnite Mine Regulatory Requirements and Jurisdiction by Project Area

Regulatory Requirements	OnLands within the Spokane Indian Reservation							Off Reservation
	CERCLA On-Site Areas					CERCLA Off-Site Areas		
	Federal Land					Stevens County Fee Land	Federal Land	Stevens County Fee Land
	Mined Areas	Haul Road Clean-up	Drainage Clean-up	New Access Road	Blue Creek Pipeline (including discharge and mixing zone)	Rhoads Borrow Area	Lake Roosevelt Discharge	Ford Borrow Area/ Lane Mountain
Clean Water Act								
304 Federal Ambient Water Quality (304(a) of CWA)	C				C		C	
NPDES - Point Source Discharge					P		P	
NPDES - Stormwater	C	C	C	C	C	P	P	
404 – Dredge and Fill of WofUS404		C	C		C			
Executive Order 11990 - Wetlands Protection		C	C		C			
Rivers and Harbors Act								
Section 10 - Navigable Waters					C			
401 Certification						P	P	
STI Surface Water Quality Standards Resolution	C	C	C	C	C	C	C	
Safe Drinking Water Act	C				C		C	
Health and Environmental Protection								
Standards for Uranium and Thorium Mill Tailings								
Standards for the Control of Residual Radioactive Materials from Inactive Uranium Processing Sites: Maximum Concentration of Constituents from Groundwater Protection	C	C	C					
Clean-up of Land and Buildings Contaminated with Residual Radioactive Materials	C	C	C					
STI Hazardous Substances Control Act	C	C	C	C	C	C	C	

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Table M-2. Midnite Mine Regulatory Requirements and Jurisdiction by Project Area

	OnLands within the Spokane Indian Reservation							Off Reservation
	CERCLA On-Site Areas					CERCLA Off-Site Areas		
	Federal Land					Stevens County Fee Land	Federal Land	Stevens County Fee Land
Regulatory Requirements	Mined Areas	Haul Road Clean-up	Drainage Clean-up	New Access Road	Blue Creek Pipeline (including discharge and mixing zone)	Rhoads Borrow Area	Lake Roosevelt Discharge	Ford Borrow Area/ Lane Mountain
National Emission Standards for Hazardous Air Pollutants for Uranium Mill Tailings Disposal Sites (NESHAPs)	C	C	C					
Resource Conservation and Recovery Act								
RCRA Subtitle D Regulations, Criteria for Classification of Solid Waste Disposal Facilities and Practices	C	C	C					
Licensing Requirements for Land Disposal of Radioactive Waste	C							
Endangered Species Act								
Biological Assessment	C	C	C	C	C		C	
Section 7 Consultation	C	C	C	C	C		C	
Fish and Wildlife Coordination Act	C	C	C	C	C		C	
Migratory Bird Treaty Act	C	C	C	C	C	C	C	
Executive Order 11988 - Floodplains Protection			C		C			
Native American Graves Protection and Repatriation Act (NAGPRA)	C	C	C	C	C	C		
American Indian Religious Freedom Act	C	C	C	C	C	C		
National Historic Preservation Act	C	C	C	C	C	C		
Office of Solid Waste and Emergency Response (OSWER), Establishment of Cleanup Levels for CERCLA Sites with Radioactive Contamination	C	C	C					

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Table M-2. Midnite Mine Regulatory Requirements and Jurisdiction by Project Area

	OnLands within the Spokane Indian Reservation							Off Reservation
	CERCLA On-Site Areas					CERCLA Off-Site Areas		
	Federal Land					Stevens County Fee Land	Federal Land	Stevens County Fee Land
Regulatory Requirements	Mined Areas	Haul Road Clean-up	Drainage Clean-up	New Access Road	Blue Creek Pipeline (including discharge and mixing zone)	Rhoads Borrow Area	Lake Roosevelt Discharge	Ford Borrow Area/ Lane Mountain
OSWER, Use of Soil Cleanup Criteria as Remediation Goals for CERCLA Sites	C	C	C					
Oil Pollution Prevention (SPCC)	C	C	C	C	C	C		
Clean Air Act								
Federal Air Rules for Reservations (FARR)	C	C	C	C	C	C	C	
WA State Air Quality Requirements (WAC173-400-040(4))							C	C
Nuclear Energy and Radiation Control Act	C							
Occupational Safety and Health Act (OSHA)	C	C	C	C	C	C	C	
Hazardous Materials Transportation Act	C	C	C		C			
Health Protection Standard for Uranium and Thorium Mill Tailings	C	C	C					
Bald and Golden Eagle Protection Act	C	C	C	C	C		C	
Paleontological Resources Protection Act								
Indian Affairs Manual, Environmental and Cultural Resources Management, Paleontological Resources	C	C	C	C	C			
Archaeological Resources Protection Act	C	C	C	C	C	C		
Executive Order 13112 - Invasive Weeds	C	C	C	C	C	C		
Spokane Tribe of Indians								
STI Integrated Resource Management Plan	C	C	C	C	C	C	C	
Stevens County								
Administrative Conditional Use Permit						P	P	
Washington State								
State Environmental Policy Act						P	P	

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~~Table M-2. Midnite Mine Regulatory Requirements and Jurisdiction by Project Area~~

	OnLands ~~within the Spokane Indian~~ Reservation							Off Reservation
	CERCLA On-Site Areas					CERCLA Off-Site Areas		
	Federal Land					Stevens County Fee Land	~~Federal Land~~	Stevens County Fee Land
~~Regulatory Requirements~~	Mined Areas	Haul Road Clean-up	Drainage Clean-up	New Access Road	Blue Creek Pipeline (including discharge and mixing zone)	Rhoads Borrow Area	~~Lake Roosevelt Discharge~~	Ford Borrow Area/ Lane Mountain
Forest Practices Permit						P	P	
Surface Mining Reclamation Permit						P	P	
Radiological Criteria for Unrestricted Use	C	C	C					
1960 Federal Radiation Council Radiation Protection Guidance	C	C	C					
National Council of Radiation Protection and Measurements	C	C	C					

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P – Permit

C - Compliance

Table M-2. Environmental Requirements by Project Components.

Activity	Act/Regulation	Requirement	Action/Measure
Drainage Clean-up	Executive Order 11990 - Protection of Wetlands	E.O. - Requires federal agencies to minimized the destruction, loss, or degradation of wetlands, and preserve and enhance the natural and beneficial values of wetlands for projects that they have approval or permitting authority over.	• Impacts to wetlands associated with the sediment~~drainage~~ clean-up in the drainages will be avoided and~~,~~ minimized where practicable and unavoidable impacts ~~and~~ mitigated. Decision on avoiding and minimizing impacts to wetlands will be made as access and the extent of the cleanup of contaminated sediments is determined in the field.
Blue Creek Pipeline	Executive Order 11990 - Protection of Wetlands	E.O. - Requires federal agencies to minimized the destruction, loss, or degradation of wetlands, and preserve and enhance the natural and beneficial values of wetlands for projects that they have approval or permitting authority over.	• Impacts to wetlands associated with the installation of the Blue Creek Pipeline along the margins of Lake Roosevelt will be avoided and~~,~~ minimized and unavoidable impacts will be mitigated.
Eastern Haul Road Clean-up	Executive Order 11990 - Protection of Wetlands	E.O. - Requires federal agencies to minimized the destruction, loss, or degradation of wetlands, and preserve and enhance the natural and beneficial values of wetlands for projects that they have approval or permitting authority over.	• Impacts to wetlands associated with the Eastern Haul Road Clean-up along the Northern and Eastern Drainage will be avoided and~~,~~ minimized and unavoidable impacts will be mitigated.
Vegetation Clearing Throughout	Migratory Bird Treaty Act	50 CFR 10.13 - Avoid the "taking" of migratory birds including active nests and feathers.	• Vegetation clearing during the nesting season (March-July) will be avoided where possible. • If vegetation clearing is required during the nesting season, conduct nesting bird surveys and avoid active nests until young have fledged.
WTP Effluent Discharge	National Pollution Discharge Elimination System	40 CFR 122 - Requires permits for the discharge of "pollutants" from any "point source" into "waters of the United States"	• An NPDES permit from EPA will be obtained for discharge into Lake Roosevelt. Permit is in process and pending approval.
Grading and Construction Activities On-Site	National Pollution Discharge Elimination System - Stormwater	40 CFR 122.26 - Requires permits for stormwater discharges from industrial activities such as construction activities consisting of clearing, grading, excavating, and stockpiling that disturb one or more acres are regulated under the National Pollutant Discharge Elimination System (NPDES) stormwater program.	• The permit conditions provided at http://www.epa.gov/npdes/pubs/cgp2012_finalpermit.pdf will be complied with. • The proposed pH limits of less than 6.0 or greater than 8.5,turbidity limit of 25 NTU and with other non-numeric effluent limitations requirement for erosion and sediment control, soil stabilization, dewatering, pollution prevention measures, prohibited discharges, and surface outlets (40 CFR 450.21) will be complied with regular monitoring. • The concepts and use of BMPs from the Stormwater Management Manual for Eastern Washington have been incorporated into the design. • The EPA approved Spokane Tribe's Water Quality Standards will be achieved through implementation of the RA. • Compliance with Endangered Species Act and Section 106 of the National Historic Preservation Act will be demonstrated through the preparation of a Biological Assessment and pre-construction surveys for eligible cultural resources.
Rhoads Borrow Area	National Pollution Discharge Elimination System - Stormwater	40 CFR 122.26 - Requires permits for stormwater discharges from industrial activities such as construction activities consisting of clearing, grading, excavating, and stockpiling that disturb one or more acres are regulated under the National Pollutant Discharge Elimination System (NPDES) stormwater program. The Construction General Permit (CGP) is issued by EPA within Reservation lands.	• The Construction General Permit (CGP) from EPA (eNOI) will be obtained for construction related stormwater discharges at the Rhoads Borrow Area. • The permit conditions provided at http://www.epa.gov/npdes/pubs/cgp2012_finalpermit.pdf will be complied with. • The proposed pH limits of less than 6.0 or greater than 8.5,turbidity limit of 25 NTU and with other non-numeric effluent limitations requirement for erosion and sediment control, soil stabilization, dewatering, pollution prevention measures, prohibited discharges, and surface outlets (40 CFR 450.21) will be complied with regular monitoring. • The concepts and use of BMPs from the Stormwater Management Manual for Eastern Washington will be incorporated into the design. • The EPA approved Spokane Tribe's Water Quality Standards will be achieved through implementation of the RA.~~.~~ • Compliance with Endangered Species Act and Section 106 of the National Historic Preservation Act will be demonstrated through the preparation of a Biological Assessment and pre-construction surveys for eligible cultural resources. • A Section 401 water quality certification will be obtained from the Spokane Tribe for the CGP at the Rhoads Borrow Area.

Table M-2. Environmental Requirements by Project Components.

Activity	Act/Regulation	Requirement	Action/Measure
Ford Borrow Area	National Pollution Discharge Elimination System - Stormwater	40 CFR 122.26 - Requires permits for stormwater discharges from industrial activities such as construction activities consisting of clearing, grading, excavating, and stockpiling that disturb one or more acres are regulated under the National Pollutant Discharge Elimination System (NPDES) stormwater program. The stormwater NPDES permit is administered by Washington Department of Ecology in areas off Reservation lands.	• A Sand and Gravel Permit will be obtained from Washington Department of Ecology for stormwater discharges at the Ford Borrow Area. • Permit conditions provided at http://www.ecy.wa.gov/programs/wq/stormwater/construction/permitdocs/cswgppermit120110.pdf will be complied with. • The proposed pH limits of less than 6.0 or greater than 8.5,turbidity limit of 25 NTU and with other non-numeric effluent limitations requirement for erosion and sediment control, soil stabilization, dewatering, pollution prevention measures, prohibited discharges, and surface outlets (40 CFR 450.21) with be complied with through regular monitoring. • The concepts and use of BMPs from Stormwater Management Manual for Eastern Washington will be incorporated into the design. ~~• The EPA approved Spokane Tribe's Water Quality Standards will be achieved through the implementation of the RA.~~ • Compliance with Endangered Species Act and Section 106 of the National Historic Preservation Act will be demonstrated through the preparation of a Biological Assessment and pre-construction surveys for eligible cultural resources.
Blue Creek Pipeline	Rivers and Harbors Act	33- CFR 320-332 - Prohibits unauthorized obstruction or alteration of any navigable water of the U.S. unless permitted by the U.S. Army Corps of Engineers	• The design and construction of the Blue Creek Pipeline in Lake Roosevelt will be coordinated with U.S. Army Corps of Engineers and U.S. Bureau of Reclamation.
Mine Area Clean-up	Section 304 - Water Quality Standards	40 CFR 131 - Requires EPA to develop, publish, and revise criteria for water quality accurately reflecting the latest scientific knowledge on all identifiable effects on health and welfare.	• The cleanup standards were developed for surface water and groundwater and provided in Tables 8-1 and 8-2 of the ROD, respectively. • Once areas are remediated, surface water will be allowed to drain down gradient to the natural drainages. • The water management systems, leak detection monitoring of storage ponds, and ~~by~~ site-wide monitoring of surface water down gradient of the MA will be inspected and monitored during and following RA construction as described in the OM&M Plan BODR Appendix P and the Site-Wide Monitoring Plan in BODR Appendix Q.
WTP Effluent Discharge	Section 401 Water Quality Certification	40 CFR 121 - Requires certification for water quality from state or Tribe for federal Clean Water Act Permits.	• A Section 401 Water Quality Certification will be obtained from Spokane Tribe for the NPDES Permit for the WTP effluent discharge.
Rhoads Borrow Area	Section 401 Water Quality Certification	40 CFR 121 - Requires certification for water quality from state or Tribe for federal Clean Water Act Permits.	• A Section 401 Water Quality Certification will be obtained from Spokane Tribe for the stormwater NPDES for the Rhoads Borrow Area.
Drainage Clean-up	Section 404 of Clean Water Act - Discharge of Dredge or Fill	33 CFR 320.3 - Requires a section 404 permit for the discharge of dredge or fill material into waters of the U.S.	• Impacts~~Unavoidable impacts~~ to wetlands will be avoided and~~,~~ minimized, and unavoidable impacts to wetlands and streams~~mitigated for~~ in the Western, Central, and Eastern Drainages will be mitigated. • Applicable conditions associated with NWP 38 including, compliance with Section 404 of the CWA, Section 106 of the National Historic Preservation Act, Endangered Species Act, and Executive Orders 11990 for wetlands and 11988 for floodplains will be complied with. • Impacts to~~Pre-mine~~ wetlands ~~impacted~~ will be mitigated~~replaced~~ at the ratios specified in EPA's interagency Mitigation Guidance document in Washington State~~a 1:1 ratio~~. • ~~A~~ Wetland mitigation opportunities~~Restoration Plan consistent with Section 404(b)(1) requirements will be prepared and implemented.~~ ~~• If on-site wetland restoration is unsuccessful, alternative locations within the Spokane Indian Reservation~~ will be identified and evaluated~~pursued~~ or credits will be purchased at an accredited mitigation bank. • A Compensatory Mitigation Plan consistent with Section 404(b)(1) requirements will be prepared and implemented.

Table M-2. Environmental Requirements by Project Components.

Activity	Act/Regulation	Requirement	Action/Measure
Blue Creek Pipeline	Section 404 of Clean Water Act - Discharge of Dredge or Fill	33 CFR 320.3 - Requires a section 404 permit for the discharge of dredge or fill material into waters of the U.S.	• Impacts~~Unavoidable impacts~~ to wetlands will be avoided and~~,~~ minimized, and unavoidable impacts to wetlands and streams~~mitigated~~ adjacent to Blue Creek and Lake Roosevelt with be mitigated. • Applicable conditions associated with NWP 38 including, compliance with Section 404 of the CWA, Section 106 of the National Historic Preservation Act, Endangered Species Act, and Executive Orders 11990 for wetlands and 11988 for floodplains will be complied with. • Impacts to~~Pre-mine~~ wetlands ~~impacted~~ will be mitigated~~replaced~~ at the ratios specified in EPA's interagency Mitigation Guidance document in Washington State~~a 1:1 ratio~~. • ~~A~~ Wetland mitigation opportunities~~Restoration Plan consistent with Section 404(b)(1) requirements will be prepared and implemented.~~ • ~~If on-site wetland restoration is unsuccessful, alternative locations within the Spokane Indian Reservation~~ will be identified and evaluated~~pursued~~ or credits will be purchased at an accredited mitigation bank. • A Compensatory Mitigation Plan consistent with Section 404(b)(1) requirements will be prepared and implemented.
Eastern Haul Road Clean-up	Section 404 of Clean Water Act - Discharge of Dredge or Fill	33 CFR 320.3 - Requires a section 404 permit for the discharge of dredge or fill material into waters of the U.S.	• Impacts~~Unavoidable impacts~~ to wetlands will be avoided and~~,~~ minimized and unavoidable impacts to wetlands and streams~~, and mitigated~~ in the Northern and Eastern Drainages will be mitigated. • Applicable conditions associated with NWP 38 including, compliance with Section 404 of the CWA, Section 106 of the National Historic Preservation Act, Endangered Species Act, and Executive Orders 11990 for wetlands and 11988 for floodplains will be complied with. • Impacts to~~Pre-mine~~ wetlands ~~impacted~~ will be mitigated~~replaced~~ at the ratios specified in EPA's interagency Mitigation Guidance document in Washington State~~a 1:1 ratio~~. • ~~A~~ Wetland mitigation opportunities~~Restoration Plan consistent with Section 404(b)(1) requirements will be prepared and implemented.~~ • ~~If on-site wetland restoration is unsuccessful, alternative locations within the Spokane Indian Reservation~~ will be identified and evaluated~~pursued~~ or credits will be purchased at an accredited mitigation bank. • A Compensatory Mitigation Plan consistent with Section 404(b)(1) requirements will be prepared and implemented.
All Remediation Areas	Spokane Tribe of Indians Surface Water Quality Standards Resolution 2010-173	Spokane Tribe's surface water quality standards	• The 2010 Water Quality Standards were disapproved by EPA on December 19, 2013, specifically for mercury and thallium. It is unclear what the final standards for these constituents will be or when it will be resolved. However, the clean-up standards for surface water were established in Table 8-1 of the ROD based on background conditions and the RA is designed to meet those standards. • As the area is remediated, surface water will be allowed to drain down gradient into the natural drainages as described in the Technical Memorandum - Midnite Mine- Management of Stormwater Runoff from Remediated Areas - Revision 1 (WME, 2013a~~2013~~), included as Attachment O-1 of the SWMP. • Mine impacted water will be contained as described in the BODR Appendix E - Water Management Ponds and BODR Appendix F - Surface Water and Sediment Controls.
All Remediation Areas	Safe Drinking Water Act (SDWA)	40 CFR 141 - Protects drinking water sources	• The RA will consolidate the contaminated material in the WCA and will hydraulically isolate from surface and ground water. The groundwater will be pumped and treated at the WTP as described in the BODR Appendix D - Mine Waste Excavation and Containment. • The remedy has been designed to achieve the cleanup standards developed based on background conditions and established in the Table 8-2 of the ROD through natural attenuation. • Groundwater down gradient from the WCA will be monitored to demonstrate compliance with groundwater cleanup standards as described in the BODR Appendix Q - Site Wide Monitoring Plan. • Compliance with the SDWA will be documented in the Site Wide Monitoring. • A potable water system will be developed on site for workers consistent with Washington State Department of Health requirements for Group A, Non-Community, Non-Transient water systems.

Table M-2. Environmental Requirements by Project Components

Activity	Act/Regulation	Requirement	Action/Measure
All Remediation Areas	Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings, Standards for the Control of Residual Radioactive Materials from Inactive Uranium Processing Sites, for Groundwater Protection	40 CFR 192, Subpart A - Allows the use of background levels where background levels exceed the listed standards as is the case for U-234 and U-238 37 pCi/L and 35 pCi/L, respectively.	• The RA will rely on natural attenuation of groundwater following the natural flushing following source control through consolidation of mine wastes in the WCA and pumping water that accumulates to the WTP for treatment as described in the BODR Appendix D - Mine Waste Excavation and Containment. • The cleanup standard for groundwater was developed based on background conditions and established in Table 8-2 of the ROD. • Once remediated, surface water will be allowed to drain from remediated areas down gradient to natural drainages. • The Institutional Control Implementation and Assurance Plan (ICIAP) (MWH, 2014) will provide directions for institutional controls that will preclude assess to groundwater that does not meet the standards.
All Remediation Areas	Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings, Clean-up of Land and Buildings Contaminated with Residual Radioactive Materials	40 CFR 192, Subpart B - Allows soil limits to be set at values great than background (i.e., 5 pCi/g radium above background).	• The RA limits for soil are set at background and therefore more restrictive than UMTRCA. • Soil clean-up levels are provided in Table 8-3 of the ROD and monitored using procedures in BODR Appendix S - Analytical Support and Verification Plan for Remediation of Surface Materials and Sediments. • Mine waste including soils and sediments will be consolidated, isolated, and covered in the WCA in excess of the clean-up standards as described in the BODR Appendix D - Mine Waste Excavation and Containment. • The clean-up standards for soils and sediments are provided in Tables 4-1 and 4-2 of the BODR. • The existing buildings on-site will be demolished and disposed of with the mine waste in the WCA. Buildings used during the RA will be either decontaminated to UMTRCA limits and taken off-site or disposed of on-site.
All Remediation Areas	Spokane Tribe of Indians Hazardous Substances Control Act, 2004-085	Spokane Tribe's standards for groundwater, surface water, and soil/sediment cleanup on lands within the Spokane Indian Reservation.	• The RA will include consolidating, isolating, and covering the mine waste in the WCAs as described in BODR Appendix D - Mine Waste Excavation and Containment using the cleanup standards for surface material and sediments in Tables 4-1 and 4-2 of the BODR, based on background conditions. • No hazardous waste (i.e., WTP residuals, construction/maintenance materials) will be disposed of on-site. • WTP residuals will be disposed of off-site at a licensed facility in accordance with the Residual Management Plan for the Midnite Mine Water Treatment Plant (the RMP) (WME, 2013).
WCA	National Emissions Standards for Hazardous Air Pollutants for Uranium Mill Tailings Disposal Sites	40 CFR 61, Subpart T - Requires that 20pCi/m^2/sec for radon-222 will be used as the standard to limit radon flux emissions to ambient air.	• The RA will consolidate, isolate, and cover the mine waste in the WCAs to limit radon flux as described in the BODR Appendix D - Mine Waste Excavation and Containment. • The cover system will consist of a synthetic~~)~~ geomembrane with a soil cover. The soil cover system alone is designed to limit radon flux to the UMTRCA standard of 20 pCi/m^2/sec. • Once the cover system is completed, radon flux levels will be measured to confirm the UMTRCA standards are achieved.
WTP	Resource Conservation and Recovery Act, Subtitle D	40 CFR 257, Subpart A - Provides siting requirements to limit the disposal of solid waste in floodplains, or in areas that would cause or contribute the "taking" of threatened or endangered species, or discharge pollutants into waters of the U.S. that violates the NPDES program.	• All WTP residuals will be disposed of off-site at a licensed facility. • The short-term management of WTP residuals will be in the WTP area and not be located in a floodplain and would not cause or contribute to the taking of threatened or endangered species as consistent with the Residuals Management Plan for the Midnite Mine Water Treatment Plant (the RMP) submitted to EPA on November 1, 2013 (WME, 2013b~~2013~~). • Compliance will be documented in the WTP design and in the Biological Assessment.

All Remediation Areas	Licensing Requirements for Land Disposal of Radioactive Waste	40 CFR 61 - Provides performance objectives and technical requirements for the Nuclear Regulatory Commission licensing of land disposal for radioactive wastes as well as the short term management of WTP residuals and rock containing uranium at levels that qualify the rock as source material.	• There will not be any on-site disposal of water treatment residual and waste rock and contaminated soil will be disposed of in compliance with the ROD and CD which is consistent with the following:
			  • Protection of releases to the general environment in groundwater, surface water, air, soil, plants, or animal would not result in an annual dose of radioactivity exceeding 25 millirems to the whole body, 75 millirems to the thyroid, and 25 millirems to any other organ of members of the public;
			  • Protection of individuals from inadvertent intrusion;
			  • Protection of individuals during operation; and
			  • Stability of the disposal site after closure.

Blue Creek Pipeline and Lake Roosevelt Discharge	Endangered Species Act	50 CFR 17 - Provides regulatory protection and recovery mechanism for imperiled species and their habitat and makes it unlawful to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect a federally listed species.	• A Biological Assessment has been prepared that analyzes the effects of the RA on federally listed threatened and endangered species. Bull trout are the only species that has the potential to occur within the RA. The BA determined that the project "may affect, but would not likely adversely affect" bull trout. The EPA submitted the BA to U.S. Fish and Wildlife Service on September 30, 2014. • BMPs will be implemented to control turbidity from stormwater runoff as described in the BODR - SWMP.

Table M-2. Environmental Requirements by Project Components.

Activity	Act/Regulation	Requirement	Action/Measure
Blue Creek Pipeline and Lake Roosevelt Discharge	Fish and Wildlife Coordination Act	Requires federal agencies to coordinate and consult with federal and state wildlife agencies as appropriate.	• The U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration, Washington Department of Fish and Wildlife, Washington Natural Heritage Program, Spokane Tribe Department of Natural Resources were contacted for input into the preparation of the Biological Assessment.
Drainage Clean-up Blue Creek Pipeline	Executive Order 11988 - Protection of Floodplains	Requires federal agencies to protect floodplains by analyzing project effects and minimizing impacts to floodplains for projects that they have approval or permitting authority over.	• Impacts to floodplains will be minimized through the design such as minimizing any intrusions or obstructions into the floodplain that would impede floodplain volume or flow velocity. • The Attenuation Berms will be located in the floodplains of the Eastern and Central Drainages to attenuate peak flows. • All other areas• Areas within the floodplain will be regraded to pre-construction conditions as much as possible following construction.
All Remediation Areas	Native Graves Protection and Repatriation Act	43 CFR 10 - Provides protection of Native American graves including Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony.	• A Ground Disturbance Permit Application was submitted to the Spokane Tribe's Tribal Historic Preservation Officer (THPO) in 2013. The THPO recommended professional archaeological surveys and sub-surface testing and monitoring of ground disturbing activities.). • The Spokane Tribe Archaeology & Preservation Office (Preservation Office) has conductedwill conduct cultural resource surveys, literature search, interviews with former mine employees, and historical research to identify the potential for cultural resources prior to construction. No grave sites, funerary objects, sacred objects, or objects of cultural patrimony were identified during the surveys. A report summarizing the results of these surveys and research is expected in the fall of 2015. • A cultural resource monitor will be present during construction in areas with the potential for cultural resources. • Upon the discovery of grave sites, or funerary objects, sacred objects, or objects of cultural patrimony, work in the area will ceasestop and the THPO will be consulted to determine recovery and preservation options.
All Remediation Areas	American Indian Religious Freedom Act	This act as amended directs federal agencies to evaluate their policies and procedures to protect and preserve Native American religious cultural rights and practices.	• A Ground Disturbance Permit Application was submittedPrior to disturbance, the Spokane Tribe's THPO in 2013. The THPO recommended professional archaeological surveys and sub-surface testing and monitoring ground disturbing activities. • The Spokane Tribe Archaeology & Preservation Office (Preservation Office) has conducted cultural resource surveys,will conduct a literature searchreview, interviews with former mine employees, and historical researchfield surveys to identify the potential for cultural resources prior to construction. No any religious, ceremonial, or burial sites were identified during the pre-construction surveys. A report summarizing the results of these surveys and research is expected in the fall of 2015. • If any sites are identified during construction, work will cease in that area andinside the project boundary, the THPO will be consulted to explore alternatives and determine recovery and preservation options. mitigation, if necessary. • The Preservation Office will prepare a report summarizing the results of their literature search, interviews, and field surveys and THPO consultation, if necessary.
All Remediation Areas	National Historic Preservation Act	36 CFR 800 - Requires federal agencies to consider effects of projects that they have approval or permitting authority over to protect historic properties and cultural resources.	• A Ground Disturbance Permit Application was submitted to the Spokane Tribe's THPO in 2013. The THPO recommended professional archaeological surveys and sub-surface testing and monitoring ground disturbing activities. • The Preservation Office has conducted a literature review, interviews with former mine employees, terrestrial field surveys, monitoring, historical research to determine if any listed or eligible sites are present within the RA area. No listed sites or sites eligible for listing on the National Register have been identified during the research or terrestrial survey and subsurface sampling. • The Preservation Office will prepare a report summarizing their finding, which is expected to be completed in the fall of 2015. • Construction specification require that care will be taken during construction to protect or mitigate impacts to listed sites or sites eligible for listing on the National Register of Historic Places. • The Preservation Office will monitoring ground disturbing activities, as needed. • If sites conduct a literature review, interview, and field surveys to determine if any listed or eligible for listingsites are present within the RA area. • If listed or eligible sites are identified, the Preservation office will comply with Section 106 of the NHPA and consultation with the THPO and other agencies will be initiated to evaluate alternatives for minimizing, minimize impacts, and determine mitigation, if necessary.

Table M-2. Environmental Requirements by Project Components

Activity	Act/Regulation	Requirement	Action/Measure
All Remediation Areas	Office of Solid Waste and Emergency Response, Directive No. 9200.4-18, Establishment of Cleanup Levels for CERCLA Sites with Radioactive Contamination	This Directive clarifies guidance for establishing clean-up levels for radioactive contamination at CERCLA sites for human health protection, specifically the appropriate risk exposure or dose levels range for radionuclides as a cancer risk range between 10^{-4} and 10^{-6}, cited in 40 CFR 300.430 (e)(2)(i)(A)(2), which are more protective than NRC's regulations.	• The RA will consolidate, isolate, and cover the mine waste, including all soils and sediments in excess of the cleanup standards in the WCAs as described in the BODR Appendix D - Mine Waste Excavation and Containment. • Cleanup standards for surface material and sediments are based on background levels and are provided in Tables 4-1 and 4-2 of the BODR.
All Remediation Areas	Office of Solid Waste and Emergency Response, Directive No. 9200.4-25, Use of Soil Clean-up Criteria as Remediation Goals for CERCLA Sites	This Directive clarifies the extent to which the soil clean-up criteria in 40 CFR Part 192, Subpart A were used when setting remediation goals for subsurface soils. Subpart A standards states that the control of residual radioactive materials and their listed constituents shall be designed so that there will not be more than two release rates exceeding an average of 20 $pCi/m^2/sec$. for radon 222.	• The RA will include consolidating, isolating, and covering the mine waste including all soils and sediments in excess of the cleanup standards in the WCAs as described in the BODR Appendix D - Mine Waste Excavation and Containment. • The clean-up standards for surface material and sediments are based on background levels and are provided in Tables 4-1 and 4-2 of the BODR.

All Grading	Spill Prevention, Countermeasures and Control Rule	40 CFR Part 112.6 - Requires certain facilities to prepare and implement a Spill Prevention, Countermeasures, and Control (SPCC) Plan to prevent oil discharges into navigable waters and adjoining shorelines.	• A SPCC for the WTP is provided in the OM&M Plan in Appendix O.
			• A site-wide SPCC will be prepared by the selected contractor in accordance with good engineering practices and be certified by a Professional engineer and contain the following elements:
			  • Facility diagram and facility description;
			  • Oil discharge prediction;
			  • Secondary containment and diversion structures;
			  • Facility drainage;
			  • Bulk storage requirements- inspection, overfill and integrity;
			  • Transfer procedures and equipment;
			  • Qualified oil-filled operational equipment;
			  • Brittle fracture evaluation for above ground field containers;
			  • Personnel training and prevention briefings;
			  • Recordkeeping;
			  • Five year Plan review;
			  • Management approval; and
			  • Plan certification.
			• Inspection will be conducted in accordance with the OM&M Plan in BODR Appendix P and Site-Wide Monitoring Plan in BODR Appendix Q.
			• A SPCC will be prepared for the Rhoads Borrow Area or Ford Borrow Area and include the components specified above.

Table M-2. Environmental Requirements by Project Components.

Activity	Act/Regulation	Requirement	Action/Measure

All Grading and Construction	Clean Air Act	40 CFR Parts 9 and 49 - Establishes air quality standards to protect public health and public welfare as well as protecting against decreased visibility and regulating emissions of hazardous air pollutants.
		
		40 CFR Part 49, Subpart M - Creates an implementation plan for tribes referred to as Federal Air Rules for Reservations (FARR).
		
		40 CFR § 49.124 - Establishes that visible emissions from air pollution sources may not exceed 20 percent opacity, averaged over six consecutive minutes, as measured by EPA Method 9.
		
		40 CFR § 61.140 *et seq*, Subpart M - National Emission Standards for Asbestos
		
		40 CFR § 61.220 *et seq*., Subpart T - National Emission Standards for Radon Emissions from the Disposal of Uranium Tailings
		
		40 CFR § 63.6580 *et seq*., Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines
		
		40 CFR § 60.670 *et seq*., Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants
		
		40 CFR § 60.4200 *et seq*., Subpart IIII - Standards of Performance for Stationary Compression Ignition Internal Combustion Engines
			• A site specific written plan will be prepared prior to commencing construction or demolition (40 CFR §49.126).
			• Asbestos NESHAP (40 CFR §160.145) work practices will be implemented during demolition and disposal, if asbestos material are encountered in the existinghistoric buildings.
			• Within 90 days after beginning operations, the facility will be registered with EPA under FARR requirements, and annually thereafter by February 15 of each year (40 CFR Part 49, Section 138). – EPA considers this an administrative requirement and is considered voluntary and not required under the CERCLA permit exemption.
			• The EPA confirmed that the RA will be a minor emission source and records• Records will be maintained to demonstrate that actual emission remain below 50 percent of the PTE thresholds for Major Source status for purposes of Title V.
			• If necessary, measures will be implemented to prevent emissions from stationary sources from exceeding 100 TPY of NO_x by limiting run-time for certain equipment, installing non-resettable runtime meters on the engines and calculating emissions on a rolling 12 month basis.
			• Implement Best Management Practices (BMPs) will be implemented to control fugitive PM as described in the StormSurface Water Managementand Sediment Controls Plan in BODR Appendix OF and the Operations, Maintenance, and Monitoring (OM&M) Plan in BODR Appendix P.
			• .
			• Monitor visible emissions• Fugitive PM will be monitored in accordance with EPA Method 9 and fugitive PM emissions with EPA Method 22 within 30 days of start of the operation and on an annual basis thereafter, during typical operating and weather conditions (40 CFR Part 49.124 and 49., Section 126). The date, time, and results of the survey will be documented.— Additional air monitoring will be performed in accordance with an Air Quality Monitoring Plan (AQMP) that will be developed with the EPA and Tribe in the future.
			  • If visiblefugitive PM emissions from stationary sources exceed 20 percent opacity requirementrequirements, an action plan will be prepared to identified sources and actions to prevent exceedance.
			  • If fugitive PM emission is identified, measures will be taken to minimize fugitive emission..
			• Comply with theThe applicable requirements of 40 CFR § 60.4200 *et seq*. for stationary compression ignition internal combustion engines. will be complied with by using Tier III or Tier IV emission standard engines.
			  • All stationary engines will be certified to meet EPA required emission standards for the year manufactured.
			  • All stationary engines will be maintained and operated consistent with the manufacturer's recommendations. Records of conducted maintenance will be kept, consistent with a maintenance plan to demonstrate compliance and to maintain and operate the engine consistent with good air pollution control practice for minimizing emissions.
			  • Emergency stationary engines, will be operated for the purpose of maintenance checks and readiness tests, consistent with the manufacturer's recommendation, and will not exceed 100 hours per year.
			• Comply with the• The applicable requirements of 40 CFR § 63.6580 *et seq*. for stationary reciprocating internal combustion engines will be achieved by limiting emissions to .
			  • Stationary combustion engines will comply with EPA Tier III or Tier IV emission standards, excluding the rock crusher equipment.
			• Comply with the• The applicable requirements of 40 CFR § 61.220 *et seq*. for radon emissions from the disposal of uranium mill tailings will be achieved by the placement of cover and confirmation of the radon flux measurements.
			• The applicable requirements of 40 CFR § 60.670 *et seq*. for sources at nonmetallic mineral processing facilities will be complied with through the control of and monitoring for fugitive dust emissions.
			  • • Monitor and document fugitive PM at the Rhoads Borrow Area as described above.If a bag house is used to control fugitive emissions on the rock crusher, quarterly monitoring using EPA Method 22 for will be conducted for 30 minutes to determine if fugitive PM emissions are being emitted from the baghouse (40 CFR §60.674). If fugitive PM emissions are identified, corrective actions will be initiated within 24 hours. Quarterly monitoring will be documented as required by 40 CFR §60.674.
			• Comply with the applicable requirements of 40 CFR §49.130 et seq. for rules for reducing sulfur in fuels.
			  • Ultra-low sulfur diesel fuel will be used for diesel engines re-fueled on-site.

Table M-2. Environmental Requirements by Project Components.

Activity	Act/Regulation	Requirement	Action/Measure
All Grading and Construction, Cont'd.	Clean Air Act, Cont'd.		• Comply with the applicable requirements of 40 CFR §63.6580 et seq. for National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (40 CFR). • If the stationary engine for the rock crushers was manufactured prior to June 12, 2006, the non-emergency, non-black start CI stationary RICE ≤ 300 hp would: • Change oil and filter every 1,000 hours of operation or annually, whichever comes first; • Inspect air cleaner every 1,000 hours of operation or annually, whichever comes first, and replace as necessary; • Inspect all hoses and belts every 500 hours of operation or annually, whichever comes first, and replace as necessary. • If the stationary engine for the rock crushers was greater than 300hp and manufactured prior to June 12, 2006, additional requirements would apply (Table 2d to Subpart ZZZZ of Part 63). • Monitor and document fugitive PM at the Rhoads Borrow Area as described above.
Ford Borrow Area	Clean Air Act	(WAC) 173-401 - Requires facilities with more than 100 tons per year of NO_x, VOC, CO, SO_2 and PM, 10 tons per year of any HAP or 25 tons per year of a combination of HAPs obtain an operating permit.	• Borrow operation at the Ford Borrow Area, if it is used, would not exceed 100 tons per year regulated National Ambient Air Quality Standards pollutants. • If the Ford Borrow Area is used, fugitive PM at the Ford Rhoads Borrow Area, BMPs will be implemented to control fugitive PM as described in the StormSurface Water Managementand Sediment Controls Plan in BODR Appendix OF and the Operations, Maintenance, and Monitoring (OM&M) Plan in BODR Appendix P. • Monitor visible emissionsFugitive PM will be monitored in accordance with EPA Method 9 and fugitive PM emissions with EPA Method 22 within 30 days of start of the operation and on an annual basis thereafter, during typical operating and weather conditions (40 CFR Part 49.124 and 49., Section 126). The date, time, and results of the survey will be documented.— • If visiblefugitive PM emissions from stationary sources exceed 20 percent opacity requirementrequirements, an action plan will be prepared to identified sources and actions to prevent exceedance. • If fugitive PM emission is identified, measures will be taken to minimize fugitive emission. •
WTP	Nuclear Energy and Radiation Control Act	RCW 70.98 AND WAC 246-220 AND 246-255 - Regulates sources of ionizing radiation for the protection of the occupation and public health and safety.	• The conditions of the terminated State radioactive materials license (WN I0390 1) will be continued to be complied with in the operation and management of the WTP and WTP sludge.
All Areas	Occupational Safety and Health Act	29 CFR Part 1910 - Provides requirements for safe and healthful workplaces by setting enforcing standards, and by providing training, outreach, education, and assistance.	• Implement OSHA and TOSHA requirements that have been incorporated into the Health and Safety Plan included in the BODR Appendix P - OM&M Plan.
Remediation Area	Hazardous Materials Transportation Act	49 CFR 105-180 - Requires Reportable Quantities of Hazardous Substances or Low Specific Activity Group I (LSA-1) be transported, packaged, and labeled in accordance with the procedures.	• Any Reportable Quantities of hazardous substances including LSA-I transported on public roads will be packaged, labeled, and transported in accordance with Hazardous Material Transportation Act requirements.
All Areas	Bald and Golden Eagle Protection Act	50 CFR 22 - Prohibits "taking" of bald and golden eagles, including their parts, nests, and eggs without a permit.	• Prior to construction, surveys for eagle nests will be conducted to identify active eagle nests. Restricted access within ¼ mile of active nests could be required from November 15 until the nest becomes unoccupied.
All Areas	Paleontological Resources Protection Act	This act provides protection for paleontological resources on Federal land with an explicit exemption on Indian land.	• The BIA and Spokane Tribe will be consulted if paleontological resources are discovered; however, the presence of fossils in the area is unlikely.

Table M-2. Environmental Requirements by Project Components.

Activity	Act/Regulation	Requirement	Action/Measure
All Areas within the Reservation	Indian Affairs Manual, Environmental and Cultural Resources Management, Paleontological Resources	25 CFR 162.100 *et seq*. - Requires a permit prior to the excavation or removal of imbedded fossils from Indian lands.	• The BIA and Spokane Tribe will be consulted if paleontological resources are discovered; however, the presence of fossils in the area is unlikely.
All Areas within the Reservation	Archaeological Resources Protection Act	43 CFR Part 7 - Protects archaeological resources including material remains of archaeological interest and cultural items from unnecessary removal on public lands and Indian lands.	• Upon the discovery of archaeological resources or grave sites, construction activities will immediately stop at that location and the THPO will be consulted and their instructions will be followed.
On-Site Areas	Executive Order 13112 - Invasive Species	This E.O. mandates federal agencies to prevent the introduction and spread of invasive species and rapidly control populations for project that they have approval or permitting authority over.	• Invasive species will be controlled when identified as described in the Noxious Weed Management Plan (NWMP) found in Appendix E of the Rhoads Property Plan of Operation and Reclamation (POOR) and will be applicable to on-site areas as well . Seed, mulch, and BMP materials will be certified as invasive free for revegetation and erosion control as described in the POOR and will be applicable to on-site areas as well. Temporary seeding of disturbed areas will also serve to minimize establishment of invasive species.
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	Requires adherence to NHPA and other cultural resources laws.	• A Ground Disturbing Permit was requested from the THPO in 2013 and recommended cultural resource studies and monitoring will be followed in accordance with theobtained and work will be conducted to follow NHPA and other cultural resources requirements.
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	Survey of lands prior to any undertaking with Federal involvement.	• The Preservation Office conductedwill conduct surveys in spring 2014 and 2015 and THPO's recommendations will be incorporated into the final design and implementation.
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	Protect cultural aesthetic values within 1 mile of mountain peaks.	• The remediation will occur within 0.5 miles of the Spokane Mountain; however, the final reclamation will improve the aesthetic values from its current condition following the final grade contours and establishment and maturity of native revegetation.
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	Discharges to comply with the Tribal Water Quality Standards and the Hazardous Substance Control Act.	• The Tribe's Water Quality Standard and Hazardous Substances Control Act are identified ARARs that have been considered in developing the clean-up standard. Cleanup standards are based on background conditions.
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	Obtain NPDES for point source discharges.	• An NPDES permit application was submitted to the EPA in March 2013.
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	Obtain 401 certification through the Tribe for federal CWA permits.	• A request will be made for a 401 certification once the NPDES permit obtained..
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	Comply with federal laws such as Clean Water Act and Safe Drinking Water Act.	• The project is being designed to comply with the Clean Water Act and Safe Drinking Water Act, including minimizing impacts to jurisdictional wetlands and other non-wetland waters of the U.S.use and maintain wellhead protection areas as discussed above.
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	Implement BMPs for new construction.	• BMPs will be incorporated into the design and SWMP.
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	Follow water quality and hazardous substances standards.	• The Tribe's Water Quality Standard and Hazardous Substances Control Act are identified ARARs that have been considered in developing the clean-up standard. The cleanup standards are based on background levels.
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	No new construction or excavation within 100 ft of riparian vegetated streams, lakes, and ponds	• The Blue Creek pipeline will be primarily constructed in the existing Blue Creek Road and the pipeline will be buried and will not affect existing riparian vegetation. A formal IDT review of the limited conditional entry will be requested to confirm that the limited entry is consistent with the Tribe's IRMP Individual Program Goals (watersheds, riparian corridors, and surface water) once the specific engineering plans are refined, pending resolution of NPDES permitting requirements. • The sediment in the Western, Central, Eastern, and Northern Drainages are contaminated and impacts to wetlands and riparian vegetation are necessary improve habitat and stream quality.
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	No new construction or excavation within ½ mile of rivers and 1,310 ft elevation;	• The Blue Creek Pipeline and drainage clean-up are within the designated Riparian Zone. The pipeline will be buried and will not be visible once installed and no riparian vegetation will be impacted as part of the installation of the Blue Creek Pipeline. The Blue Creek Pipeline will cross a short section of upland grasses and shrubs between Blue Creek Road and Lake Roosevelt. The upland vegetation will be revegetated with native species once the pipeline is installed. A formal IDT review of the limited conditional entry will be requested to confirm that the limited entry is consistent with the Tribe's IRMP Individual Program Goals (watersheds, riparian corridors, and surface water) once the specific engineering plans are refined, pending resolution of NPDES permitting requirements. • BMPs will be implemented to minimize the transport of sediment into riparian and wetland communities.

Table M-2. Environmental Requirements by Project Components

Activity	Act/Regulation	Requirement	Action/Measure
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	No pesticide (e.g., herbicide, insecticide, fungicide, and rodenticide) and fertilizer use within 500 ft.	• No pesticides will be used within the Riparian Zone corridor.
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	Prohibits development or consumptive or destructive uses within ½ mile from elevation 1,310 ft on Lake Roosevelt.	• The Blue Creek Pipeline will be within the Shoreline Recreation Zone at the Blue Creek Road and into Lake Roosevelt. However, the pipeline will be buried and primarily be located within the existing dirt road (Blue Creek Road). It crosses a small section of upland vegetation adjacent to Lake Roosevelt with native species and then crosses through the lake bed. A formal IDT review of the limited conditional entry will be requested to confirm that the limited entry is consistent with the Tribe's IRMP Individual Program Goals (watersheds, riparian corridors, and surface water) once the specific engineering plans are refined, pending resolution of NPDES permitting requirements.
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	This section lists water source priorities for dust control which are in the following order: 1) Spokane River/Columbia River; 2) Little Falls & Bull Pasture irrigation valves; 3) Western Nuclear; 4) SiJohn Field; 5) Harris Well; 6) Tank Below Post Plant; 7) Turtle Lake ; 8) Mathews Lake1; and 9) Benjamin Lake1.	• It is currently planned that water from construction purposes will be obtained from on site. Treated water from the WTP will be used for dust control on contaminated materials. Water meeting MCLs will be used for off-site dust control and for use in the construction support zone as discussed in Appendix T to the BODR.
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	No new construction or excavation within 500 ft. of community wells and Wellhead Protection Zone. No pesticide (e.g., herbicide, insecticide, fungicide, and rodenticide) and fertilizer use within 500 ft.	• The remediation is not within 500 ft of a Wellhead Protection Zone.
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	Prohibits development on wildlife mitigation lands, as established by covenant. Tribe follows the federal Endangered Species Act.	• The remediation is not on wildlife mitigation lands. • A Biological Assessment has been prepared to determine if a formal Section 7 Consultation with the U.S. Fish and Wildlife service would be necessary. Only the bull trout has the potential to occur within the project area. No other Threatened or Endangered species are expected to occur within the project site. The Biologic Assessment concluded that the proposed remedial action "may affect, but would not likely adversely affect bull trout".
All Areas within the Reservation	Integrated Resource Management Plan for the Spokane Indian Reservation	Meet the National Ambient Air Quality Standards (NAAQS) and FARR.	• The Master SWMP in Appendix O and the Technical Specification in Appendix K of the BODR address limiting fugitive dust emissions. A more detailed site specific fugitive dust control plan will be prepared prior to the commencement of construction or demolition activities. • Any On-Reservation and Off-Site emission sources that meet the criteria will be registered under FARR. No rock crusher would be used off-site. • An AQMP has been submitted~~will be developed~~ to EPA and the Tribe describing the proposed~~monitor~~ air quality monitoring. Comments on that plan were not received at the time of publication of this document. ~~site boundary.~~
Rhoads Borrow Area	Stevens County Administrative Conditional Use Permit	Stevens County regulates development activities on all fee land within Stevens County	• Stevens County granted an~~An~~ Administrative Conditional Use Permit ~~application package was submitted to Stevens County~~ for the Rhoads Borrow Area on July 30, 2015. Conditions~~May 5, 2014 and included the application, SEPA checklist, and Rhoads Borrow Plan~~ of the permit will be followed~~Operation and Reclamation~~.
Ford Borrow Area	Stevens County Administrative Conditional Use Permit	Stevens County regulates development activities on all fee land within Stevens County	• An Administrative Conditional Use Permit application package will be submitted to Stevens County for the Ford Borrow Area, if the Rhoads Borrow Area cannot be finalized, and included the application and~~,~~ SEPA checklist~~, and Ford Borrow Area~~.
Borrow Area	Washington State Environmental Policy Act	RCW 43.2 - Requires decision makers to consider potential environmental impacts of the proposed action.	• Environmental impacts for the Rhoads Borrow Area were documented in the SEPA checklist as part of the Stevens County Administrative Conditional Use Permit application. Stevens County made a Determination of Nonsignificance (DNS) for the SEPA review of the Rhoads Borrow Area development (~~The SEPA checklist was submitted on May 5, 2014.~~July 30, 2014). • If it is determined that the Ford Borrow Area will be used, a separate SEPA checklist will be submitted to Stevens County as part of the Administrative Conditional Use Permit.~~.~~
Ford Borrow Area	Washington Forest Practices Act	RCW 76.09, RCW 6.13 RCW, AND WAC 222-16-010 - Washington Department of Natural Resources administers permits for timber harvest of fee land.	• The Forest Practices application will be submitted to WA DNR (approximately 18 months prior to development) to permit~~to allow~~ timber harvest on~~from~~ the Rhoads Borrow Area, or on~~from~~ the Ford Borrow Area if the alternative borrow area is required.
Borrow Areas	Washington Surface Mine Reclamation Permit	WAC 332-18 AND 78.44 - Requires surface mines greater than three acres of ground disturbance or has high walls greater than 30 ft and slopes steeper than 45 degrees be permitted.	• The Application for Reclamation Permit will be submitted to WA DNR (approximately 18 months prior to development) for~~the 100 percent design submittal to permit~~ the development of the borrow area at the Rhoads Borrow Area, or the Ford Borrow Area~~,~~ if the alternative borrow area is required.

Table M-2. Environmental Requirements by Project Components.

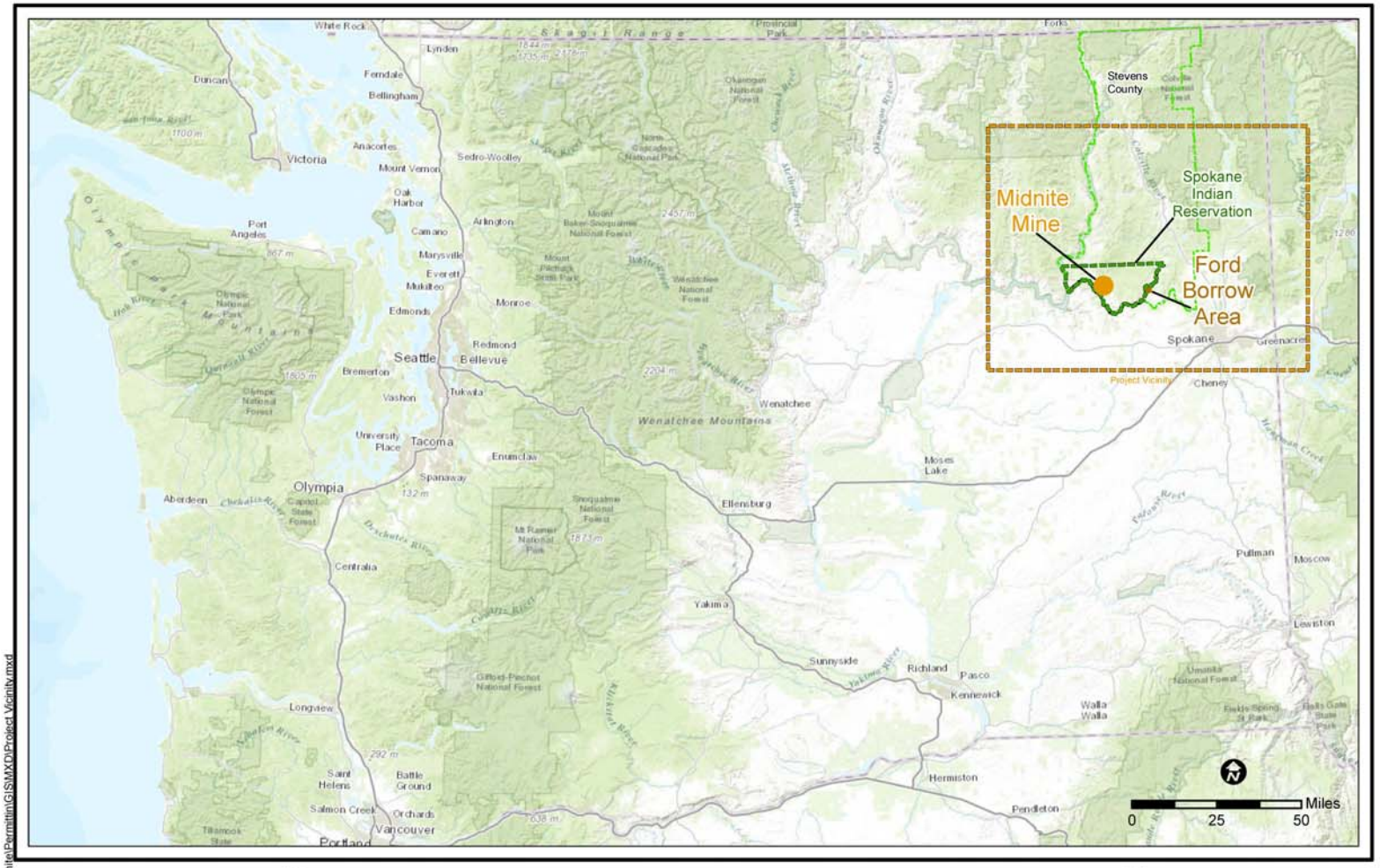
Activity	Act/Regulation	Requirement	Action/Measure
All Areas	Sanitation Standards for General Industry	29 CFR 1910.141 (a)(2) - Provides standards for potable water and septic systems and are implemented locally by both the Tribes Utility Services Department and the Northeast Tri-County Health District	• A potable water system will be developed On-Site for workers consistent with Washington State Department of Health requirements for Group A, Non-Community, Non-Transient water system. • Design and construct septic system consistent with the Northeast Tri-County Health District as described in the OM&M Plan located in BODR Appendix P. • Periodically test water system to ensure that standards are being achieved as described in the OM&M Plan located in BODR Appendix P.

There are a number of project permits and agency coordination that are required to implement this project. The schedule for those permits and coordination with agencies are provided in Table M-4.

Table M-3. Permit/Coordination Schedule

Permit/Coordination	Requirement	Schedule
EPA - Clean Air Act	Site Specific Fugitive Dust Plan	Prepare at least 30 days prior to construction
EPA - Clean Air Act	Air Quality Monitoring Plan (WME 2014a) Clean Air Act - Re-evaluation of equipment following the specification of equipment	Air Quality Monitoring Plan –Rev 1 submitted to EPA on 12/2/2014. Review by EPA and Tribe is ongoing. Once the stationary equipment is specified, reevaluate to determine if an updated New Source Review is warranted.~~Following the 100 percent design~~
EPA - NPDES Permit	WTP NPDES	Submitted to EPA in March 2013. Processing by EPA is ongoing.
EPA - NPDES Permit	Rhoads Borrow Area Stormwater NPDES	The ~~TBD, if access to the~~ Rhoads Borrow Area development is planned for year four. The stormwater NPDES Permit takes approximately 14 days, but it will need to be filed in conjunction with the 401 certification which could take up to six~~finalized, at least 6~~ months~~ prior to the planned 2018 borrow~~.
EPA - Section 404 of Clean Water Act	~~Revised~~ Wetland Delineation – Rev 4 (WME 2015a)	~~July 30, 2014~~TBD, Revision 4 submitted on 5/8/2015 and review from EPA is ongoing.
EPA/USFWS - Endangered Species Act	~~Revised Biological Assessment – Rev 1~~ ~~Revised~~ Biological Assessment – Rev 2 (WME 2014b)	EPA submitted to USFWS on September~~July~~ 30, 2014. ~~TBD, once the pipeline design is advanced following the resolution of NPDES permit requirements~~
Section 404 of Clean Water Act	Draft Conceptual Wetland and Stream Mitigation Approach~~Restoration Plan~~ ~~Wetland Restoration Plan~~	~~July 30, 2014~~ TBD, ~~once comments on the Draft~~ Conceptual ~~Wetland Restoration~~ Plan submitted to EPA on 3/16/2015 and review is ongoing~~are received~~.
Spill Prevention Countermeasures Rule	Preparation of SPCC	To be completed by the contractor prior to the commencement of work~~Completed~~ as part of the Remedial Action Work Plan.~~BODR~~
Spokane Tribe - 401 Certification	WTP 401 Certification	TBD, submission of the 401 Certification request from the Spokane Tribe once the WTP ~~pipeline design is advanced following the resolution of~~ NPDES permit requirements are advanced.
Spokane Tribe - 401 Certification	Rhoads Borrow Area 401 Certification	The Rhoads Borrow Area development is planned for year four. The 401 certification and stormwater NPDES permit will be requested approximately one year prior to planned borrow area development in year four. The 401 certification from the Tribe could take up to six months. The stormwater NPDES is expected to take 14 days.~~At least 6 months prior to the planned 2018 borrow.~~
Spokane Tribe - Integrated Resource Management Plan for the Spokane Indian Reservation	Coordinate with Spokane Tribe IDT for verification of IRMP consistency of Blue Creek Pipeline	TBD, once the pipeline design is advanced following the resolution of NPDES permit requirements.
Spokane Tribe THPO - National Historic Preservation Act and other cultural resource requirements	Cultural Resource Surveys	A Ground Disturbance Permitted in 2013 and the THPO's recommendations to have the Spokane Tribe Preservation Office conducted cultural resource~~to conduct~~ surveys occurred in~~summer~~ 2014 and 2015. Cultural resources monitoring will occur throughout the RA.
Stevens County - Administrative Conditional Use Permit	Rhoads Borrow Area	Stevens County authorized an Administrative Conditional Use Permit for the Rhoads Borrow Area development on

		7/30/2014.~~Submitted 5/5/2014~~
Stevens County - Administrative Conditional Use Permit	Ford Borrow Area	TBD, if Ford Borrow area is determined to be required.~~.~~
U.S. Army Corps of Engineers - Section 10 of Rivers and Harbor Act	Coordination with U.S. Army Corps of Engineers	TBD once the pipeline design is advanced following the resolution of NPDES permit requirements
WA DNR	Forest Practices Permit	At least 120~~60~~ to 1800~~90~~ days prior to timber harvest at the Borrow Area in year four~~2018~~, renew every three years
WA DNR	Mine Reclamation Permit	At least 18~~6 to 9~~ months prior to the planned borrow activities in year four.



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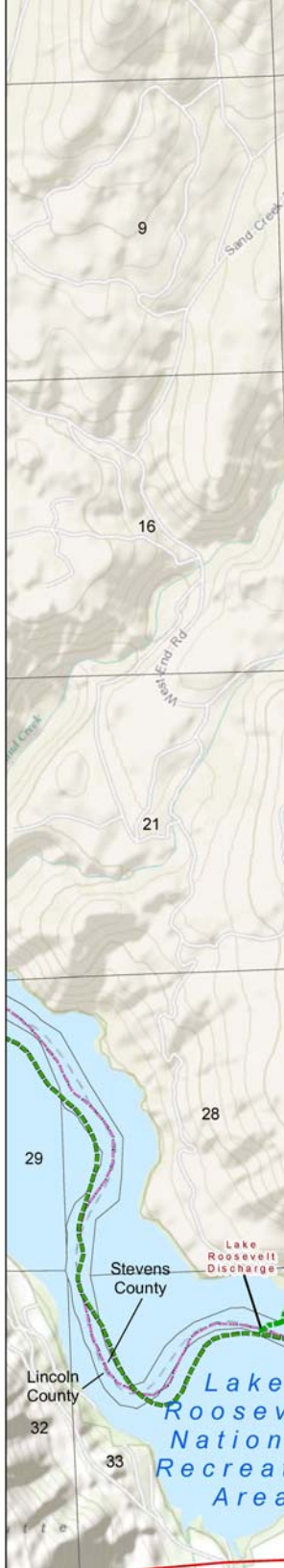
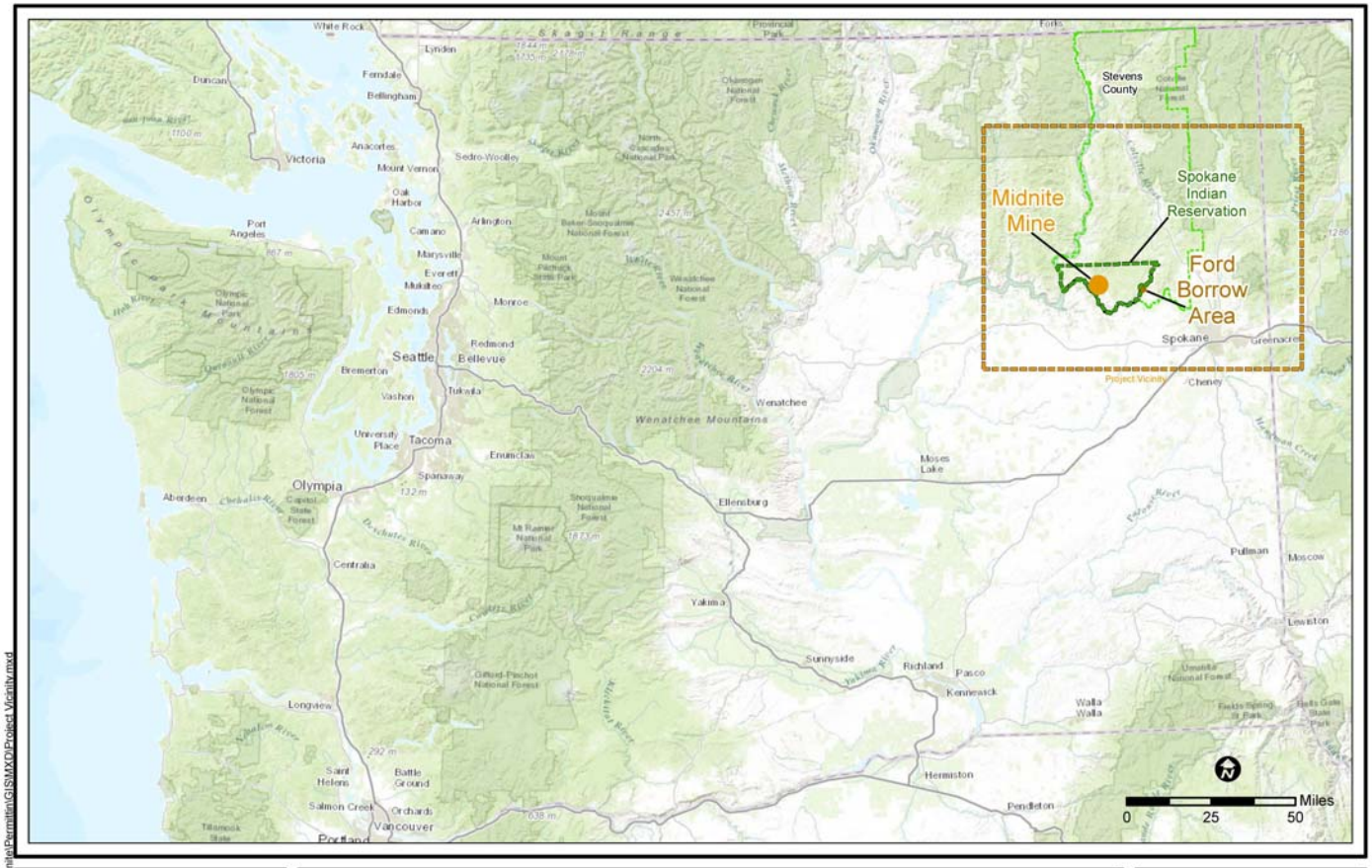
ENVIRONMENTAL, LLC.

Figure M-1
Midnite Mine and Ford Borrow Project Locations

Date:	July 2014
Project:	Midnite Mine
File:	Project Vicinity.MXD

Z:\Project Files\Midnite\Permitting\GIS\MXD\Project Vicinity.mxd





WORTHINGTON MILLER ENVIRONMENTAL, LLC.	Figure M-1 Midnite Mine and Ford Borrow Project Locations	Date: July 2014 Project: Midnite Mine File: Project Vicinity.MXD

Z:\Project Files\Midnite\Permitting\GIS\MXD\Project Vicinity.mxd

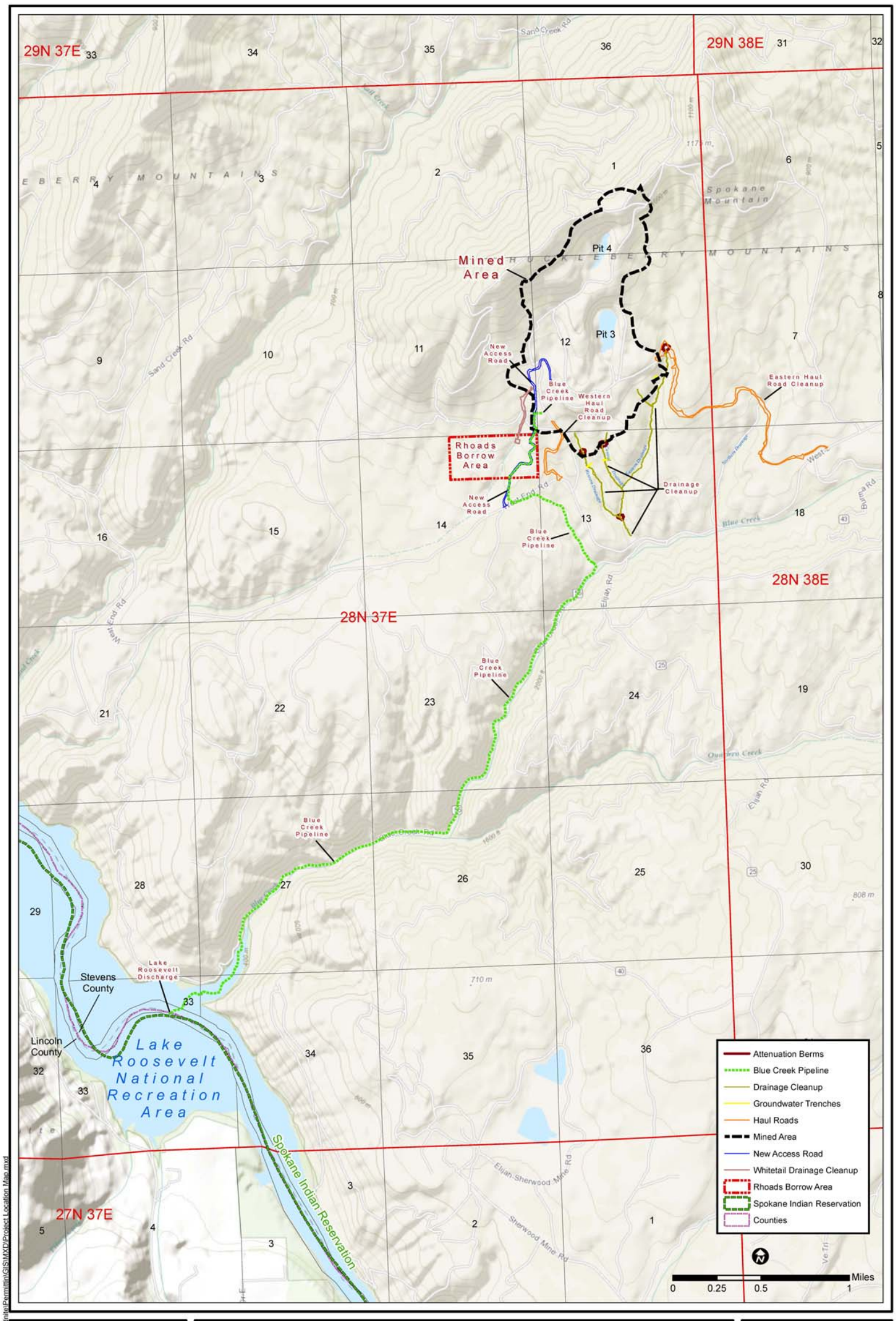


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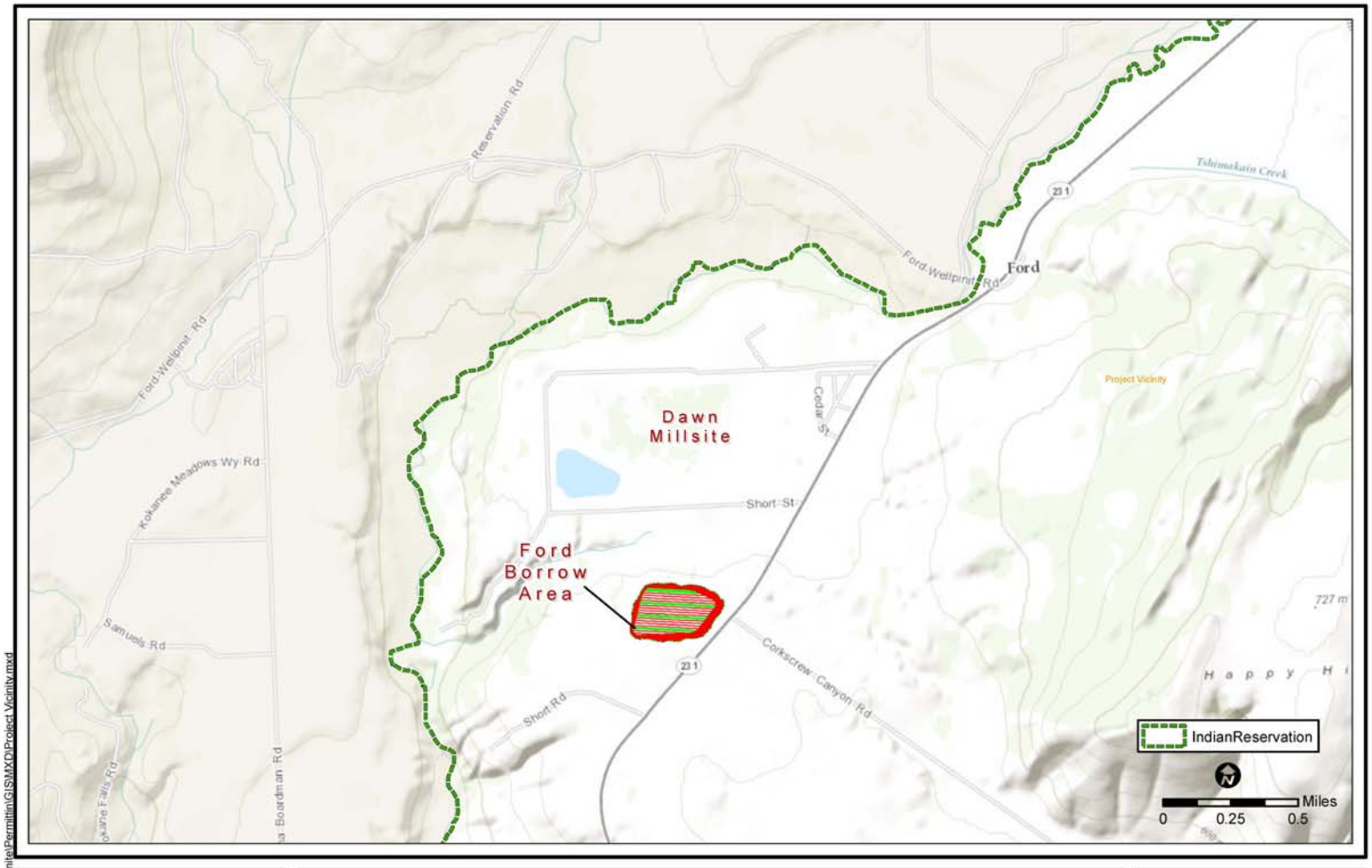
Figure M-2
Midnite Mine Project Areas

Date:	June 2015
Project:	Midnite Mine
File:	MMComponents.MXD

Z:\Project Files\Midnite\Permitting\GIS\MXD\Project Location Map.mxd



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WORTHINGTON MILLER ENVIRONMENTAL, LLC.	Figure M-3 Ford Borrow Area	Date: July 2014 Project: Midnite Mine File: Ford Borrow.MXD

M3.0 REGULATORY REQUIREMENTS

As described in the ROD (EPA, 2006), the Remedial Action is protective of human health and the environment, complies with applicable or relevant and appropriate requirements (ARARs), is cost effective, and utilizes permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable. The Remedial Action also employs treatments that permanently and significantly reduce the volume, toxicity, or mobility of hazardous wastes as a principal element with a bias against off-site disposal of untreated wastes.

Under Section 121 of CERCLA and the NCP, the Remedial Action complies with all chemical-specific, action specific, and location specific ARARs with the exception of ARARs for water treatment discharge during interim action. As described in the ROD (EPA, 2006), the EPA has made the statutory determination that the Remedial Action protects human health and the environment as follows:

- Containment of mine waste under a soil cover will result in background levels of contaminants of concern (COCs) in surface materials and will result in protective surface radon and radiation levels in the containment area.
- Control of sources of acid rock drainage (ARD) and treatment of contaminated seeps and pit water will reduce contaminant loading to groundwater and surface water, allowing natural recovery to achieve background levels of COCs.
- Achievement of surface water, sediment, and soil cleanup levels will protect human and environmental receptors.
- Short-term and long-term institutional controls and access restrictions will limit human exposure to groundwater, surface water, sediments, and subsistence foods affected by these media pending achievement of cleanup levels.

Many of these requirements are incorporated into the design and specifications of the Remedial Action (RA) and do not require permits or consultation with agencies. These regulatory requirements have been organized in a similar manner as the ROD and are followed by other regulatory requirements that are to be considered.

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
Clean Water Act							
1	Federal Regulatory Requirement	Surface Water	Clean Water Act Section 304 – Federal Ambient Water Quality (National Recommended Water Quality Criteria, November 2002, and 67 Federal Register 79091-79095, December 27, 2002).	Section 304 of the Clean Water Act requires the EPA to develop, publish, and revise criteria for water quality accurately reflecting the latest scientific knowledge on all identifiable effects on health and welfare. The Midnite Mine (MM) Record of Decision (ROD) established cleanup levels for surface water (see BODR Table 4-3). The ROD acknowledges that contaminants of concern (COCs) in surface water are expected to exceed background and cleanup levels during, and for a period of time following the RA as natural flushing of water that previously contacted mine wastes occurs.	Throughout the Remedial Action (RA), all mine-impacted surface water within the Mined Area (MA) will be captured and treated at the operating WTP. As the RA progresses, surface water from areas that have been remediated will be allowed to drain to the natural drainages down gradient of the MA. The process for containing the mine-impacted water is described in BODR Appendix E – Water Management Ponds and Appendix F – Surface Water and Sediment Controls. Additional information regarding draining surface water from the remediated areas is presented in the technical memorandum titled *Midnite Mine – Management of Stormwater Runoff from Remediated Areas – Revision 1* (WME, 2013a~~2013~~), which is included as Attachment O-1 to the SWMP.	Compliance with the requirements of the CWA will be accomplished through routine OM&M inspections of the water management systems, and by site-wide monitoring of surface water down gradient of the MA during and following RA construction. The OM&M Plan is included in BODR Appendix P, and the Site-Wide Monitoring Plan is included in BODR Appendix Q.	NA
2	Federal Regulatory Requirement	Surface Water	Federal Water Pollution Control Act—National Pollution Discharge Elimination System (NPDES; Clean Water Act; 33 U.S.C. §1342, Section 402) and Implementing Regulations.	The NPDES program requires that permits be obtained for Part 440 point-source discharges of pollutants to surface water. **WTP** - A NPDES permit has been in place for the existing WTP since 1986. Permits are not required for any discharges that are onsite. The ROD requires a modified NPDES permit for the new WTP that will be constructed during the RA~~ and discharge off site~~. **Stormwater Discharge** - The ROD requires compliance with the requirement of the general stormwater permit program for stormwater discharges associated with the RA. The discharge of stormwater from off-site areas such as the Rhoads Borrow Area requires a stormwater NPDES permit to ensure that any stormwater leaving the site meets surface water quality requirements.	**WTP -** An application for a modified NPDES permit for the new WTP (which will discharge to Lake Roosevelt) is under review by EPA. **Stormwater Discharge -** Stormwater will be managed in accordance with the Stormwater Management Plan (SWMP; located in BODR Appendix O), which has been prepared to comply with the *Stormwater Management Manual for Eastern Washington* (SMMEW; Washington Department of Ecology [WDOE], 2004). At least 14 days prior to the commencement of earthmoving activity at the Rhoads Borrow Area, a Notice of Intent will be submitted for a Construction General Permit (CGP) under the EPA's Stormwater NPDES Program, Permit No WAR12000I.	**WTP -** NPDES permit compliance will be accomplished through regular sampling of the WTP effluent and associated reporting in accordance with the existing permit requirements. **Stormwater Discharge –** Compliance with requirements will be demonstrated through regular inspections and monitoring as described in the SWMP to confirm that the stormwater controls are adequate and that the Best Management Practices (BMPs) are functioning as designed, or to determine if additional BMPs are necessary. Permit compliance with the CGP at the Rhoads Borrow Area will be accomplished through implementing the conditions of the permit and regular monitoring as described in the SWMP.	A modified NPDES permit application was submitted to the EPA on March 21, 2013 for the ~~off-site~~ discharge of effluent from the new WTP. Additional studies will occur in summer 2015 to better understand ~~and~~ additional polishing requirements for aluminum and arsenic~~information was submitted on July 2, August 28, September 27, October 18, November 1 and December 9, 2013~~. Discharge from the existing WTP will comply with the existing NPDES Permit No. WA-002572-1, effective October 30, 1995 until a modified permit becomes effective.

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
3	Federal Regulatory Requirement	Wetlands	Clean Water Act, Section 404 – Dredge or Fill Requirements Regulations, 33 CFR Parts 320–330; 40 CFR Part 230. Protection of Wetlands, Executive Order 11990 (40 CFR Part 6, Appendix A). This executive order mandates that If RAs take place in wetlands, such as in certain areas along the Blue Creek and East Drainage riparian areas, these requirements will be applicable.	The Army Corps of Engineers implements the Section 404 permit program which provides guidelines for the identification of wetlands and implements protective requirements for actions involving wetlands. Executive Order 11990 requires that response actions taken by federal agencies must be designed to avoid long and short-term impacts to wetlands. If remediation activities are located near/in wetlands, the remediation activities must be designed to avoid adverse impact to the wetlands wherever possible, including minimizing wetlands destruction and preserving wetland values. A wetland delineation has been conducted throughout the project area and has identified jurisdictional wetlands in Blue Creek, Eastern Drainage, Central Drainage, Western Drainage, and Northern Drainage (Attachment M-1). Wetland impacts will likely occur in the Eastern, Central, Western, and Northern Drainages as part of the required drainage and haul road clean-up. Actual impacts will not be known until the design and construction has advanced to determine the type of equipment, equipment access and the disturbance required for clean-up. Access by construction equipment will be designed to avoid and minimize impacts to wetlands to the maximum extent practical. Diversion or collection of surface and ground water will reduce the amount of water available to support wetlands. Fill would also be placed in non-wetland waters of the U.S. in Lake Roosevelt; however, impacts would be negligible on the unvegetated lake bottom. All impacts to jurisdictional wetlands and waters of the U.S. will occur on-site and no permits are required.	Jurisdictional wetlands and non-wetland waters of the U.S. have been identified in the Wetland Delineation (WME 2015a). Impacts to wetlands will be avoided and ~~. Avoid,~~ minimize to the extent practical. Unavoidable~~, and mitigate unavoidable~~ impacts to wetlands~~. To the extent practicable, replace impacted pre-mine wetlands~~ will be mitigated consistent with EPA's interagency Wetland Mitigation Guidelines ~~in-kind~~/in Washington State. Discussions with EPA regarding stream mitigation requirements are ongoing~~. place wetlands at a 1:1 ratio.~~ Prepare and implement a Compensatory Mitigation~~Wetland Restoration~~ Plan consistent with Section 404(b)(1) requirements. Regrade drainage to a natural stable state using existing instream~~: Replace disturbed material with clean, suitable~~ material; install BMPs; revegetate impacted areas with native wetland, riparian and upland species; maintain and monitor restoration until performance standards are achieved, as described in the ~~draft~~ Conceptual Wetland and Stream Mitigation Approach.~~Restoration Plan included in the wetland delineation.~~ A more comprehensive mitigation~~restoration~~ plan will be submitted following EPA's review and further discussions including the "Water Budget Workshop"~~, as part of the 90 Percent Design submittal.~~ If wetland restoration on-site is not successful, alternative off-site locations within the Spokane Indian Reservation will be identified and pursued, or the purchase into the Meadowcroft Wetland Mitigation Bank.	Compliance with the requirements of Section 404 of the CWA and E.O. 11990 will be accomplished by documenting unavoidable impacts to jurisdictional wetlands and waters of the U.S. associated with the drainage cleanup. Unavoidable impacts to wetlands will be mitigated consistent with EPA's interagency Wetland Mitigation Guidance. ~~A Wetland Restoration Plan will be prepared and implemented to replace temporary impacts to wetlands (pre-mine) at a 1:1 ratio in accordance with Section 404(b)(1) Guidelines. A draft Conceptual Wetland Restoration Plan will be included in the wetland delineation and submitted to EPA by May 31, 2014.~~ A Conceptual Wetland and Stream Mitigation Approach (WME 2015b) was submitted to EPA on 3/16/2015 and is under review. Wetlands Restoration will be monitored annually by a Restoration Scientist ~~and~~ until ~~the~~ established and the performance standards are achieved. The results will be included in an annual monitoring report as described in the Site-Wide Monitoring Plan is included in BODR Appendix Q.	The latest version of the Wetland Delineation (WME 2015a) was~~will be~~ updated and submitted to EPA on 5/8/2015 following an EPA site visit and the Conceptual Wetland and Stream Restoration Approach (WME 2015b) was submitted on 3/16/2015. The two reports responded to EPA's request for additional information including~~resubmitted on May 31, 2014 to include~~ estimated impacts based on ~~impact analysis for~~ the latest design iteration and identification of potential mitigation opportunities. EPA's review of these documents is ongoing~~. A revised Section 404 Clean Water Act compliance section will be resubmitted to EPA on March 7, 2014. A draft Conceptual Wetland Restoration Plan will be submitted to EPA on May 31, 2014 as part of the interim wetland delineation submittal~~.

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
4	Federal Regulatory Requirement	Water	Rivers and Harbors Act (33 USC §403).	Section 10 of the Harbor and Rivers Act requires that any obstruction or alteration of any navigable water of the U.S. be permitted by the U.S. Army Corps of Engineers. Lake Roosevelt is classified as a navigable water of the U.S.	The construction of the Blue Creek Pipeline is considered to be on-site under CERCLA and no permits are required. However, DMC will consult with the U.S. of Army Corps of Engineers on the design and construction of the pipeline in Lake Roosevelt once the design progresses further. The pipeline design has been delayed pending resolution of NPDES permitting requirements	Compliance with the requirements of the Harbors and River Act will be accomplished by documenting coordination with U.S. Army Corps of Engineers.	NA
5	Federal Regulatory Requirement	Water	Section 401 – Water Quality Certification (33 USC §1341).	Section 401 of the Water Quality Certification Program requires states (or authorized tribes) to certify federally permitted discharge into waters of the U.S. to protect state water quality standards. The Spokane Tribe is an authorized certification authority under "Treatment As a State" (TAS) designation. The 401 certification process ensures that the Spokane Tribe's 2010 Surface Water Quality Standards are being met for federal Clean Water Act permitted projects on lands within the Reservation. The 401 Water Quality Certification Program is applicable for activities that ~~occur off-site under CERCLA that~~ require a CWA permit. However, on December 19, 2013, the EPA disapproved the Tribe's 2010 proposed Water Quality Standards, specifically the proposed mercury and thallium standards. It is unclear what the final standards for these constituents will be.	A 401 Water Quality Certification for the point source NPDES permit in Lake Roosevelt and the Rhoads Borrow Area stormwater NPDES will be applied for from the Spokane Tribe Water Control Board through the Tribe's Department of Natural Resources (DNR) in accordance with Tribal Resolution 30-2.04. The 401 Water Quality Certification application requires the demonstration that discharge from the WTP into Lake Roosevelt and stormwater discharge at the Rhoads property meet the Tribe's surface water quality standards.	Compliance with permits~~permit~~ will be accomplished through implementing the conditions of the NPDES permit and 401 Certification and regular monitoring as described in the SWMP and OM&M Plan, Appendix P.	Brian Crossley of Spokane Tribe DNR was consulted regarding the 401 requirements on 9/5/2013. 401 Certifications will be requested pending resolution of NPDES permitting requirements.

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
6	Tribal Resolution	Surface Water	Spokane Tribe of Indians Surface Water Quality Standards Resolution 2003-259, March 7, 2003.	This resolution establishes surface water quality standards for protection of human health and aquatic life for surface waters on tribal lands. These standards are applicable to surface water at the Site. EPA approved the Tribe's standards on April 22, 2003, in accordance with the CWA "Treatment As a State" (TAS) procedures. In addition, EPA has stated in the preamble to the NPC (55 Federal Register 8741, March 8, 1990) that it is appropriate to treat Indian tribes as states for the purpose of identifying ARARs under Section 121(d)(2) of CERCLA. Further, EPA has determined that the Tribe's water quality standards are appropriate standards to be considered in establishing cleanup levels. On December 19, 2013, the EPA disapproved the Tribe's 2010 proposed Water Quality Standards, specifically the proposed mercury and thallium standards. It is unclear what the final standards for these constituents will be. The Midnite Mine (MM) Record of Decision (ROD) established cleanup levels for surface water (see BODR Table 4-3). The ROD acknowledges that contaminants of concern (COCs) in surface water are expected to exceed background and cleanup levels during, and for a period of time following the RA as natural flushing of water from previously contacted mine wastes occurs.	Throughout the Remedial Action (RA), all mine-impacted surface water within the Mined Area (MA) will be captured and treated at the operating WTP. As the RA progresses, surface water in the remediated areas will be allowed to drain from cover soils to the natural drainages down gradient of the MA. The process for containing the mine-impacted water is described in BODR Appendix E – Water Management Ponds and Appendix F – Surface Water and Sediment Controls. Additional information regarding draining clean water from the remediated areas is presented in the technical memorandum titled *Midnite Mine – Management of Stormwater Runoff from Remediated Areas – Revision 1* (WME, 2013a~~2013~~), which is included as Attachment O-1 to the SWMP.	Compliance with the requirements of the CWA will be accomplished through routine OM&M inspections of the water management systems, and by site-wide monitoring of surface water down gradient of the MA during and following RA construction. The OM&M Plan is included in BODR Appendix P, and the Site-Wide Monitoring Plan is included in BODR Appendix Q.	NA

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
Safe Drinking Water Act							
7	Federal Regulatory Requirement	Public Drinking Water	National Primary Drinking Water Regulations (40 CFR Part 141) listed under the Safe Drinking Water Act (SDWA).	These regulations protect the quality of public drinking water supplies through regulation of chemical parameters and constituent concentrations as maximum contaminant levels (MCLs). The MCLs are relevant and appropriate for human health COCs in groundwater outside waste management areas. For purposes of this ARAR, the waste management areas include WCA, all adjacent areas, and the oxidized zones adjacent to the former pit wall. Groundwater within these areas is not required to meet these standards. The MCLs are also relevant and appropriate for human health COCs in surface water at the Site. For surface water and groundwater outside the waste management areas, an exception is made for COCs which background is higher than the MCL. For such COCs, the MCL is relevant but not appropriate. The MM ROD established cleanup levels for groundwater (see BODR Table 4-4). The ROD acknowledges that contaminants of concern (COCs) in groundwater are expected to exceed background and cleanup levels during and for a period of time following the RA as natural flushing of water from previously contacted mine wastes occurs.	The RA will include consolidating the mine wastes into WCA. Water that accumulates in the WCA will be hydraulically isolated by pumping, and the pumped water will be treated at the operating WTP. These activities are described in BODR Appendix D – Mine Waste Excavation and Containment. Groundwater down gradient from the WCAs will be monitored to demonstrate compliance with the groundwater cleanup levels as described in BODR Appendix Q – Site Wide Monitoring Plan (SMP). Institutional controls as developed in the Midnite Superfund Site, Institutional Control Implementation and Assurance Plan, Revision 1 (ICIAP) (MWH 2014) will control access to areas with unacceptable water quality.	Monitoring will be conducted to determine when and where compliance with the requirements of the SDWA will be accomplished as the Remedy takes effect. The Site-Wide Monitoring Plan is included in BODR Appendix Q. The ICIAP (MWH 2014) will provide institutional controls as needed and will be modified as areas meet standards. There will likely be areas where the groundwater will never meet SDWA requirements either due to background or RA conditions and institutional controls will be required in perpetuity in these areas.	NA
Health and Environmental Protection Standards							
8	Federal Regulatory Requirement	Groundwater	Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings, 40 CFR Part 192, Subpart A – Standards for the Control of Residual Radioactive Materials from Inactive Uranium Processing Sites, Table 1: Maximum Concentrations of Constituents for Groundwater Protection.	These standards were developed under the Uranium Mill Tailings Radiation Control Act (UMTRCA) and are relevant and appropriate to groundwater at the Site. UMTRCA allows the use of background levels where background levels exceed the listed standards, as is the case for U-234 and U-238. The MM ROD established cleanup levels for U-234 and U-238 in groundwater (see BODR Table 4-4). The ROD acknowledges that contaminants of concern (COCs) in groundwater are expected to exceed background and cleanup levels during, and for a period of time following the RA as natural flushing of water that previously contacted mine wastes occurs.	The RA will include consolidating the mine wastes into a WCA. Water that accumulates in the WCA will be pumped to the operating WTP and treated. These activities are described in BODR Appendix D – Mine Waste Excavation and Containment. As the RA progresses, surface water in the remediated areas will be allowed to drain from cover soils to the natural drainages down gradient of the MA.	Compliance with the groundwater cleanup levels prescribed in the ROD will be accomplished via O&M of the WCA cover systems and dewatering wells; and by site-wide monitoring of groundwater down gradient of the WCAs. The OM&M Plan is included in BODR Appendix P, and the Site-Wide Monitoring Plan is included in BODR Appendix Q. The ICIAP (MWH, 2014) will provide institutional controls as needed.	NA

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
9	Federal Regulatory Requirement	Surface Material and Mine Waste	Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings, 40 CFR Part 192, Subpart B – Cleanup of Land and Buildings Contaminated with Residual Radioactive Materials.	These standards were developed under UMTRCA to govern the stabilization, disposal, and control of uranium and thorium mill tailings on land and buildings that are part of a uranium or thorium processing site. Portions of the regulations are relevant and appropriate to remedial actions at the Site. The 40 CFR Part 192 Subpart B standards require that remedial actions at designated processing sites be conducted in such a manner to provide assurance that residual radioactive materials are controlled as follows: Concentrations of radium-226 in land averaged over 100 square meters shall not exceed background by more than: • 5 pCi/g averaged over first 15 cm of soil below surface, and • 15 pCi/g averaged over 15 cm thick layers of soil more than 15 cm below surface. The UMTRCA soil standards above are relevant and appropriate to surface soils within and outside the WCA. 40 CFR Part 192 Subpart E states that the 5 pCi/g and 15 pCi/g standards are suitable for remediation of radium-228 at certain sites. When used in this manner, the standards apply to the combined level of radium-226 and radium-228 contamination. The standards also apply to the combined level of thorium-230 and thorium-232 contamination, parent isotopes of radium-226 and radium-228. The MM ROD established cleanup levels for surface material and sediments (see BODR Table 4-1 and 4-2). The ROD acknowledges that contaminants of concern (COCs) in surface material and sediment are expected to exceed background.	The RA will include consolidating, isolating, and covering the mine wastes including all soils and sediments in excess of the cleanup standards in the WCAs. These activities are described in BODR Appendix D – Mine Waste Excavation and Containment. The cleanup standards for surface material and sediments are provided in Tables 4-1 and 4-2 of the BODR. These values are based on background levels. The UMTRCA standards are values above background. By cleaning up to background levels in soil and sediment, concentrations will be less than allowable by the UMTRCA limits.	Compliance with the requirements of the cleanup standards will be accomplished via verification sampling of the remediated areas and OM&M of the WCA cover systems. The Verification Plan is included in BODR Appendix S and the OM&M Plan is included in BODR Appendix P, and the Site-Wide Monitoring Plan is included in BODR Appendix Q.	NA

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
Hazardous Substances Control							
10	Spokane Tribal Council Resolution	Hazardous Substances	Spokane Tribe of Indians (STOI) Hazardous Substances Control Act (HSCA, Resolution 2004-085, December 22, 2003).	The Tribe has established cleanup standards that are applicable to groundwater, surface water, and soil/sediment on the reservation. EPA has stated in the preamble to the NCP (55 Federal Register 8741, March 8, 1990) that it is appropriate to treat Indian tribes as states for the purpose of identifying ARARs under Section 121(d)(2) of CERCLA. The Tribe's implementation of these cleanup standards on its reservation is similar to a state's implementation of its state standards within such state. Since this cleanup is within the Spokane Reservation, STOI HSCA, instead of state law, is applicable. Further, EPA has determined that HSCA is an appropriate regulatory requirement to be considered in establishing cleanup levels for this Site. The HSCA also set forth siting parameters of new permanent and temporary disposal facilities for hazardous substances.	The RA will include consolidating, hydraulically isolating, and covering the mine wastes. These activities are described in BODR Appendix D – Mine Waste Excavation and Containment. The cleanup standards for surface material and sediments are provided in Tables 4-1 and 4-2 of the BODR and are based on background conditions. No hazardous waste (i.e., WTP residuals, construction/maintenance materials) will be disposed of on-site.	Compliance with the requirements of the cleanup standards will be accomplished via verification sampling of the remediated areas and OM&M of the WCA cover systems. The Verification Plan is included in BODR Appendix S and the OM&M Plan is included in BODR Appendix P, and the Site-Wide Monitoring Plan is included in BODR Appendix Q.	NA
11	Federal Regulatory Requirement	Hazardous Substances	National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Uranium Mill Tailings Disposal Sites (40 CFR Part 61, Subpart T).	These standards, also found at 40 CFR Part 192, Subpart A, limit radon-222 flux emissions to ambient air from inactive uranium mill tailings piles to 20 pCi/m^2/sec. Under 40 CFR Part 192, Subpart A, the standard is an average applied over the entire disposal site surface for a period of at least one-year period. It applies only to emissions from residual radioactive materials to the atmosphere (i.e., it is in addition to the radon flux that originates in the cover material). These standards are relevant and appropriate in WCAs under the Selected Remedy for the Site.	The RA will consolidate the mine waste into the WCAs and radon flux will be contained by the cover system, presented in the Mine Waste Excavation and Containment included in Appendix D of the BODR. The cover system will consist of a synthetic Polyvinyl Chloride (PVC) geomembrane overlain by a soil cover. The soil cover was designed to limit radon flux to the standard of 20 pCi/m^2/sec assuming the geomembrane layer was not present.	Radon flux shall be measured using standard NRC techniques presented in 40 CFR Part 61, Appendix B, Method 115 to ensure that the average radon flux from the cover is less than 20 pCi/m^2/sec. as required in Appendix Q of the BODR.	NA
12	Federal Regulatory Requirement	Hazardous Substances	Resource Conservation and Recovery Act Subtitle D Regulations, Criteria for Classification of Solid Waste Disposal Facilities and Practices, 40 CFR Part 257, Subpart A.	These regulations are primarily siting requirements that limit the disposal of solid waste in certain locations such as floodplains or will not contribute to the taking of threatened or endangered species. The Selected Remedy does not include disposal or short term management of water treatment residuals or other solid wastes at the types locations described in the regulations.	Water treatment residuals will be disposed of off-site at a licensed facility in accordance with the Residuals Management Plan for the Midnite Mine Water Treatment Plant (the RMP) submitted to EPA on November 1, 2013 (WME, 2013b~~2013~~).	Compliance with the requirements of Subtitle D of RCRA will be accomplished by off-site disposal of the WTP residuals as described in the RMP.	NA

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
13	Federal Regulatory Requirement	Hazardous Substances	Licensing Requirements for Land Disposal of Radioactive Waste (40 CFR Part 61).	These regulations contain performance objectives and technical requirements for Nuclear Regulatory Commission (NRC) licensing of land disposal of radioactive wastes containing by-product, source, and special nuclear material received from other persons. These regulations are relevant and appropriate to short-term on-site management of water treatment residuals. Subpart C of the regulations provides the following performance objectives for radioactive waste disposal facilities: • Protection of the general population from releases of radioactivity (an annual dose not to exceed 25 millirems to the whole body, 75 millirems to the thyroid, and 25 millirems to any other organ). • Protection of individuals from inadvertent intrusion. • Protection of individuals during operation. • Stability of the disposal site after closure. Subpart D provides technical requirements for near-surface disposal facilities, including disposal site suitability requirements, disposal site design, disposal site operation and closure, and environmental monitoring.	Water treatment residuals will continue to be disposed of off-site at a licensed facility in accordance with the Residuals Management Plan for the Midnite Mine Water Treatment Plant (the RMP) submitted to EPA on November 1, 2013 (WME, 2013b~~2013~~) consistent with the technical requirements of the ROD (EPA 2006). No onsite storage of residuals except as necessary to accumulate residuals for transportation. A fence with appropriate signage has been established at the perimeter of the site's restricted area and to prevent inadvertent intrusion. Individuals will be protected from exposure during construction remedy and following completion of the remedy through proper training and implementation of the Health and Safety Plan for the Phase IRD/RA: Interim Water Management for the Midnite Mine (Tetra Tech, 2009) (WTP Health and Safety Plan).	Compliance with the requirements of the NRC regulations will be accomplished through disposal of the WTP residuals in compliance with the Residuals Management plan, routine OM&M of the security fence, restricting access, and implementation of the WTP Health and Safety Plan.	NA

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
Wildlife Acts							
14	Federal Regulatory Requirement	Wildlife	Endangered Species Act (ESA) Regulations, 50 CFR Parts 17, 402.	The ESA and implementing regulations make it unlawful to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect" any federally designated threatened or endangered species and/or its habitat. The requirements of the ESA and implementing regulations are applicable to remedial actions that could affect federally designated threatened or endangered species that may be present within the Midnite Mine Site area.	A Biological Assessment (BA) was prepared to analyze the effects of the RA on federally listed threatened and endangered species. Bull trout is the only listed species with the potential to occur within the RA area; however, no spawning habitat occurs in Lake Roosevelt. BMPs will be implemented to control turbidity from stormwater runoff as described in the SWMP, located in BODR Appendix O. The BA is attached to Appendix M of the BODR.	Compliance with the requirements of the ESA will be accomplished by installing BMPS (e.g., silt fence) for work in the dry lakebed. The Project Engineer will perform regular inspections and monitoring during the construction period as described in the SWMP to confirm that the stormwater controls are adequate and that the BMPs are functioning as designed, or to determine if additional BMPs are necessary.	Michelle Ames and Julie Campbell of U.S. Fish and Wildlife Service were contacted on 7/15/2013 and confirmed that the project is outside the currently known grizzly bear and Canada lynx range, and the presence of Utes ladies' tresses orchid. Isolated occurrences of bull trout have been recorded in Lake Roosevelt; however, no known spawning habitat occurs at the lake and that individual bull trout recorded in the lake are likely wash-over from Lake Coeur d'Alene. Other wildlife agencies were coordinated with, in accordance with the Fish and Wildlife Coordination Act describe below. EPA submitted the BA to USFWS on 9/29/2014.

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
15	Federal Regulatory Requirement	Wildlife	Fish and Wildlife Coordination Act (16 USC 661 *et seq.*)	This statute requires federal agencies to consider the effect projects may have on fish and wildlife and to mitigate loss or damage to these resources. This statute is applicable to the Selected Remedy.	Consult State, federal, and tribal wildlife agencies in the development of the BA.	Compliance with the requirements of the Fish and Wildlife Coordination Act will be accomplished by consulting with state, federal, and tribal wildlife agencies in the preparation of the BA (attached). Results of the agency coordination are described in the BA.	Justin Yeager of U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration – National Marine Fisheries Service (NMFS) was contacted on 7/15/2013 and NMFS does not have jurisdiction above Chief Joseph Dam. Lori Guggenmos of Washington Department of Fish and Wildlife, Washington Natural Heritage Program was contacted on 4/23/2013 and GIS data shows Blue Creek being bull trout habitat. A follow up correspondence with Lori, and regional biologist Bill Baker determined this record was likely established at a mapping event and is not likely an actual record that needs to be considered. No other records of T&E species are in the area. EPA submitted the BA to USFWS on 9/29/2014.

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
15, Cont.	Federal Regulatory Requirement	Wildlife	Fish and Wildlife Coordination Act (16 USC 661 *et seq.*)	This statute requires federal agencies to consider the effect projects may have on fish and wildlife and to mitigate loss or damage to these resources. This statute is applicable to the Selected Remedy.	Consult State, federal, and tribal wildlife agencies in the development of the BA.	Compliance with the requirements of the Fish and Wildlife Coordination Act will be accomplished by consulting with state, federal, and tribal wildlife agencies in the preparation of the BA (attached). Results of the agency coordination are described in the BA.	Jasa Holt of WA Natural Heritage Program was contacted on 5/6/2013 and no T&E plants are in the project area. Brian Crossley of the Spokane Tribe DNR was contacted on 4/23/2013 and Casey Flanagan of the Spokane Tribe DNR responded that there are no records of endangered Fish in and around the project area. He provided all the studies published to date. Brent Nichols of Spokane Tribe Department of Natural Resources was contacted on 1/21/2013 and said he does not have any records of bull trout in the area and provided a web links to the Columbia Basin Fish and Wildlife Program to review reports. Katie Easton of Spokane Tribe DNR was contacted on 4/23/2013 and said there are no records of T&E wildlife species on the Reservation.
16	Federal Regulatory Requirement	Wildlife	Migratory Bird Treaty Act (MBTA) (16 USC 703 - 712).	The MBTA makes it unlawful to pursue, capture, hunt, or take actions adversely affecting a broad range of migratory birds. The MBTA and its implementing regulations are applicable to remedial activities that could affect any protected migratory birds. The Selected Remedy will be carried out in a manner that avoids "taking" or killing of protected migratory bird species, including individual birds or their nests.	The RA will be carried out, in a manner that avoids the "taking" or killing of protected migratory bird species, including individual birds or their nests or eggs. Measures to protect these bird species include: • Clear land and vegetation outside of the bird nesting season (March to July). • Wildlife biologists will conduct preconstruction bird nesting surveys if clearing is required during the nesting season. • If active nests are identified within or adjacent to the active construction area, USFWS and WA DFW will be consulted to avoid "taking".	Compliance with the requirements of the MBTA will be accomplished by documenting timing of clearing activities and documenting survey results if necessary. The USFWS and WA DFW will be consulted, if active nests are discovered in or adjacent to the active construction area.	Contact WA DFW and USFWS as necessary.

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
Floodplains							
17	Federal Regulatory Requirement	Floodplain	Protection of Floodplains, Executive Order 11988 (40 CFR Part 6, Appendix A).	This executive order mandates that response actions taken by federal agencies must be designed to avoid adverse impacts to floodplains. Specifically, if remediation activities are located within a 100-year floodplain, the activities must be designed to avoid adversely impacting floodplains wherever possible. If remedial activities take place in a floodplain, such as within the Blue Creek floodplain, these requirements will be applicable.	The RA has been designed to minimize and avoid adverse impacts to the Blue Creek floodplain. Impacts to floodplains are negligible and will consist of placement of the WTP outfall pipeline and diffuser.	Compliance with the requirements of the E.O. 11988 will be accomplished by temporarily placing the pipeline on the lake bottom until extreme low water conditions allow for the burying of the pipe during dry conditions.	NA
Cultural Resources							
19	Federal Regulatory Requirement	Cultural Resources	Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. §3001 *et seq.* 43 CFR Part 10.	NAGPRA regulations protect Native American graves from desecration through the removal and trafficking of human remains and "cultural items" including funerary and sacred objects. To protect Native American burials and cultural items, the regulations require that if such items are inadvertently discovered during excavation, the excavation must cease and the affiliated tribes must be notified and consulted. This program is applicable to ground disturbing activities such as soil grading and removal.	The RA will protect Native American grave sites and funerary and sacred objects. A Ground Disturbance Permit application was submitted to the Spokane Tribe's Tribal Historic Preservation Officer (THPO). The Spokane Tribe Archaeology & Preservation Office (Preservation Office) will conduct cultural resource surveys to identify the potential for cultural resources prior to construction. A cultural resource monitor will also be present during construction in areas with the potential for cultural resources. If any grave sites or funerary objects are identified, construction work will stop immediately and the THPO will be consulted to determine recovery and preservation options.	Compliance with the requirements of the NAGPRA will be accomplished through pre-construction surveys and subsurface testing and the use of cultural resources monitors during construction activities to identify any potentially eligible grave sites. The THPO will be consulted if graves or funerary objects are identified. The Preservation Office will prepare a report summarizing the results of their literature search, interviews of previous mine employees, field survey~~surveys~~, monitoring, historical research, and THPO consultation~~,~~ if necessary.	The THPO, Randy Abrahamson, was initially consulted through the submittal of the Ground Disturbance Permit Application on 9/12/2013. He recommended pre-construction field surveys and monitoring. James Harrison and Jackie Corley of the Preservation Office were contracted~~consulted and are developing a plan~~ to conduct a literature search, interviews of previous mine employees, field surveys, monitoring, historical research, ~~field surveys~~ in -2014/2015. The report summarizing the survey results is expected to be completed in the fall of 2015.

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
20	Federal Regulatory Requirement	Cultural Resources	American Indian Religious Freedom Act, 42 U.S.C. §1996 *et seq.*	This program is applicable to ground-disturbing activities such as soil grading and excavation at the Midnite Mine Site. It protects religious, ceremonial, and burial sites and the free practice of religions by Native American groups. If sacred sites are discovered in the course of soil disturbances, work will be stopped and the Spokane Tribe will be contacted.	The RA will protect religious, ceremonial, and burial sites and the free practice of religion by Native American Groups. Prior to site disturbances, the Preservation Office will prepare~~conduct~~ a report summarizing the results of their literature search~~review~~, interviews of previous mine employees, field survey,~~surveys, and~~ monitoring, historical research, and THPO consultation if necessary. If any~~ of construction activities to identify any~~ religious, ceremonial, or~~and~~ burial~~ sites. If any~~ sites are identified inside the project boundary, THPO will be consulted to explore alternatives and determine mitigation, if necessary.	Compliance with the requirements of the American Indian Religious Freedom Act will be accomplished through preconstruction interviews and field surveys and through cultural resources monitors during construction activities to ensure that the THPO is consulted if any eligible sites are found. The Preservation Office will prepare a report summarizing the results of their literature search, interviews of previous mine employees, field survey~~surveys~~, monitoring, historical research, and THPO consultation~~,~~ if necessary.	The THPO, Randy Abrahamson, was initially consulted through the submittal of the Ground Disturbance Permit Application on 9/12/2013. Per the THPO's recommendation, James Harrison and Jackie Corley of the Preservation Office was contracted~~were consulted and are developing a plan~~ to conduct literature search, interviews of previous mine employees, cultural field surveys, historical research, monitoring, and consultation with the THPO if necessary. The field surveys were conducted in 2014 and 2015 and the final report summarizing the results of these tasks are expected in fall of 2015.

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
21	Federal Regulatory Requirement	Cultural Resources	National Historic Preservation Act (NHPA) Regulations, 36 CFR Parts 60, 63, and 800.	NHPA regulations require agencies to consider the possible effects on historic sites or structures by actions proposed for federal funding or approval and are applicable to remedial actions at Midnite Mine. Historic sites or structures are those included on or eligible for the National Register of Historic Places, generally older than 50 years. If an agency finds a potentially adverse effect on historic sites or structures, such agency must evaluate alternatives to "avoid, minimize, or mitigate" the impact, in consultation with the Tribal Historic Preservation Officer (THPO). The NHPA and implementing regulations are applicable to selected remedial activities such as building demolition or excavation activities which could disturb historical sites or structures.	The RA will protect or mitigate impacts to listed sites or sites eligible for listing on the National Register of Historic Places. The Preservation Office will prepare~~conduct~~ a report summarizing the results of their literature search~~review~~, interviews of previous mine employees, ~~and~~ field survey, monitoring, historical research, ~~surveys~~ to determine if any listed or eligible sites are present within the RA area. If listed or eligible sites are found, the Preservation Office will comply with Section 106 of the NHPA and consultation with the THPO and other agencies will be initiated to evaluate alternatives, minimize impacts, and determine mitigation, if necessary.	Compliance with the requirements of the NHPA will be accomplished through identifying eligible sites, through field surveys and monitoring construction to ensure that the THPO is consulted if any eligible sites are found. The Preservation Office will prepare a report summarizing the results of their literature search, interviews of previous mine employees, field survey~~surveys~~, monitoring, historical research, and THPO consultation~~,~~ if necessary.	The THPO, Randy Abrahamson, was initially consulted through the submittal of the Ground Disturbance Permit Application on 9/12/2013. Per the THPO's recommendation, James Harrison and Jackie Corley of the Preservation Office was contracted~~were consulted and are developing a plan~~ to conduct literature search, interviews of previous mine employees, cultural field surveys, historical research, monitoring, and consultation with the THPO if necessary. The field surveys were conducted in 2014 and 2015 and the final report summarizing the results of these tasks are expected in fall of 2015.

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
Soil Cleanup							
22	Federal Regulatory Requirement	Surface Material and Sediment	Office of Solid Waste and Emergency Response (OSWER) Directive No. 9200.4-18, Establishment of Cleanup Levels for CERCLA Sites with Radioactive Contamination (August 2, 1997).	This directive presents clarifying guidance for establishing cleanup levels protective of human health for radioactive contamination at CERCLA sites. The cleanup levels are expressed as a risk, exposure, or dose level and not as a soil concentration level. The directive clarifies that the appropriate risk range for radionuclides, which are all carcinogens, is 10-4 to 10-6 (some NRC regulations do not achieve this range and are therefore not sufficiently protective). The directive further states that cancer risk at a site from both radiological and non-radiological contaminants should be summed, and CERCLA decision documents should provide an estimate of the combined risk to individuals presented by all carcinogenic contaminants. Attachment A to this directive lists potential federal radiation ARARs and indicates whether the ARARs are likely to be applicable or to be relevant and appropriate. Attachment B indicates that EPA has consistently concluded that levels of less than or equal to 15 mrem/yr effective dose equivalent above background (corresponding to an excess lifetime cancer risk of approximately 3 x 10-4) are protective and achievable. The MM ROD established cleanup levels for surface material and sediments (see BODR Table 4-1 and 4-2). These values are based on background concentrations.	The RA will include consolidating, isolating, and covering the mine wastes including all soils and sediments in excess of the cleanup standards in the WCAs. These activities are described in BODR Appendix D – Mine Waste Excavation and Containment. The cleanup standards for surface material and sediments are provided in Tables 4-1 and 4-2 of the BODR. These values are based on background levels.	Compliance with the cleanup levels will be accomplished via verification sampling of the remediated areas and OM&M of the WCA cover systems. The Verification Plan is included in BODR Appendix S and the OM&M Plan is included in BODR Appendix P, and the Site-Wide Monitoring Plan is included in BODR Appendix Q.	NA
23	Federal Regulatory Requirement	Surface Material and Sediment	Office of Solid Waste and Emergency Response (OSWER) Directive No. 9200.4-25, Use of Soil Cleanup Criteria in 40 CFR Part 192 as Remediation Goals for CERCLA Sites (February 2, 1998).	This directive addresses the use of soil cleanup criteria in 40 CFR Part 192 when setting remediation goals for subsurface soil. The guidance clarifies the extent to which 40 CFR Part 192, Subpart A standards are potentially relevant and appropriate. The MM ROD established cleanup levels for surface material and sediments (see BODR Table 4-1 and 4-2), which are based on background concentrations. Setting these clean up criteria is consistent with this Directive.	The RA will include consolidating, isolating, and covering the mine wastes including all soils and sediments in excess of the cleanup standards in the WCAs. These activities are described in BODR Appendix D – Mine Waste Excavation and Containment. The cleanup standards for surface material and sediments are provided in Tables 4-1 and 4-2 of the BODR. These values are based on background levels.	Compliance with the cleanup levels will be accomplished via verification sampling of the remediated areas and OM&M of the WCA cover systems. The Verification Plan is included in BODR Appendix S and the OM&M Plan is included in BODR Appendix P, and the Site-Wide Monitoring Plan is included in BODR Appendix Q	NA

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
Other Requirements							
24	Federal Regulatory Requirement	Water Resources	Spill Prevention, Counter-Measures, and Control Rules, 40 CFR, Part 112.	EPA requires certain facilities to prepare and implement Spill Prevention, Counter- measures, and Control (SPCC) Plans to prevent oil discharges into navigable waters and adjoining shorelines. The SPCC rule is part of the Oil Pollution Prevention regulations at 33 CFR part 112, listed under Section 311 of the Federal Water Pollution Control Act, or Clean Water Act (CWA).	The existing site SPCC Plan will be reviewed and updated in accordance with good engineering practices and be certified by a Professional engineer. The updated SPCC Plan will include: • Facility diagram and facility description • Oil discharge prediction • Secondary containment and diversion structures • Facility drainage • Bulk storage requirements - inspection, overfill and integrity • Transfer procedures and equipment • Qualified oil-filled operational equipment • Brittle fracture evaluation for above ground field containers • Personnel training and prevention briefings • Recordkeeping • Five year Plan review • Management approval • Plan certification Spill kits will be easily accessible to contain and minimize spills.	Compliance with the requirements of the SPCC will be accomplished through implementation of the SPCC and documented as described in the OM&M Plan in Appendix P.	NA

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
25	Federal Regulatory Requirement	Air Resources	Clean Air Act, 42 USC §7401 *et seq.*	The Clean Air Act (CAA) is the comprehensive federal law that regulates air emissions from stationary and mobile sources. Under the CAA, the EPA has established air quality standards to protect public health and public welfare as well as protecting against decreased visibility and regulating emissions of hazardous air pollutants. Implementation of the CAA standards within the exterior boundaries of the Spokane Reservation are covered under the Federal Air Rules for Reservations (FARR) (40 CFR Parts 9 and 49). The applicability of the Prevention of Significant Deterioration (PSD) Program's New Source Review (NSR) permitting requirements is based on whether a facility is a major emitting facility that exceeds the NSR Major Source Threshold. NSR Major Sources in Attainment Areas are stationary sources that have a Potential to Emit (PTE), either 100 tons per year (TPY) of "any air pollutant" from one of 28 listed source categories or 250 TPY for other source categories. The Remedial Action does not fall in any of the 28 listed source categories. A facility that is a NSR Major Stationary Source must also analyze whether the source's emissions may affect visibility in a Class I area. See 40 CFR § 52.21(p). EPA policy interprets "may affect" to include all major sources within 100 km of a Class I area. The visibility analysis must be assessed by the appropriate Federal Land Manager to determine whether the source would have an adverse impact on visibility. A facility that is a Minor Source PSD - a source that does not meet the definition of a NSR Major Stationary Source - is not required to analyze its effect on visibility in a Class I area, unless the Minor Source undergoes a modification that would increase emissions above a "Major Source" threshold.	Within 90 days after beginning operations, the facility will register with the EPA under FARR requirements, and annually thereafter by February 15 of each year (40 CFR Part 49, Section 138). However, EPA considers this an administrative requirement and registering with FARR would be strictly voluntary (EPA May 30, 2014 comment on 2013 plan). Facility shall maintain adequate records to demonstrate that actual emission remain below 50 percent of the PTE thresholds for Major Source status for purposes of Title V. If necessary, prevent emissions from stationary sources from exceeding 100 TPY of NO_x by limiting run-time for certain equipment, installing non-resettable runtime meters on the engines and calculating emissions on a rolling 12-month basis. Implement BMPs to control fugitive PM as described in the Surface Water and Sediment Controls Plan in Appendix F and the OM&M in Appendix P. Monitor visible emissions fugitive PM in accordance with EPA Method -9 and fugitive PM emissions with EPA Method 22 within -30 -days of start of the operation and on an annual basis thereafter, during typical operating and weather conditions (40 CFR Part -49.124 and 49.,- Section 126).—The date, time, and results of the survey will be documented. If visiblefugitive PM emissions from stationary sources exceed 20 percent opacity requirementrequirements, an action plan will be prepared to identified sources and actions to prevent exceedance. If fugitive PM emission is identified, measures will be taken to minimize fugitive PM emission. Comply with the applicable requirements as follows: • 40 CFR §60.4200 *et seq.* for stationary compression ignition internal combustion engines, • 40 CFR §63.6580 *et seq.* for stationary reciprocating internal combustion engines,	Compliance with CAA will be accomplished through tracking stationary engine runtime and monitoring of visible emission and fugitive PM to ensure established thresholds are not exceeded.	The Air Quality Management Plan was submitted to EPA for review on 12/2/2014. The AQMP includes the submittal of the PTE calculations which EPA determined to be a minor source.A conference call with Twa-le Abrahamson of Spokane Tribe and EPA air staff was conducted on 9/5/2013 to identify some of the overarching requirements. Consulted with Jeff Hunter (CAA attorney with Perkins-Coie) in preparation of subsequent PTE calculations and report preparation. A revised Clean Air Act Compliance section will be submitted to EPA on 4/7/2014.

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
25, Cont.	Federal Regulatory Requirement	Air Resources	Clean Air Act, 42 USC §7401 *et seq.*	Title V Major Source Thresholds are 100 TPY for any pollutant in Attainment Areas; 10 TPY or more of any individual Hazardous Air Pollutant (HAPs) (section 112(b) of the CAA) or 25 TPY or more for all HAPs emitted; or Greenhouse Gases (GHG) of at least 100,000 TPY CO2 equivalent (CO_2e) and greater than the applicable major source threshold (i.e., 100 or 250 TPY, depending on the source category) on a mass basis for GHGs. FARR also requires that fugitive PM be controlled and monitored. 40 CFR § 49.124 establishes that visible emissions from air pollution sources may not exceed 20 percent opacity, averaged over six consecutive minutes, as measured by EPA Method 9. EPA has adopted National Emission Standards for Hazardous Air Pollutants (NESHAPS) for certain HAPs and source categories, which may be applicable. • Subpart T - National Emission Standards for Radon Emissions from the Disposal of Uranium Tailings (40 CFR § 61.220 *et seq*.) • Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (40 CFR § 63.6580 *et seq*.) Section 111 of the CAA authorized EPA to develop technology based standards which apply to specific categories of stationary sources. These standards are referred to as the New Source Performance Standards (NSPS) and are found in 40 CFR Part 60. • Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants (40 CFR § 60.670 *et seq*.). These standards apply to certain sources at fixed or portable nonmetallic mineral processing facilities including crushers, screening operations and belt conveyors. • Subpart IIII - Standards of Performance for Stationary Compression Ignition Internal Combustion Engines (40 CFR § 60.4200 *et seq*.). These standards would apply to diesel engines manufactured after a certain date that are used to operate certain equipment including emergency generators.	• 40 CFR §61.220 *et seq.* for radon emissions from the disposal of uranium mill tailings after closure. • 40 CFR §60.670 *et seq.* for sources at nonmetallic mineral processing facilities. • 40 CFR §49.130 et seq. for rules for reducing sulfur in fuels. • 40 CFR §63.6580 et seq. for National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.		

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
26	Federal Regulatory Requirement	Radiological Material	Nuclear Energy and Radiation Control Act, RCW 70.98 and WAC 246-220 and 255.	The Washington Department of Health, under Nuclear Regulatory Commission delegated authority, regulates sources of ionizing radiation for the protection of occupational and public health and safety. The State terminated its radioactive materials license (WN-I0390-1) on December 31, 2008. However, the license requirements are and will continue to be followed for the water treatment plant sludge as part of the RA implementation through operations and maintenance of the project.	The conditions of the terminated State radioactive materials license (WN-I0390-1) will be continued to be complied with in the operation and management of the WTP and WTP sludge.	Substantial compliance will be accomplished by implementing the terminated license requirements as described in OM&M Plan, Appendix P.	NA
27	Federal Regulatory Requirement	Health and Safety	Occupational Safety and Health Act of 1970 (OSHA) (Public Law 91-596 84 Stat. 1590.	Occupational Safety and Health Administration (OSHA) provides requirements for safe and healthful workplaces by setting and enforcing standards and by providing safety and health training requirements associated with working with hazardous waste or materials. Spokane's Tribal Occupational Safety and Health Administration (TOSHA) provides administration of OSHA rules and regulations on lands within the Reservation.	OSHA and TOSHA requirements have been incorporated into the Health and Safety Plan.	Compliance with the requirements of OSHA and TOSHA will be accomplished through the implementation of the Health and Safety Plan included in the OM&M Plan, Appendix P.	NA
28	Federal Regulatory Requirement	Hazardous Materials	Hazardous Materials Transportation Guidelines, 49 CFR 173.	The transportation of hazardous materials, such as WTP sludge which is classified as a Low Specific Activity Group I (LSA-I) is regulated by US Department of Transportation. LSA-I material will be transported, packaged, and labeled in accordance with these guidelines (Title 49, Transportation, Parts 100-199).	Any Reportable Quantities (RQ) of radioactive material having a specific activity greater than 0.002 µCi/g will be transported, packaged, and labeled in accordance with the Hazardous Material Transportation Guidelines.	Compliance with the requirements of the Hazardous Materials Transportation Guidelines will be accomplished by implementing DOT guidelines for hazardous material if RQ are identified.	NA
29	Federal Regulatory Requirement	Wildlife Resources	Bald and Golden Eagle Protection Act (BGEPA), 16 USC §668-668c.	The BGEPA prohibits "taking" of bald and golden eagles, including their parts, nests, and eggs without a permit. The term "taking" also includes disturbing or agitating to the degree of injury, decreased productivity, or interfering with normal feeding, breeding or nesting behavior.	Prior to construction, surveys for eagle nests will be conducted to identify active eagle nests. Restricted access within ¼ mile of active nests could be required from November 15 until the nest becomes unoccupied.	Compliance with the requirements of the BGEPA will be accomplished by restricting access within ¼ mile of active nests or roosts during sensitive periods. The USFWS will be consulted for avoidance measures, if an eagle nest becomes active within ¼ mile of the project area to avoid "taking".	Katie Eaton of Spokane Tribe DNR was consulted on 5/1/2013 and Lori Guggenmos of Washington Department of Fish and Wildlife was consulted on 4/23/2013. They indicated that there were no known eagle nests in the project vicinity.
30	Federal Regulatory Requirement	Paleontological Resources	Indian Affairs Manual, Environmental and Cultural Resources Management, Paleontological Resources Directive #10-32).	The Bureau of Indian Affairs (BIA) Directive (#10-32) requires a permit be issued by BIA prior to the excavation or removal of imbedded fossils from Indian land. No known paleontological resources in the area. No permits are required for on-site activities.	Consult BIA if paleontological resources are discovered; however, the excavation of fossils is unlikely.	Compliance with BIA Directive #10-32 will be accomplished through monitoring. The Cultural Resources Monitors will identify any paleontological resources during their monitoring of construction activities.	NA

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
31	Federal Regulatory Requirement	Cultural Resources	Archaeological Resources Protection Act (ARPA) of 1979, 93 Stat. 721; 16 USC §470 AA *et seq.*, PL 96-95.	The ARPA protects archaeological resources, including material remains of archaeological interest and cultural items on public lands and Indian lands of the United States.	Upon the discovery of archaeological resources including material remains and cultural items, construction activities will immediately stop at that location and the THPO will be consulted and their instructions will be followed.	Compliance with the requirements of the Archaeological Protection Act will be accomplished by consultation with the THPO if archaeological resources or sites are discovered.	The THPO, Randy Abrahamson was initially consulted through the submittal of the Ground Disturbance Permit Application on 9/12/2013. James Harrison and Jackie Corley of the Preservation Office were contracted~~consulted and are developing a plan~~ to conduct cultural resources field surveys in -2014 and 2015. .
32	Federal Regulatory Requirement	Invasive Species	Invasive Species Executive Order (EO) 13112	EO 13112 mandates that federal agencies, with project approval authority, prevent the introduction and spread of invasive species and rapidly control invasive populations once identified.	Invasive species will be controlled when identified. Seed, mulch, and BMP materials will be certified as invasive free for revegetation and erosion control.	Compliance with the requirements of EO 13112 will be accomplished by implementing the Noxious Weed Management Plan (WME 2013).	The Spokane Tribe DNR was consulted in the development of the Noxious Weed Management Plan.
33	Federal Regulatory Requirement	Land use and resource planning	Integrated Resource Management Plan for the Spokane Indian Reservation	The IRMP provides Reservation-wide guidance for land use and resource management planning for land within the Spokane Reservation.	The Plan of Operations for the Rhoads Borrow Area was developed to follow the requirements of the IRMP and has incorporated additional resource concerns provided by the Tribe's Inter-Disciplinary Team (IDT) and Tribal Council. Once the Blue Creek Pipeline design is further refined following finalization for the NPDES Permit the pipeline route will be submitted to the IDT for a formal review of the limited conditional entry into the riparian and lake buffer zones is consistent with the IRMP's Individual Program Goals.	Compliance with the IRMP will be accomplished by implementing the requirements described in the Spokane Tribal Resolution 2014-135 as part of the design and monitoring described in the OM&M Plan in Appendix P on the Rhoads Borrow Area.	Spokane Tribal Council approved the development of the Rhoads Borrow Area on 2/21/14.
34	County Requirement	Land use and resource planning	Stevens County Land Use Code 3.03.090	The Stevens County Land Use Code requires land use approval on fee land within the Spokane Reservation boundary . ~~A County land use permit application will be submitted to Stevens County~~ to ensure compliance with the Stevens County Comprehensive Plan and Development Regulations.	A Stevens County Administrative Conditional Use Permit (ACUP) was granted on 7/30/14~~application will be submitted to Stevens County Planning Department for the development of the Rhoads Borrow Area prior to the 90 Percent design submittal~~.	Compliance with Stevens County Land Use Code will be accomplished ~~through the submittal of the ACUP and~~ by implementing the conditions of the permit.	Consulted with Jenni Anderson and Katie Hoverter of Stevens County Planning Department on 12/5/2013 and 2/20/2014 regarding the permitting of the Rhoads Borrow Area. An ACUP ~~application~~ was issued~~submitted to Stevens County~~ on 7/30~~5/5~~/2014.

Table M-4. Summary of Regulatory Requirements.

No.	Authority	Medium, Resource or Remedial Component	Environmental Requirement Reference	Synopsis of Requirement	Actions to be Taken to Attain the Requirement	Tracking and Documentation	Agency Contact and Discussion Results/Status
35	State Regulatory Requirement	Land use and resource planning	State Environmental Policy Act (SEPA), RCW 43.21	The SEPA requires state and local government decision makers to consider potential environmental impacts of proposed actions. As part of the Stevens County Conditional Administrative Use Permit, Stevens County requires a SEPA checklist as part of their application for the development of the Rhoads Borrow Area.	As~~A SEPA checklist will be submitted to Stevens County as~~ part of the Stevens County ACUP for the development of the Rhoads Borrow Area Stevens County issued a Determination of Nonsignificance (DNS) on 7/30/2014~~prior to the 90 Percent design submittal~~.	Compliance with SEPA will be accomplished through implementing the Rhoads Property Plan~~submittal~~ of Operations and Reclamation, Revision 2~~the SEPA checklist to Stevens County as part of the Stevens County ACUP submittal~~.	Consulted with Jenni Anderson and Katie Hoverter of Stevens County Planning Department on 12/5/2013 and 2/20/2014 regarding the permitting of the Rhoads Borrow Area. The SEPA DNS~~checklist~~ was issued~~submitted with the ACUP application package to Stevens County~~ on 7/30~~5/5~~/2014.
36	State Regulatory Requirement	Forest Resources	Forest Practices Act, RCW 76.09, RCW 6.13 RCW, AND WAC 222-16-010	A Forest Practices Act (FPA) Permit is required for timber harvests on Tribal fee land, specifically applicable to Rhoads Borrow Area. A Class III – General Forest Practices Permit will be obtained for the Rhoads Borrow Area which allows trees to be logged prior to the excavation of borrow material.	A Forest Practices Permit application will be submitted to WA DNR as part of the development of the Rhoads Borrow Area.	Compliance with the FPA permit requirements will be accomplished through implementing the conditions of the permit and periodic monitoring as described in the OM&M Plan, Appendix P.	Bernie Jones of WA DNR, was consulted with on 12/5/2013 regarding the permitting of the Rhoads Borrow Area.
37	State Regulatory Requirement	Mineral Resources	Surface Mining Act, WAC 332-18 AND 78.44	A Surface Mining Reclamation Permit is required for surface mines greater than three acres of disturbed ground or has high-walls greater than 30 ft and steeper slopes than 45 degrees.	A Surface Mining Reclamation Permit application will be submitted to WA DNR, for the development of the Rhoads Borrow Area.	Compliance with the Surface Mining Permit requirements will be accomplished through implementing the conditions of the permit and periodic monitoring as described in the OM&M Plan, Appendix P.	Brian Garcia of WA DNR, Surface Mining Reclamation Permits provided comments to Stevens County on 12/5/2013 regarding the permitting of the Rhoads Borrow Area.
38	County and Spokane Tribe Requirement	Water	Sanitation Standard for General Industry (29 CFR 1910.141(a)(2)	Standards for potable water and septic systems have been developed and are implemented locally by both the Tribe's Utility Services Department and Northeast Tri-County Health District	Design potable water system and septic system in accordance with Tribe's Utility Services Department and Northeast Tri-County Health District requirements.	Compliance with the requirements of Sanitation Standard for General Industry will be accomplished through meeting the design standards and documenting performance through and routine testing and maintenance of septic system as described in the OM&M Plan, Appendix P.	Bryan Hunt of NE Tri-County Health District and Brian Crossley of Spokane Tribe were consulted with on 12/5/2013 regarding water and septic requirements.

M3.1 Clean Water Act (33 USC 1251 et seq.)

The Clean Water Act restores and maintains the chemical, physical, and biological integrity of the Nation's waters.

M3.1.1 Section 304 – Water Quality Standards

Section 304 of the Clean Water Act requires the EPA to develop, publish, and revise criteria for water quality accurately reflecting the latest scientific knowledge on all identifiable effects on health and welfare. These requirements are implemented by the promulgated regulations which include 40 CFR 131 and the Spokane Tribe's water quality standards. The water quality criteria have been determined to be relevant and appropriate for those contaminants in surface water where there are no other appropriate standards, such as the Tribal Water Quality and where background criteria are not higher than the criteria. The water quality standards are an identified Applicable or Relevant and Appropriate Requirement (ARAR) and are specifically applicable to the effluent discharge water quality criteria where EPA determines no other appropriate standards exist. The clean-up standards are provided in Table 8-1 in the ROD for surface water and Table 8-2 in the ROD for groundwater (EPA, 2006), and in Table 4-3 of the BODR for surface water and in Table 4-4 of the BODR for groundwater. Regulatory compliance with this ARAR are as follows:

On-Site Substantive Requirements

- During the RA, mine impacted surface water will be captured and treated at the WTP as described in:
    - BODR Appendix E Water Management Ponds; and
    - BODR Appendix F Surface Water and Sediment Controls.
- As the Remedial Action progresses, surface water from remediated areas will be allowed to drain to the natural drainages down gradient of the MA.
- Compliance will be documented through the routine Operation Monitoring and Maintenance (OM&M) inspections of the water management systems, leak detection monitoring of the storage ponds, and by site-wide monitoring of surface water down gradient of the MA during and following RA construction. The OM&M Plan is included in the BODR Appendix P and the Site-Wide Monitoring Plan is included in BODR Appendix Q.

M3.1.2 Section 402 – National Pollution Discharge Elimination System (33 USC § 1342)

The CWA National Pollution Discharge Elimination System (NPDES) Program is listed under 40 CFR 122 and regulates the discharge of pollutants into waters of the U.S. The NPDES program provides separate requirements for non-point source stormwater and point source discharges as discussed below.

Point Source Wastewater Discharge. The EPA regulates water quality and permits for point source industrial discharges under 40 CFR §122.29 *et seq*. to ensure the discharge does not cause an exceedance of applicable water quality standards in the receiving water body outside an approved surface waters mixing zone on lands within Reservations. The ROD (EPA, 2006) identified NPDES permit requirements as an ARAR for on-site discharges. The interim limits for water treatment plant

discharge in Section 12 of the ROD are no less stringent than the existing permit limits. The ROD authorizes an interim action waiver of discharge limits which may be additional to or more stringent than the interim limits in Table 12-2 of the ROD. The EPA has determined that ~~However, the discharge from~~ the Blue Creek Pipeline, the WTP ~~into Lake Roosevelt is a point source~~ discharge, and mixing zone are all on ~~occurring off~~ site and that EPA will be issuing~~requires~~ an NPDES permit for this discharge (EPA 2015).~~.~~ An application to modify the NPDES permit was submitted to the EPA on March 21, 2013 and processing has been ongoing. There have been a number of discussions with EPA to understand additional polishing requirements. Work Plans were recently~~information was~~ submitted to EPA and approved to conduct~~on July 2, August 28, September 27, October 18, November 1, and December 9, 2013. Additional sampling is currently underway to provide~~ additional studies for aluminum and arsenic that is planned for summer of 2015. ~~information for this permitting process.~~

On~~Off~~-Site Permitting Requirements

- Apply for a modified NPDES permit for the Blue Creek Pipeline discharge into Lake Roosevelt.
- A Section 401 Water Quality Certification (as described below) will be applied for from the Spokane Tribe once the NPDES permit is further in development.
- The compliance with the existing NPDES Permit No. WA-002572-1, effective October 30, 1995 will be maintained until the new NPDES permit takes effect.
- Monitoring and testing of effluent constituents will be consistent with the newly reissued NPDES permit.

Stormwater Discharge. The EPA regulates water quality and permits construction related stormwater discharges on lands within the Reservation as required by 40 CFR 122.26 and are described in the EPA Construction Stormwater Permit. A Stormwater Management Plan (SWMP) ~~(~~included in Appendix O of the BODR has been prepared in accordance with Stormwater Management Manual for Eastern Washington (SMMEW; Washington Department of Ecology [WDOE], 2004) to protect water quality through the implementation of BMPs in accordance with the Tribe's water quality standard for land within the Reservation (Mined Area, Blue Creek Pipeline, Drainage and Haul Road Clean-up, and Rhoads Borrow Area). Implementation of the~~The~~ SWMP will include monitoring that demonstrates that the discharge does not result in a violation of water quality standards. For land off of the Reservation, Washington State Department of Ecology (WA DOE) regulates stormwater discharge.

On-Site Substantive Requirements

- Best Management Practices (BMPs) will be installed as described in the SWMP that reduce or prevent discharge of pollutants into receiving waters.
- BMPs will be inspection in accordance with the OM&M Plan in BODR Appendix P and Site-Wide Monitoring Plan in BODR Appendix Q.

Off-Site Permitting Requirements

- A Stormwater NPDES permit will be applied for on EPA's Electronic Construction General Permit (CGP) Notice of Intent (eNOI) online for the Rhoads Borrow Area.
- A Sand and Gravel NPDES permit will be applied for from WA DOE for the Ford Borrow Area if it is developed as an alternative site.
- The permit will be applied for at least 14 days prior to commencing earth moving activities at the Rhoads Borrow Area or Ford Borrow Area.

- General conditions of the CGP or Sand and Gravel Permit will be complied with including preparing and implementing stormwater pollution prevention plans (SWPPPs) or stormwater management programs both using best management practices (BMPs) that effectively reduce or prevent the discharge of pollutants into receiving waters.
- Approximately one year prior to earth moving activities at the Rhoads Borrow Area (if selected), a Section 401 Water Quality Certification (as described below) will be applied for from the Spokane Tribe to certify that the stormwater NPDES permit for the Rhoads Borrow Area.
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- BMPs will be monitored and documented as required by the conditions in the permit.
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M3.1.3 Section 404 – Discharge of Dredge or Fill into Waters of the U.S. (33 USC § 1344)

The U.S. Army Corps of Engineers regulates the discharge of dredged or fill material into waters of the U.S. Waters of the U.S. under 33 CFR 320.3, and includes traditional navigable waters, interstate waters, permanent or seasonal non-navigable tributaries, adjacent wetlands, and other waters. Section 404 requirements are identified as an Applicable or Relevant and Appropriate Requirement (ARAR) if regulated streams and wetlands are identified and impacted. Nationwide Permit (NWP) 38 is applicable for impacts to wetlands and waters of the U.S. associated with the cleanup of hazardous and toxic waste. Although on-site impacts would be exempt from permitting under CERCLA, the conditions of NWP 38 would be applicable.

A wetland delineation was performed to identify jurisdictional wetlands and other non-wetland waters of the U.S. in accordance with the 1987 Army Corps of Engineers Wetland Delineation Manual (Environmental Laboratory, 1987) and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (USACE, 2010). The Wetland Delineation (WME 2015a) was submitted to EPA on December 16, 2013. Since that time there have been a number of revisions submitted based on requests for additional information and changes in presentation. The latest version was submitted as a redline draft to EPA on May 8, 2015. In addition, the Conceptual Wetland and Stream Mitigation Approach (WME 2015b) was submitted to EPA on March 15, 2015. These documents have not been included in this Appendix. However, a placeholder for these attachments is provided in Attachments M-1 and these documents will be included once they are approved by EPA and the documents are finalized.

~~Results of the wetland delineation are provided in Attachment M-1.~~ Jurisdictional wetlands occur in the Western, Central, Eastern, and Northern Drainages (tributaries to Blue Creek) and throughout the length of Blue Creek. The wetlands are "palustrine" under Cowardin's Classification and "riverine" under a hydrogeomorphic (HGM) wetland classification, originating from springs or seeps that appear to flow most of the year. However~~; however~~, the wetlands in the Eastern Drainage and downstream confluences of the Central Drainage are artificially supplemented by the seasonal discharge of up to 500 gallons per minute of effluent from the water treatment plant (WTP). The discharge is located just upstream of the East Haul Road in the NPDES pond. There are not~~. These~~ wetlands in the Whitetail Drainage and Southwest Drainage.

There are approximately 8,769 linear ft of tributary streams in the Western, Central, and Eastern Drainages. During the April 2015 field trip, the EPA determined that the Whitetail Drainage and the Southwest Drainage do not have a significant nexus and are not jurisdictional. The wetlands adjacent to the tributaries in the Western, Central, and Eastern Drainages range from 10 to 150 feet in width and

are primarily scrub/shrub vegetation dominated by mountain alder, red alder, redosier dogwood, Douglas hawthorne, redtop, and Rocky Mountain maple. A total of 6.8 acres of wetlands occur within the study area, including 0.58 acre in the Western Drainage, 1.79 acres in the Central Drainage, 4.28 acres in the Eastern Drainage, 0.12 acre in the Northern Drainage, and 0.07 acre at the Blue Creek inlet. Wetlands are also found throughout Blue Creek with some wetlands encroaching onto the Blue Creek Road bench; however, these wetlands would be avoided during construction. In addition to the wetlands, riparian communities occur throughout the length of these drainages. Riparian corridors provide important habitat (i.e., food, cover, and water) for wildlife in the area and serve as migratory corridors. Although these drainages provide habitat for aquatic life and are a water resource for wildlife, these wetlands contain contaminated sediment and soil that will be cleaned up as part of the Remedial Action. Non-wetland waters of the U.S. occur in Lake Roosevelt below the high water mark, at an elevation 1,290 feet above mean sea level (amsl). No jurisdictional wetlands or non-wetland waters of the U.S. occur on the Rhoads property.

Consistent with the 404(b)(1) Guideline priority sequencing, adverse impacts to aquatic resources will be avoided, minimized, and mitigated. The Washington Interagency Mitigation Guidance (EPA et al., 2006) defines permanent impacts as those impacts that result in the permanent loss of wetlands or other non-wetland waters of the U.S., such as by the placement of fill associated with the flood attenuation berms. Long-term temporary impacts are those impacts that affect functions in such a way that they can be restored but would take longer than a year, such as the impacts associated with the mine drainage clean-up. Short term temporary impacts are those impacts that last a limited time and functions return to pre-impact performance in about one year, such as the impacts associated with the installation of the pipeline in the dry lakebed. The Mitigation Guidance provides that compensatory mitigation is required for permanent and long-term temporary impacts, but not for short-term temporary impacts. Impacts associated with each of these project components are described below.

Drainage Clean-up: The contaminated sediment in the Western, Central, and Eastern Drainages will be excavated from the stream and wetlands. Preliminary investigations indicate that significant portions of the areas currently identified as wetlands are contaminated. The contaminated sediments will be removed as part of the remediation. There will likely also be wetland areas where sediments do not exceed cleanup limits. These areas will be avoided to the extent practical. The amount of cleanup and the stream and wetland areas that will be impacted by cleanup activities will not be known until after cleanup has been completed.

Excavation of contaminated sediments will be done in a manner that minimizes impacts to wetlands and streams. In areas of flowing water, the streams will be temporarily diverted around the removal areas using pipelines. Low-ground pressure, rubber-tracked excavation and haulage equipment will be used to remove the contaminated sediment from the drainage channels. This equipment will move the collected sediment materials to general staging areas within the drainages where the materials can then be stockpiled in upland areas for loading and transport by rubber-tired, articulating haulage trucks to the Waste Disposal Area (Pits 3) at Midnite Mine. Temporary access roads will be designed and constructed to access the drainage cleanup areas from existing adjacent forest roads. It is expected the equipment footprint will be limited to the sediment cleanup area as much as possible using the stream channel to access, remove, and transport sediments to the general upland staging areas. Impacts to jurisdictional areas will be avoided or minimized where ever possible. Prior to any cleanup activities, the drainage sediments will be properly characterized and flagged in the field as identified in the Remedial Design Work Plan to avoid any unnecessary impact(s). By using these construction techniques, impacts to wetlands will be minimized and direct impacts due to drainage clean-up in the mine drainages will be temporary in nature.

Following the removal of the contaminated sediment, the stream channel will be restored to a natural stable state by regrading the remaining uncontaminated soils. Typical Rosgen type "A" channels will be constructed with appropriate sinuosity and meander lengths (Figure 14). The design will include steps, riffles, pools to control grade, provide habitat, and minimize erosion. The bankfull channel will be sized for design flows based on expected attenuated peak flows conditions after mine reclamation. The overbanks will be revegetated using wetland and riparian species. The sediment clean-up impacts to jurisdictional features associated with the drainage clean-up are expected to be temporary.

Eastern Haul Road Clean-up: The Eastern Haul Road crosses the Eastern and Northern Drainages. The fill material associated with the Eastern Haul Road will be removed from these drainages. The existing culvert in the Northern Drainage will be removed. The stream channel will be restored to the design flows and wetland and riparian species will be planted along the overflow bank. The size of the depressional wetland and the amount of water that may pond in Reaches E1 and N1 will be dependent upon the extent of the contaminated road fill material removed. The contaminated material will be placed in the Mine Waste Disposal Area. The direct effects associated with the haul road removal are expected to be temporary in nature. The road fill disturbed area which contains no existing delineated wetlands will be used for placement of an attenuation berm. The drainage areas up-gradient and down-gradient of the attenuation berm will be restored with wetland species following remediation.

Flood Attenuation Berms: Four flood attenuation berms will be installed within the mine drainages. One attenuation berm in the upper Central Drainage and another in the upper Western Drainage have been designed in non-wetland areas to minimize the wetland impacts associated with the attenuation berm in the Central Drainage downstream of Western Drainage confluence.

The third attenuation berm is located in the approximate vicinity of the lower Central Drainage beaver pond complex at the confluence of the Western and Central Drainages and has been sited in part based on comments from the Spokane Tribe to minimize visual impacts from the highway. While placement of the lower Central Drainage attenuation berm will be sited to minimize impacts to existing wetlands, some permanent impacts will occur.

The fourth attenuation berm is located where the Eastern Haul Road crosses the Eastern Drainage. This attenuation berm will be constructed within the disturbed footprint of the Eastern Haul Road such it avoids direct wetland impacts where ever possible, however, this structure will permanently impact wetlands.

The flood attenuation berms will consist of compacted alluvium soils with a 24-inch corrugated metal pipe (CMP) culvert with a perforated standpipe at the upstream side. The berms are designed to attenuate flows for the 100-yr, 24-hr storm expected with pre-mining surface water flows. Storms greater than the 100-yr, 24-hr storm will flow over the spillway. The unavoidable, direct impacts associated with the flood attenuation berms are expected to be permanent in nature.

Blue Creek Pipeline: The Blue Creek Pipeline will be constructed approximately 3,600 feet into the Lake Roosevelt National Recreation Area (LARO NRA) from elevation 1,310 ft to the historic Spokane River channel in Lake Roosevelt. The pipeline will be constructed of~~The drainage and haul road clean-up will result in unavoidable impacts to wetlands in the Eastern, Central, Western, and Northern Drainages associated with removing sediment and soil that exceed the clean-up standards. In addition, the relocation of the WTP discharge to Lake Roosevelt and the collection of water in the Western, Central, and Eastern Drainages via the alluvial aquifer interceptor trenches will effectively dry up the ground water that supports most of these wetlands and limit the hydrology that support wetlands.~~

~~It is likely that almost all of the wetlands in the drainages will be impacted by either the clean-up of contaminated sediments or the reduction in water. Any wetlands remaining in the margins of the channel will likely be affected by the drier conditions following the relocation of the WTP discharge and the installation of alluvial intercept trenches. It is difficult to determine the amount of wetlands that could be supported by the remaining hydrology following the Remedial Action, but some wetlands would likely persist. The plant community in the drainages would likely be composed of some wetland species and drier riparian and upland species, but it may take some time for the plant community to transition. The drainage clean-up will require access for construction equipment, which will be created by clearing vegetation and constructing temporary roads. Wetland vegetation will be avoided and preserved wherever possible, although cleanup of contaminated sediments will require excavation in wetland areas. Where temporary roads cross through wetlands that will not be excavated to remove contaminated sediments, the above ground portion of the plant species will be cut, if practicable, and mats will be placed prior to the construction of the road to protect the wetlands soils and vegetation. Many of these wetland plant species are adapted to severe flooding and scour disturbance and will re-sprout from their roots, if left intact. Contaminated materials will be removed using equipment that is appropriately sized for the area and the contaminated soil volume expected. Contaminated soil will be transported for disposal in the WCA. Temporary haul roads will be removed following construction and the channel will be regraded to minimize down cutting. Best management practices (BMPs) such as coconut erosion mats, wattles and attenuation berms will be installed to minimize erosion and areas will be revegetated using species identified in the area prior to excavation. The alluvial interceptor trenches and stormwater diversion will reduce the amount of flows in the Western, Central, and Eastern Drainages; however, stormwater runoff from adjacent slopes will likely continue to support wetlands after the remedy has been completed. The amount of wetlands that the drainages can support post-remedy cannot be predicted and will be determined after the Remedy is in place.~~

~~The unvegetated portion of Lake Roosevelt below the high water line at elevation 1,290 ft amsl, is considered to be a non-wetland water of the U.S. The Blue Creek Pipeline will be constructed on the dry lakebed during low lake water using~~ an eight-inch High Density Polyethylene (HDPE) fuse welded pipe with a six inch single port diffuser and elastomeric duckbill valve place at the end. ~~(Typical Details and Sections Sheet 3 of 4, Drawing Sheet 10-37).~~ The wetlands at the mouth of Blue Creek at Lake Roosevelt (Reaches BC and LR) will be avoided during construction. During one of the annual lake drawdown events, the pipeline would be constructed in an approximate~~a~~ 40-foot wide work area and buried two to four feet below the lake floor. The lakebed will be re-contoured~~, down~~ to pre-construction natural contours.~~elevation 1,260 ft.~~ In inundated areas, the pipeline would be assembled on shore, floated into~~onto~~ the lake, and submerged with concrete anchors until an extreme low water conditions would allow the remainder of the pipeline to be buried. The schedule for construction within the LARO NRA is not certain but the final burying of the pipeline would occur during a scheduled extreme lake drawdown that would be associated with dam works maintenance or repairs. The effect of the pipeline within the lakebed would be temporary in nature. The lakebed where the pipeline is buried is inundated annually~~Only clean fill material would be used as trench backfill. BMPs would be temporarily installed during construction to minimize stormwater turbidity flowing into the lake. Following each phase of construction, the lake bottom will be re-contoured back to pre-construction condition. No revegetation will be required below the high water line and only upland vegetation occurs where the pipeline enters the lake~~.

It is estimated that approximately 8,769 linear feet~~As required by Section 404(B)(1)~~ of tributary streams (8,529 lin ft temporarily and 236 lin ft permanently) and 5.93 acres (5.71 acres temporarily and 0.22 acres permanently) of ~~the CWA, impacts to~~ wetlands will be affected by the RA. Unavoidable impacts will be mitigated using the ratios described in Table 1b of EPA's interagency Wetland Mitigation Guidance in Washington State (EPA et al. 2006),~~avoided, minimized,~~ and replaced. Temporary effects are expected to be long-term temporary, lasting for more than one or

two growing seasons.

At this time~~Although Section 404(B)(1) requires wetlands to be replaced at a 1:1 ratio,~~ it is not known~~difficult to quantify the amount of naturally occurring (pre-mine) wetlands, since~~ the extent of the wetlands that~~current contaminated wetland conditions~~ are artificially supported by the NPDES discharge. Some of these wetlands~~WTP effluent~~ in the Eastern Drainage and downstream reaches of the Central Drainage may revert to dry land once the discharge ceases. In addition, groundwater~~the flow in~~ the Western, Central and Eastern Drainages may~~will~~ be significantly impacted by the collection of contaminated alluvial groundwater upstream of the stream reaches. The full extent of wetlands disturbed and the natural hydrology (following the removal of the WTP discharge and construction of the alluvial interceptor trenches) will limit the extent of uncontaminated wetlands that can be supported.

A ~~draft~~ Conceptual Wetland and Stream Mitigation Approach (WME 2015b) submitted to EPA on March 16, 2015~~Restoration Plan that~~ outlines the conceptual restoration methods~~, is included as part of the wetland delineation in Attachment M-1 to Appendix M of the BODR~~. A more comprehensive Wetland Restoration Plan that describes the methods and performance criteria will be developed once there is agreement on the impacts and mitigation framework.~~submitted as part of the 90 Percent Design submittal.~~ Many of the wetland and riparian species will recover naturally from surrounding seed sources and root suckering. Native wetland and riparian species will be seeded and installed as cuttings and container plants to help reduce erosion, speed the recovery time, and reduce the risk of invasion by invasive weed species. The Restoration Plan will include: objectives; site selection criteria; site protection instruments (e.g., Institutional Controls); baseline information (for impact and compensation sites); credit determination methodology; a work plan; a maintenance plan; ecological performance standards; monitoring requirements; a long-term management plan; and an adaptive management plan. Wetland impacts in the plan will be estimated and final impacts will be assessed once construction is completed.

On-Site Substantive Requirements

- Identify jurisdictional wetlands and non-wetland waters of the U.S.
- Avoid and~~,~~ minimize impacts to wetlands and streams~~,~~ and mitigate for unavoidable impacts. ~~to wetlands.~~
- The applicable conditions associated with NWP 38 will be followed including:
    - May have minimal individual and cumulative adverse effects on the aquatic environment; and
    - Must comply with Sections 401 and 404 of CWA, National Historic Preservation Act, Endangered Species Act, Bald and Golden Eagle Protection Act; and Migratory Bird Treaty Act, and other federal requirements such as Executive Orders for wetlands, and floodplains.
- Mitigate impacts to jurisdictional wetlands using EPA's interagency Wetland Mitigation Guidance in Washington State. Discussions regarding stream mitigation requirements is ongoing with EPA.
    - ~~To the extent practicable, replace pre-mine wetlands impacted at a 1:1 ratio.~~
    - Prepare and implement a Wetland Restoration Plan consistent with Section 404(b)(1) requirements:
        - Replace disturbed material with clean, suitable material;

- Install BMPs;
- Revegetate impacted areas with native wetland, riparian and upland species; and
- Maintain and monitor restoration until performance standards are achieved.

- A ~~draft conceptual Restoration Plan is included in the revised interim~~ Wetland Delineation (WME 2015a) and Conceptual~~Attachment M-1). A more comprehensive~~ Wetland and Stream Mitigation Approach (WME 2015b) have been submitted to EPA for review and~~Restoration Plan~~ will be provided in Attachment M-1 once finalized~~included in the 90 Percent Design submittal~~.
-
- If wetland restoration on-site is not successful, alternative off-site locations within the Spokane Indian Reservation will be identified and pursued, or the purchase into the Meadowcroft Wetland Mitigation Bank.

M3.2 Protection of Wetlands – Executive Order 11990

Executive Order 11990 mandates that federal agencies minimize the destruction, loss, or degradation of wetlands, and preserve and enhance the natural and beneficial values of wetlands for projects that they have approval or permitting authority over. As described previously, wetland delineation was conducted in accordance with the 1987 Army Corps of Engineers Wetland Delineation Manual (Environmental Laboratory, 1987) and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (USACE, 2010), and is provided in Attachment M-1. Wetlands occur in the Western, Central, and Eastern Drainages as well as along Blue Creek. No other wetlands occur within the project area. Those wetlands identified in the Western, Central, and Eastern Drainages will be impacted as part of the required drainage clean-up that would remove contaminated sediments. Those wetlands identified in Blue Creek will be avoided since the pipeline will be installed entirely within the existing dirt road. Impacts to wetlands will be minimized to the extent practical in the design process. Impacts to wetlands will be assessed once the design is further refined and summarized in the ~~90 Percent~~ Design submittal. Wetlands protection associated with Executive Order 11990 has been identified as an ARAR and will be incorporated into the project design.

On-Site Substantive Requirements

- Avoid and~~,~~ minimize impacts to wetlands. Mitigate~~, and mitigate~~ for any unavoidable impacts to wetlands.

M3.3 Rivers and Harbors Act (33 USC § 403)

M3.3.1 Section 10 – Navigable Waters

Section 10 of the River and Harbors Act (R&HA), under 33 CFR Parts 320 to 332, prohibits the unauthorized obstruction or alteration of any navigable water of the U.S. unless permitted by the U.S. Army Corps of Engineers. An obstruction or alteration includes the construction of any structure in or over navigable waters, the excavation of dredge or deposition of fill, or the accomplishment of any other work affecting the course, location, condition, or capacity of such waters. Section 10 permits are a condition of the 404 permitting program. One of the primary considerations in the issuance of the permit is that the project is not contrary to the public interest and is consistent with the conditions described in 33 CFR part 325, including effects on historic properties and endangered species. Lake Roosevelt is a navigable water of the U.S., below elevation 1,290 ft. amsl. The installation of the Blue

Creek Pipeline and diffuser are considered an alteration to navigable waters. Compliance with Section 10 of the R&HA is a condition of compliance with Section 404 of the CWA under the Nationwide Permit (NWP) program. Since a Section 10 permit is not required for on-site activities under CERCLA, the project design will be coordinated with the U.S. Army Corps of Engineers to comply with this requirement.

On-Site Substantive Requirements

- Coordinate design and construction of the Blue Creek Pipeline in Lake Roosevelt with the Bureau of Reclamation and U.S. Army Corps of Engineers once the pipeline design is resumed following the pending resolution of the NPDES permitting requirements.

M3.4 Section 401 – Water Quality Certification (33 USC § 1341)

Section 401 of the water quality certification program requires states (or authorized tribes) to certify federally permitted discharge into waters of the U.S. to protect state water quality standards as required by 40 CFR 121. In 2002, the EPA granted the Spokane Tribe certification authority to be treated in the same manner as a state (TAS).~~).~~ The 401 Certification process ensures that Tribal Water Quality Standards are being met for federal Clean Water Act permitted projects on lands within the Reservation. On December 19, 2013, the EPA disapproved the Tribe's 2010 proposed Water Quality Standards, specifically the proposed mercury and thallium standards. It is unclear what the final standards for these constituents will be. A 401 Water Quality Certification will be obtained for ~~off-site~~ activities ~~(under CERCLA)~~ that require a CWA permit. These include ~~off-site~~ effluent discharged from the Blue Creek Pipeline into Lake Roosevelt and the Rhoads Borrow Area that require a stormwater NPDES permits and concurrent 401 Certification from the Tribe.

On-Site Permitting and Substantive Requirements

- ~~No 401 Certification would be required for on-site activities.~~ The clean-up standards for surface water were established in Table 8-1 of the ROD.
- Water quality will be inspected in accordance with the OM&M Plan in BODR Appendix P and Site-Wide Monitoring Plan in BODR Appendix Q.

Off-Site Permitting Requirements

- Submit a 401 Certification Application to the Spokane Tribe Department of Natural (DNR) Resources to certify that the point source NPDES permit for the Lake Roosevelt discharge requirements are consistent with the Spokane Tribe's water quality standards. The 401 certification request will be submitted pending resolution of NPDES permitting requirements.
- ~~The clean-up standards for surface water were established in Table 8-1 of the ROD.~~
- ~~Water quality will be inspected in accordance with the OM&M Plan in BODR Appendix P and Site-Wide Monitoring Plan in BODR Appendix Q.~~

~~Off-Site Permitting Requirements~~

- Submit a 401 Certification Application to the Spokane Tribe DNR to certify the stormwater NPDES permit associated with EPA's CGP is consistent with the Tribes water quality standards at least 14 days prior to construction.

M3.5 Spokane Tribe of Indians Surface Water Quality Standards Resolution 2010-173, February 25, 2010

The Spokane Tribe of Indians Surface Water Quality Standards Resolution 2010-173 was considered in developing the water quality criteria being used for the clean-up standard on lands within the Reservation. In some cases the ambient background was higher than the standard and was considered in developing the standard. On December 19, 2013, the EPA disapproved the Tribe's 2010 proposed Water Quality Standards, specifically the proposed mercury and thallium standards. It is unclear what the final standards for these constituents will be. The resulting standards will be used for both the NPDES permit for discharge into tribal waters as well as for the concurrent 401 certification administered by the Tribe. The Spokane Tribe has treatment as a State (TAS) status for regulating surface water quality on lands within the Reservation. The Tribes TAS status has been identified as an ARAR. The ROD authorizes an interim waiver of Tribal water quality standards for the water treatment plant discharge that are additional to or more stringent than the interim limit set in Table 12-2 of the ROD. The Tribe's Surface Water Quality Standard has been identified as being appropriate standards to be considered in establishing clean-up levels. Surface water clean-up levels have been identified in Table 8-1 of the ROD (EPA, 2006) and will be achieved through collection and treatment of contaminated waters and natural attenuation following source control.

On-Site Substantive Requirements

- As the RA progresses, surface water in the remediated areas will be allowed to drain from cover soils to the natural drainages down gradient of the MA.
- The process for containing the mine-impacted water is described in BODR Appendix E – Water Management Ponds and BODR Appendix F – Surface Water and Sediment Controls.
- Shedding clean water from the remediated areas is presented in the Technical Memorandum titled: Midnite Mine – Management of Stormwater Runoff from Remediated Areas – Revision 1 (WME, 2013a~~2013~~), which is included as Attachment O-1 to the SWMP.

M3.6 Safe Drinking Water Act (42 USC § 300F ET SEQ.)

National Primary Drinking Water Regulations (40 CFR Part 141) is listed under the Safe Drinking Water Act (SDWA). The Safe Drinking Water Act regulations protect drinking water sources. The Tribe's Department of Natural Resources and Utility Services Department jointly manage and regulate surface and groundwater on lands within the Reservation. The Utility Services Department monitors drinking water quality on lands within the Reservation according to the Safe Drinking Water Act and EPA requirements. It also regulates activities near sources of drinking water under the Tribe's Well Head Protection Program. Groundwater is the sole source for all drinking water on lands within the Reservation and groundwater is regulated by the Tribe's Hazardous Substances Control Act (HSCA). Table A-1 in the HSCA provides groundwater clean-up levels to protect human health. Clean-up levels for groundwater are provided in Table 8-2 of the ROD (EPA, 2006).

The Tribe has treatment as a state (TAS) status under the Clean Water Act in 2002 and the EPA approved the Tribe's water quality standards in 2003. The maximum contaminant levels (MCLs) are ARARs for human health Contaminants of Concern (COCs) in ground water outside of the waste management areas and surface water at the site. Groundwater outside of the waste management area

and surface water on the site will be monitored to ensure the water quality standards are being achieved. No drinking water wells would be allowed in the area until EPA's drinking water standards can be safely achieved.

A Public Water System would be developed at the Mined Area since it would serve more than 25 persons and fall under EPA's Group A, Non-Community, Non-Transient Water System requirements. Water for employees would comply with SDWA and be used for potable non-human consumption activities such as hand washing, showers, laundry, etc. Drinking water would be purchased from local vendors.

On-Site Substantive Requirements

- Consolidate contaminated material in the WCA and hydraulically isolate from surface and ground water which will be pumped and treated at the WTP as described in BODR Appendix D – Mine Waste Excavation and Containment.
- Groundwater down gradient from the WCA will be monitored to demonstrate compliance with groundwater cleanup standards as described in BODR Appendix Q – Site Wide Monitoring Plan.
- Compliance will be documented as part of the Site-Wide Monitoring.
- A potable water system will be developed on site for workers consistent with Washington State Department of Health requirements for Group A, Non-Community, Non-Transient water system.

M3.7 Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings, 40 CFR Part 192,

M3.7.1 Subpart A – Standards for the Control of Residual Radioactive Materials from Inactive Uranium Processing Sites, Table 1: Maximum Concentrations of Constituents for Groundwater Protection

The Uranium Mill Tailings Radiation Control Act (UMTRCA) standards have been identified as an ARAR for groundwater at the Site. UMTRCA, under 40 CFR 192 subpart A, allows the use of background levels that exceed the listed standards as is the case for U-234 and U-238. Background for U-234 and U-238 has been determined to be 37 pCi/L and 35 pCi/L, respectively (EPA, 2006). The Midnite Mine Groundwater Monitoring Program will monitor the natural attenuation of groundwater following the natural flushing following source control.

On-Site Substantive Requirements

- The RA will include consolidating the mine wastes into a WCA. Water that accumulates in the WCA will be pumped to the operating WTP and treated. These activities are described in BODR Appendix D – Mine Waste Excavation and Containment.
- As the RA progresses, surface water in the remediated areas will be allowed to drain from cover soils to the natural drainages down gradient of the MA.
- The Institutional Control Implementation and Assurance Plan (ICIAP) (MWH, 2014) will provide directions for institutional controls that will preclude access to groundwater that does not meet the standards.

M3.7.2 Subpart B – Clean-up of Land and Buildings Contaminated with Residual Radioactive Materials

The UMTRCA standards have been identified as an ARAR for the clean-up standards for soil. UMTRCA, listed under 40 CFR 192 subpart B, allows for soil limits to be set at values greater than background (i.e. 5 pCi/g radium above background). Since the limits for the RA are at background, they are more restrictive than would be required under UMTRCA. Soil will be monitored as part of the remediation to ensure that the clean-up levels identified in Table 8-3 of the ROD (EPA, 2006) are achieved as determined using procedures in BODR Appendix S – Analytical Support and Verification Plan for Remediation of Surface Materials and Sediments.

On-Site Substantive Requirements

- The Remedial Action will include consolidating, isolating, and covering the mine wastes including all soils and sediments in excess of the clean-up standards in the WCAs.
- These activities are described in BODR Appendix D – Mine Waste Excavation and Containment. The cleanup standards for surface material and sediments are provided in Tables 4-1 and 4-2 of the BODR.
- The soil cleanup limits for the site are set at background concentrations
- All existing buildings on-site will be demolished and disposed of with the mine waste in the WCA. Buildings that are used during the RA will either be decontaminated to UMTRCA limits and taken off-site or disposed of on-site.

M3.8 Spokane Tribe of Indians Hazardous Substances Control Act (HSCA, Resolution 2004-085)

The Spokane Tribe of Indians Hazardous Substances Control Act (HSCA), Resolution 2004-085 is the standard for groundwater, surface water, and soil/sediment clean-up on lands within the Spokane Indian Reservation. The EPA recognizes and treats the Spokane Tribe in the same manner as a state for the Tribe's clean-up standards under NCP (55 Federal Register 8741, March 8, 1990). The HSCA uses a calculated clean-up standard using the table in the HSCA as well as recognizes that background levels are above HSCA standards for most Contaminants of Concern (COCs) and the cleanup standards in such cases are equal to background. The HSCA has been identified as an appropriate requirement to be considered in establishing clean-up levels for soil, sediment, groundwater, and surface water at the Midnite Mine Remediation Project. Clean up standards for surface water, groundwater, soil, and sediment have been identified in Tables 8-1, 8-2, 8-3, and 8-4 of the ROD (EPA, 2006).

In addition, the HSCA provides guidance for the siting of hazardous waste disposal facilities. No hazardous waste (i.e., water treatment residuals) will be disposed of on-site. Water treatment residuals will be temporarily staged on-site and disposed of off-site in accordance with applicable laws.

On-Site Substantive Requirements

- The RA will include consolidating, hydraulically isolating, and covering the mine wastes. These activities are described in BODR Appendix D – Mine Waste Excavation and Containment. The cleanup standards for surface material and sediments are provided in Tables 4-1 and 4-2 of the BODR and are based on background conditions.

- No hazardous waste (i.e., WTP residuals, construction/maintenance materials) will be disposed of on-site. Water treatment residuals will continued to be disposed of off-site at a licensed facility in accordance with the Residuals Management Plan for the Midnite Mine Water Treatment Plant (the RMP) submitted to EPA on November 1, 2013 (WME, 2013b~~2013~~).

M3.9 National Emissions Standards for Hazardous Air Pollutants (NESHAPs) for Uranium Mill Tailings Disposal Sites (40 CFR Part 61, Subpart T)

The National Emissions Standards for Hazardous Air Pollutants (NESHAPs), under 40 CFR 61, Subpart T, requires that 20 pCi/m^2/sec. for radon-222 be used as the standard to limit flux emissions to ambient air at Midnite Mine. The standard is an average applied over the entire surface of the disposal site and over at least a one year period of time and applies only to emissions from residual radioactive materials to the atmosphere. The NESHAP standard for radon-222 has been identified as an ARAR for the WCA. The cover is designed to meet the standard and radon-222 will be monitored for this criteria to ensure compliance.

On-Site Substantive Requirements

- The RA will consolidate the mine waste into the WCAs and radon flux will be contained by the cover system, presented in the Mine Waste Excavation and Containment included in BODR Appendix D.
- The cover system will consist of a synthetic Polyvinyl Chloride (PVC) geomembrane overlain by a soil cover. The soil cover was designed using UMTRCA protocols to limit radon flux to the standard of 20 pCi/m^2/sec assuming the geomembrane layer was not present.
- Radon flux will be measured from the completed cover system using UMTRCA procedures to ensure radon flux levels are achieved.

M3.10 Resource Conservation and Recovery Act, Subtitle D (40 CFR PARTS 257, Subpart A)

The Resource Conservation Act (RCRA), subtitle D (40 CFR Parts 257, Subpart A) provides siting requirements that limit the disposal of solid waste in certain locations and are identified as an ARAR in the ROD (EPA, 2006). These regulations apply to the short-term management and disposal of the water treatment residuals and require facilities in floodplains to not restrict the flow of the base flood, not reduce the temporary water storage capacity of the floodplain, result in the washout of solid waste; or cause or contribute to the taking of any endangered or threatened species; or cause a discharge of pollutant into waters of the U.S. that violates the NPDES program and must not contaminate an underground drinking water source beyond the solid waste boundary. No WTP residuals will be disposed of on-site or be temporarily stored in a floodplain or contribute to the “taking” of endangered species, violate the NPDES program or contaminated underground drinking water outside the waste boundary. A licensed company will be contracted to transport solid waste to legally dispose the waste at a licensed facility. All necessary DOT requirements will be followed. A number of Dawn Mining Company staff has training for DOT requirements in the handling and transport of LSA I material, if required.

On-Site Substantive Requirements

- All WTP residuals will be legally disposed of at a licensed off-site facility.
- As described in the RMP, the temporary staging of WTP residuals to facilitate off-site transport will not be located in a floodplain.
- As described in the Biological Assessment (WME 2014b), the temporary staging of WTP residuals not would result in the taking of threatened or endangered species.

M3.11 Licensing Requirements for Land Disposal of Radioactive Waste (40 CFR Part 61)

The performance objectives and technical requirements for the Nuclear Regulatory Commission (NRC) licensing of land disposal for radioactive waste will be used as the short-term on-site management of water treatment residuals and rock containing uranium at levels that qualify the rock as source material. There will not be any on-site disposal of water treatment sludge and all waste rock and contaminated soil will be disposed of in compliance with the ROD and CD which is consistent with the following criteria. These release limits have been identified as ARARs and are as follows.

On-Site Substantive Requirements

- Protection of releases to the general environment in ground water, surface water, air, soil, plants, or animals, would not result in an annual dose of radioactivity exceeding 25 millirems to the whole body, 75 millirems to the thyroid, and 25 millirems to any other organ of members of the public;
- Protection of individuals from inadvertent intrusion;
- Protection of individuals during operation; and
- Stability of the disposal site after closure.

M3.12 Endangered Species Act (7 USC § 136, 16 USC § 1531 ET SEQ.)

M3.12.1 Section 7 – Consultation

The Endangered Species Act, under 50 CFR 17, provides for the regulatory protection and recovery mechanism for imperiled species and their habitat and makes it unlawful to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect a federally listed species. Section 7, under 50 CFR 402, Subpart B, requires federal agencies to consult with the U.S. Fish and Wildlife Service (USFWS) to ensure that any action authorized does not jeopardize a listed species or destroy or adversely modify designated critical habitat. A Biological Assessment (BA) has been prepared to analyze the effects of the project on federally listed species at the On-Reservation areas and included as Attachment M-2. There are four endangered species analyzed in the BA as provided by the USFWS for Stevens County Washington: bull trout, Canada lynx, grizzly bear, and Ute's ladies tresses orchid. Only the bull trout has the potential for being within the project area; however, there are no known spawning populations of bull trout in Lake Roosevelt and are thought by USFWS to be wash-over from Lake Coeur d'Alene. The other listed species analyzed do not occur on or in the vicinity of the Spokane Indian Reservation. The effects determination in the BA is that the Action "may affect, but not likely to adversely affect bull trout". If the USFWS concurs with this determination, informal consultation would end and the USFWS will not be required to issue a Biological Opinion. The protection of endangered species has been identified as an ARAR. There is no endangered species habitat at the Rhoads Borrow Area or Ford Borrow Area that would require the need for the preparation of a BA.

On-Site Substantive Requirements

- A Biological Assessment (BA) has been prepared that analyze the effects of the RA on federally listed threatened and endangered species. Bull trout is the only listed species with the potential to occur within the RA area; however, no spawning habitat occurs in Lake Roosevelt. BMPs will be implemented to control turbidity from stormwater runoff as described in the SWMP, located in BODR Appendix O. The BA is attached to BODR Appendix M and was submitted by EPA to USFWS on 9/29/2014.

M3.13 Fish and Wildlife Coordination Act (16 USC § 661 et seq.)

The Fish and Wildlife Coordination Act, requires federal agencies to coordinate and consult with federal and state wildlife agencies as appropriate. As part of the preparation of the BA, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service (NMFS), Spokane Tribe's Natural Resources Department, Washington Department of Fish and Wildlife's Priority Habitats and Species Department, and Washington State's Natural Heritage Program were contacted to see if there were any records of listed species in the vicinity of the project. These agencies did not have any records of listed species within the project area. However, the USFWS does get a number of reports of bull trout in Lake Roosevelt each year. The USFWS has determined that there are no spawning populations of bull trout in Lake Roosevelt and that any bull trout in Lake Roosevelt are likely a result of wash-over from Lake Coeur d'Alene. The coordination with federal, tribal, and state wildlife agencies has been determined to be an ARAR. Coordination with these agencies occurred in April 2013.

On-Site Substantive Requirements

- Consultation with federal, state, and Tribal wildlife agencies occurred as follows:
    - Michelle Ames and Julie Campbell of U.S. Fish and Wildlife Service were contacted on 7/15/2013 and confirmed that the project is outside the currently known grizzly bear and Canada lynx range, and the presence of Utes ladies' tresses orchid. Isolated occurrences of bull trout have been recorded in Lake Roosevelt; however, no known spawning habitat occurs at the lake and that individual bull trout recorded in the lake are likely wash-over from Lake Coeur d'Alene.
    - Justin Yeager of U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration – National Marine Fisheries Service (NMFS) was contacted on 7/15/2013 and NMFS does not have jurisdiction above Chief Joseph Dam.
    - Lori Guggenmos of Washington Department of Fish and Wildlife, Washington Natural Heritage Program was contacted on 4/23/2013 and GIS data show Blue Creek being bull trout habitat. A follow up correspondence with Lori, and regional biologist Bill Baker determined this record was likely established at a mapping event and is not likely an actual record that needs to be considered. No other records of T&E species are in the area.
    - Jasa Holt of WA Natural Heritage Program was contacted on 5/6/2013 and no T&E plants are in the project area.
    - Brian Crossley of the Spokane Tribe DNR was contacted on 4/23/2013 and Casey Flanagan of the Spokane Tribe DNR responded that there are no records of endangered fish in and around the project area. He provided all the studies published to date.

- Brent Nichols of Spokane Tribe Department of Natural Resources was contacted on 1/21/2013 and said he does not have any records of bull trout in the area and provided a web links to the Columbia Basin Fish and Wildlife Program to review reports.
- Katie Easton of Spokane Tribe DNR was contacted on 4/23/2013 and said there are no records of T&E wildlife species on the Reservation.
- The EPA submitted the BA to USFWS for informal consultation on September 29, 2014.

M3.14 Migratory Bird Treaty Act (16 USC §§ 703–712)

The Migratory Bird Treaty Act (MBTA), under 50 CFR 10.13, prohibits the "taking" of migratory birds, nests, and feathers. If vegetation clearing occurs during the nesting season, pre-construction surveys will be performed to ensure that no active nests are in the area. If actively nesting birds are found, USFWS, WA Department of Fish and Wildlife and the Tribe will be consulted to ensure that nesting birds are not disturbed and the removal of their nest, eggs or young will be avoided until the nest is abandoned or the young have fledged to comply with the MBTA. The protection of migratory birds covered under MBTA has been identified as an ARAR.

On-Site and Off-Site Substantive Requirements

- Clear land and vegetation outside of the bird nesting season (March to July); however, actual season may vary.
- Wildlife biologists will conduct preconstruction bird nesting surveys if clearing is required during the nesting season.
- If active nests are identified within or adjacent to the active construction area, USFWS, Tribe, and WA DFW will be consulted to avoid "take".

M3.15 Protection of Floodplains – Executive Order 11988

Executive Order 11988 mandates federal agencies to protect floodplains by analyzing project effects and minimizing impacts to floodplains for projects that they have approval or permitting authority over. There are no floodplains mapped within the Spokane Indian Reservation; however, the high water for Lake Roosevelt is elevation 1,290 ft AMSL. Other potential floodplains occur along the margins of Blue Creek, and in the Western, Central, and Eastern Drainages. The Blue Creek Pipeline would be primarily constructed in the existing Blue Creek Road outside of the floodplain and then in the floodplain as it enters Lake Roosevelt. The pipeline will be buried and would not impede or restrict the floodplain. The only above ground structure would be the diffuser in the historic Spokane River channel. Following the installation, the surface contours will be returned to pre-construction grades.

In addition, the drainage clean-up in the Western, Central, Eastern, and Northern Drainages will be within stream channels and associated floodplains that consist of wetlands. These impacts are unavoidable and are required to implement the ROD. The work performed within the floodplain has been minimized to the maximum extent practical and would not be considered an adverse impact to the floodplain. The protection of floodplains associated with Executive Order 11988 has been identified as an ARAR and will be incorporated into the project design.

On-Site Substantive Requirements

- Impacts to the floodplain will be minimized through the design, such as minimizing any intrusions or obstructions into the floodplain that would impede floodplain volume or flow velocity.
- Return soil grades to pre-construction condition following construction.

M3.16 Native American Graves Protection and Repatriation Act (25 USC § 3001 et seq.)

The Native American Graves Protection and Repatriation Act, under 43 CFR Part 10, provide for the protection of Native American graves including Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony. No permits are necessary for on-site activities, but pre-construction field surveys were conducted by the Preservation Office as part of Section 106 of the NHPA to~~could potentially~~ identify ~~potential~~ sites. ~~prior to construction.~~ Tribal cultural monitors will monitor ground disturbing activities in areas recommended by THPO. In addition, further protection of graves and cultural items will be protected by implementing applicable measures recommended by THPO. If any Native American graves or cultural items are identified during construction, all activity will be ceased until THPO and the Office of Preservation is consulted to ensure features are protected. THPO recommendations will be followed to ensure compliance with this Act.

On-Site Substantive Requirements

- A Ground Disturbance Permit application was submitted to the Spokane Tribe's Tribal Historic Preservation Officer (THPO).

- The Spokane Tribe Archaeology & Preservation Office (Preservation Office) will conduct cultural resource surveys to identify the potential for cultural resources prior to construction. A cultural resource monitor will also be present during construction in areas with the potential for cultural resources. If any grave sites or funerary objects are identified, construction work will stop immediately and the THPO will be consulted to determine recovery and preservation options.
- The preservation office will prepare a report summarizing the results of their literature search, interviews of previous mine employees, field survey, monitoring, historical research, and THPO consultation if necessary.

M3.17 American Indian Religious Freedom Act (42 USC § 1996) (PL 95-341)

The American Indian Religious Freedom Act directs federal agencies to evaluate their policies and procedures to protect and preserve Native American religious cultural rights and practices. Compliance with this Act will not require any permits for on-site activities; however, any relevant cultural right or practices that need to be preserved will be identified as part of the Section 106 of NHPA review being conducted by the Office of Preservation under the purview of THPO. The preservation of Native American cultural rights and practices has been identified as an ARAR.

On-Site Substantive Requirements

- Prior to site disturbances, the Preservation Office will conduct a literature review, interviews with former mine employees, historical research, and field surveys to identify any religious, ceremonial, and burial sites. If any sites are identified inside the project boundary, THPO will be consulted to explore alternatives and determine mitigation, if necessary.
- The preservation office~~Preservation Office~~ will prepare a report summarizing the results of their literature search, interviews of previous mine employees, field survey, monitoring, historical research~~surveys~~, and THPO consultation~~,~~ if necessary.

M3.18 National Historic Preservation Act (16 USC § 470 et seq.) (PL 89-668) Section 106 Consultation (16 USC § 470f)

Section 106 of the National Historic Preservation Act (NHPA), under 36 CFR Part 800, requires federal agencies to consider effects of projects that they have approval or permitting authority over to protect historic properties and cultural resources. Section 106 of HNPA requires the consultation with State or Tribal Historic Preservation Officers (Spokane Tribal Historic Preservation Officer) and stakeholders to avoid, minimize, or mitigate adverse effects to cultural and historic resources.

On September 23, 2013 DMC met with Randy Abrahamson who serves as Spokane Tribe's THPO and James Harrison, Jackie Corley, and Chris Casserino of the Spokane Tribe Archaeology & Preservation Office (Preservation Office) to review in-the-field the entire Midnite Mine Remediation Project footprint. During the meeting, we requested that the entire footprint be reviewed for cultural issues in accordance with NHPA requirements. The THPO recommended a professional archaeological survey and sub-surface testing of the area and ~~They indicated~~ that ground disturbing activity be monitored. The ~~the~~ Preservation Office conducted~~would conduct~~ a literature search, interviews with former mine employee, and ~~and conduct field~~ cultural field surveys in ~~the spring of~~ 2014 and 2015 to determine if

there are any cultural features that are eligible for listing on the National Register of Historic Places, under the criteria at 36 CFR Part 60. The ~~In addition, the~~ Preservation Office documented the mancamp structures~~will provide public notification on the Spokane Reservation and determine if interviews with former mine workers or consultation~~ with photographs, mapped (via GPS) and notes to include in the final report. The~~stakeholders and interested parties would be necessary. During the field visit, the~~ Preservation Office confirmed in an email to EPA (dated 3/17/2015)~~indicated~~ that the ~~existing mine~~ structures are not culturally significant~~, but would document the structures as part of their field work. The protection of cultural and historic resources under National Historic Preservation Act is an identified ARAR~~.

The protection of cultural and historic resources under the National Historic Preservation Act is an identified ARAR. Prior to the overall cultural surveys of the entire footprint, exploratory work has been required that consisted of ground disturbing activities on lands within the Reservation. During those activities, the THPO indicated a cultural monitor from the Preservation Office monitoring the activity would be sufficient to ensure compliance with NHPA. Exploratory ground disturbing activities consisted of backhoe test pits along the Blue Creek Pipeline, drinking water well installation, and wetland delineation.

On-Site Substantive Requirements

- Protect or mitigate impacts to listed sites or sites eligible for listing on the National Register of Historic Places.
- The Preservation Office conducted~~will conduct~~ a literature review, interviews with former mine employees, historical research, and field surveys to determine if any listed or eligible sites are present within the RA area in 2014 and 2015. No ~~. If~~ listed or eligible sites were identified. If eligible sites are found during cultural monitoring of construction, the Preservation Office will comply with Section 106 of the NHPA and consultation with the THPO and other agencies will be initiated to evaluate alternatives, minimize impacts, and determine mitigation, if necessary.
- The preservation office will prepare a report summarizing the results of their literature search, interviews of previous mine employees, field survey, monitoring, historical research, and THPO consultation if necessary.
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M3.19 Office of Solid Waste and Emergency Response (OSWER)

M3.19.1 OSWER Directive No. 9200.4-18, Establishment of Cleanup Levels for CERCLA Sites with Radioactive Contamination (August 2, 1997)

This directive clarifies guidance for establishing clean-up levels for radioactive contamination at CERCLA sites for human health protection. The directive describes the appropriate risk exposure or dose level range for radionuclides as a cancer risk range between 10^{-4} and 10^{-6}, cited in 40 CFR 300.430 (e)(2)(i)(A)(2), which are more protective than NRC's regulations. Attachment A to Directive 9200.4-18 lists potential ARARs for radiation on CERCLA projects. Attachment B indicates that EPA concludes that levels equal to or less than 15 millirems/yr is an effective dose equivalent that is protective and achievable, corresponding to an excess lifetime cancer risk of approximately 3 x 10-4.

However, EPA guidance does not recommend cleanup levels be established at levels below background. Clean up levels using regulatory standards or risk based standards were used to develop cleanup standards unless background levels were higher than those standards. The ROD (EPA, 2006) establishes the clean-up standards for this project, which will be complied with as part of the project remediation.

On-Site Substantive Requirements

- The RA will include consolidating, isolating, and covering the mine wastes including all soils and sediments in excess of the cleanup standards in the WCAs.
- These activities are described in BODR Appendix D – Mine Waste Excavation and Containment. The cleanup standards for surface material and sediments are based on background levels are provided in Tables 4-1 and 4-2 of the BODR.

M3.19.2 OSWER Directive No. 9200.4-25, Use of Soil Clean-up Criteria 40 CFR Part 192 as Remediation Goals for CERCLA Sites (February 2, 1998)

This directive clarifies the extent to which the soil clean-up criteria in 40 CFR Part 192 Subpart A were used when setting remediation goals for subsurface soils. Subpart A standards states that the control of residual radioactive materials and their listed constituents shall be designed so that there will not be more than two release rates exceeding an average of 20 pCi/m^2/sec. for radon 222. These limits will be complied with as part of the project remediation.

On-Site Substantive Requirements

- The RA will include consolidating, isolating, and covering the mine wastes including all soils and sediments in excess of the cleanup standards in the WCAs. These activities are described in BODR Appendix D – Mine Waste Excavation and Containment. The cleanup standards for surface material and sediments are based on background levels and are provided in Tables 4-1 and 4-2 of the BODR.

Other Regulatory Requirements To Be Considered

M3.20 Spill Prevention, Countermeasures and Control Rule (40 CFR Part 112.6)

The EPA requires certain facilities to prepare and implement Spill Prevention, Countermeasures, and Control (SPCC) Plans to prevent oil discharges into navigable waters and adjoining shorelines. The SPCC rule is part of the Oil Pollution Prevention regulations in 33 CFR Part 112 under Section 311 of the Federal Water Pollution Control Act, or CWA. If a SPCC is needed for the Ford Borrow Area, Dawn Millsite's SPCC plan would be modified to include the new borrow area. No fuel will be stored at the borrow areas and spill kits will be readily available where work is being performed.

On-Site Substantive Requirements

- A SPCC for the WTP is provided in the OM&M Plan in Appendix O.
- A site-wide SPCC will be prepared in accordance with good engineering practices and be certified by a Professional engineer and contain the following elements:
    - Facility diagram and facility description;

- Oil discharge prediction;
- Secondary containment and diversion structures;
- Facility drainage;
- Bulk storage requirements- inspection, overfill and integrity;
- Transfer procedures and equipment;
- Qualified oil-filled operational equipment;
- Brittle fracture evaluation for above ground field containers;
- Personnel training and prevention briefings;
- Recordkeeping;
- Five year Plan review;
- Management approval; and
- Plan certification.

- Inspection in accordance with the OM&M Plan in BODR Appendix P and Site-Wide Monitoring Plan in BODR Appendix Q.

Off-Site Permitting Requirements

- A SPCC will be prepared for the Rhoads Borrow Area or Ford Borrow Area and include the components specified above.

M3.21 Clean Air Act (42 USC §7401 ET SEQ.)

M3.21.1 Introduction

The Clean Air Act (CAA) is the comprehensive federal law that regulates air emissions from stationary and mobile sources. Under the CAA, the Environmental Protection Agency (EPA) has established air quality standards to protect public health and public welfare as well as protecting against decreased visibility and regulating emissions of hazardous air pollutants. Implementation of the CAA standards within the exterior boundaries of the Spokane Reservation are covered under the Federal Air Rules for Reservations (FARR) (40 CFR Parts 9 and 49). The Midnite Mine Remedial Action (RA) occurs within the Spokane Indian Reservation. 9 and 49).

M3.21.2 Overview of the CAA and EPA's implementing regulations

M 3.21.2.1 NAAQS

The National Ambient Air Quality Standards (NAAQS) were developed by the EPA to identify levels of certain pollutants above which have detrimental effects on human health (primary criteria) and public welfare (secondary criteria). Primary standards provide public health protection, including protecting the health of "sensitive" populations such as asthmatics, children, and the elderly. Secondary standards provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings) could occur. Standards have been developed for sulfur dioxide (SO_2), carbon monoxide (CO), nitrogen dioxide (NO_2), ozone (O_3), particulate matter (PM) less than 10 microns (PM_{10}), particulate matter less than 2.5 microns ($PM_{2.5}$), and lead (Pb), which are known as the criteria pollutants (Table M-6).

Table M-5. National Ambient Air Quality Standards

Pollutant	Primary/Secondary	Averaging Time	Level
CO	Primary	8 hr	9 ppm
		1 hr	35 ppm
Pb	Primary/Secondary	Rolling 3 month avg.	0.15 µg/m^3
NO_2	Primary	1 hr	100 ppb
	Primary/Secondary	Annual	53 ppb
O_3	Primary/Secondary	8 hr	0.075 ppm
$PM_{2.5}$	Primary	Annual	12 µg/m^3
	Secondary	Annual	15 µg/m^3
	Primary/Secondary	24 hr	35 µg/m^3
PM_{10}	Primary/Secondary	24 hr	150 µg/m^3
SO_2	Primary	1 hr	75 ppb
	Secondary	3 hr	0.5 ppm

The Spokane Indian Reservation has~~and Ford, Washington have~~ been designated an Attainment Area that complies with these NAAQS. The nearest area that has fallen below the NAAQS is the Spokane metro area for ozone and particulate matter; however, it has since raised air quality above the NAAQS and is now designated a Maintenance Area. The Spokane Indian Reservation is also designated as a Class I airshed, which is a designation reserved for the most pristine airsheds such as National Parks and designated wilderness areas. Class I airsheds are protected for visibility and other Air Quality Related Values (AQRVs).

M 3.21.2.2 PSD/NSR Requirements

The applicability of the Tribal Prevention of Significant Deterioration (PSD) Program's New Source Review (NSR) permitting requirements is based on whether a facility is a major emitting facility that exceeds the Tribal NSR Major Source Threshold. NSR Major Sources in Attainment Areas are stationary sources that have a Potential to Emit (PTE), either 100 tons per year (TPY) of "any air pollutant" from one of 28 -listed source categories or 250 TPY from other source categories. PTE is the maximum capacity of a stationary source to emit a pollutant under its physical and operational design, generally at 8,760 hours per year. The Remedial Action does not fall in any of the 28 listed source categories. Applicable NSR Major and Minor Source Thresholds established for the Tribal New Source Review Rule in Attainment Areas are provided in Table M-7.

Table M-6. Tribal NSR Rule Thresholds for Attainment Areas.

Pollutants	NSR Minor Source Threshold (TPY)	NSR Major Source Threshold (TPY)
Carbon Monoxide (CO)	10	250
Nitrogen Oxides (NO_x)	10	250
Sulfuric Dioxide (SO_2)	10	250
Volatile Organic Compounds (VOC)	5	250
Particulate Matter (PM)	10	
PM_{10}	5	250
$PM_{2.5}$	3	250
Lead (Pb)	0.1	250
Fluorides	1	250
Sulfuric acid mist	2	250
Hydrogen sulfides (H_2S)	2	250
Total reduced sulfur (including H_2S)	2	250
Reduced sulfur compounds (including H_2S)	2	250
Municipal waste combustor emissions	2	250
Municipal solid waste landfills emissions	10	250

TPY – tons per year

A facility that is a NSR Major Stationary Source must also analyze whether the source's emissions may affect visibility in a Class I area (see 40 CFR § 52.21(p)). EPA policy interprets "may affect" to include all major sources within 100 km of a Class I area. The visibility analysis must be assessed by the appropriate Federal Land Manager to determine whether the source would have an adverse impact on visibility. A facility that is a minor source~~Minor Source PSD~~ - a source that does not meet the definition of a NSR Major Stationary Source - is not required to analyze its effect on visibility in a Class I area, unless the minor source~~Minor Source~~ undergoes a modification that would increase emissions above a NSR "Major Source" threshold.

M 3.21.2.3 Title V

The CAA's Title V program requires major sources and certain other sources to obtain a permit that incorporates all of the CAA requirements for the facility into one document. Title V operating permits are legally enforceable documents issued to air pollution sources after the source has begun to operate. Title V Major Source Thresholds are separate requirements than those of NSR Major Source Thresholds.

Title V Major Source Thresholds are 100 TPY for any pollutant in Attainment Areas; or 10 TPY or more of any individual Hazardous Air Pollutant (HAPs) (section 112(b) of the CAA) or 25 TPY or more for all HAPs emitted~~; or Greenhouse Gases (GHG) of at least 100,000 TPY CO_2 equivalent (CO_2e) and greater than the applicable major source threshold (i.e., 100 or 250 TPY, depending on the source category) on a mass basis for GHGs~~.

M 3.21.2.4 FARR

In June 2005, under authority of Section 301(1) and 301(d)(4) of the CAA, the EPA promulgated implementation plan provisions to protect air quality within Indian Reservations. These provisions are

specifically identified in 40 CFR Part 49, Subpart M, Implementation Plans for Tribes___-Region_-10. This Federal Implementation Plan referred to as the FARR includes all persons and businesses located within the federally recognized exterior boundaries of 39_-Reservations in Idaho, Oregon, and Washington. The Spokane Indian Reservation is included under these rules.

FARR exempts a number of activities and emission sources for purposes of determining Major Source Thresholds under PSD/NSR and Title V. Exempted activities and sources include:

- Air pollution sources that do not have the potential to emit more than 2 tons per year of any regulated air pollutant;
- Mobile sources (cars, trucks, boats, trains, etc.);
- Single-family residences and residential buildings with four or fewer apartments or living units;
- Air conditioning units used for human comfort and that do not release manufacturing or industrial process pollutants into the air;
- Furnaces and boilers used only for space heating with a rated heat input capacity of less than 400,000 British thermal units per hour (Btu/h);
- Cooking of food, except for wholesale businesses that cook and sell cooked food;
- Consumer use of office equipment and products;
- Janitorial services and consumer use of janitorial products;
- Maintenance and repair activities, except for air pollution sources that maintain and repair equipment as a business;
- Agricultural, forestry, and silvicultural activities (including burning); and
- Open burning.

FARR also requires that visible and fugitive PM emissions be controlled and monitored for activities within the Indian Reservation. 40 CFR § 49.124 establishes that visible emissions from air stationary~~pollution~~ sources may not exceed 20_-percent opacity, averaged over six consecutive minutes, as measured by EPA Method 9. 40 CFR § 49.126 establishes rules for limiting fugitive PM emissions from pollution sources and requires annual monitoring. EPA Method 22 is used to determine the presence of fugitive emissions.

M 3.21.2.5 NESHAPs

The CAA also regulates Hazardous Air Pollutants (HAPs). HAPs are those pollutants that are known or suspected to cause cancer or other serious health effects, such as reproductive effects or birth defects or adverse environmental effects. Section 112 of the CAA identifies 187 hazardous air pollutants ~~to be~~ regulated by source category. EPA has adopted National Emission Standards for Hazardous Air Pollutants (NESHAPS) for certain HAPs and source categories.

NESHAPs are found in 40 CFR Part 61 and 40 CFR Part 63. Part 61 NESHAPs regulate only seven hazardous air pollutants: Asbestos, Beryllium, Mercury, Vinyl chloride, Benzene, Arsenic, and Radon/radionuclides. The NESHAPs promulgated~~stated~~ after the 1990 Clean Air Act Amendments are found in 40 CFR Part 63. These standards require application of technology based emissions standards referred to as Maximum Achievable Control Technology (MACT) for specific sources. The post-1990 NESHAPs are also referred to as MACT standards.

Potentially applicable NESHAPS

- Subpart M – National Emission Standards for Asbestos (40 CFR § 61.140 *et seq*.)

- Subpart T - National Emission Standards for Radon Emissions from the Disposal of Uranium Tailings (40 CFR § 61.220 *et seq*.).
- Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (40 CFR § 63.6580 *et seq*.).

M 3.21.2.6 NSPS

Section 111 of the CAA authorized EPA to develop technology based standards which apply to specific categories of stationary sources. These standards are referred to as the New Source Performance Standards (NSPS) and are found in 40 CFR Part 60. The NSPS apply to new, modified and reconstructed affected facilities in specific source categories. In general, sources subject to NSPS are required to perform an initial performance test and periodic performance tests to demonstrate compliance.

Potentially applicable NSPS standards

- Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants (40 CFR § 60.670 *et seq*.). These standards apply to certain sources at fixed or portable nonmetallic mineral processing facilities including crushers, screening operations and belt conveyors.
- Subpart IIII - Standards of Performance for Stationary Compression Ignition Internal Combustion Engines (40 CFR § 60.4200 *et seq*.). These standards would apply to diesel engines manufactured after a certain date that are used to operate certain equipment including emergency generators.
  - All stationary engines will be certified to meet EPA required emission standards for the year manufactured.
  - All stationary engines will be maintained and operated consistent with the manufacturer's recommendations. Records of conducted maintenance will be kept, consistent with a maintenance plan to demonstrate compliance and to maintain and operate the engine consistent with good air pollution control practice for minimizing emissions.
  - Emergency stationary engines, will be operated for the purpose of maintenance checks and readiness tests, consistent with the manufacturer's recommendation, and will not exceed 100 hours per year.
  - For engines over 500 hp an emissions performance test will be conducted every 8,760 hours of engine operation or three years whichever comes first to demonstrate compliance with applicable emissions standards.

M 3.21.2.7 Washington Air Operating Permits

Washington Administrative Code (WAC) 173-401 provides for Washington's Operating Permit Regulation are applicable to the Ford Borrow Area. This code requires facilities to have an Operating Permit if it has the potential to emit any of the following:

- More than 100 tons per year of any pollutant, such as NO_x, VOCs, CO, SO_2, and PM. Lower thresholds may apply in nonattainment areas;

- More than 10 tons per year of any HAP, as listed in subsection 112(b) of the federal Clean Air Act; or
- More than 25 tons per year of a combination of any HAPs.

An Operating Permit may also be required if it is subject to certain federal air quality requirements, including:

- Title IV Acid Rain Program;
- New Source Performance Standards (NSPS); or
- National Emission Standard for Hazardous Air Pollutants (NESHAP).

WAC 173-400-110(4)(x) provides exemptions for construction activities that do not result in new or modified stationary sources or portable stationary sources, such as those activities at the Ford Borrow Area. WAC 173-400-040(4)(a) requires that fugitive dust sources must take reasonable precautions to prevent fugitive dust from becoming airborne and must maintain and operate the source to minimize emissions. Visual emissions will not exceed 20 percent opacity for more than three minutes in any hour at the emission point or within a reasonable distance of the emission point.

M3.21.3 AIR EMISSIONS INVENTORY

An air emissions inventory was conducted to identify emission sources at the site and those anticipated during construction of the RA~~Remedy~~. This inventory was then used to determine if the Site's~~site's~~ PTE emissions would exceed the PSD/NSR Major Source Thresholds and/or Title V Major Source Thresholds. Emission factors used to determine emission rates were taken from AP-42, Compilation of Air Pollutant Emission Factors, fifth Edition, 1995, Volume I, Stationary Point and Area Sources (EPA, 1995) or other emission factors sources where available. Reasonably available information and assumptions ~~were used~~ that are consistent with the current~~90 Percent~~ design were used since equipment has not yet been specified. Once the contractor and the specific equipment are selected any significant difference in the ~~air~~ emissions inventory will be updated. Conservative~~Broad~~ assumptions were used in identifying emission source equipment such as material handling capacity, engine power (hp) and generation needs, tank sizes, active construction footprint, etc. Identified emission sources are provided in Table M-8. Activities and sources that are exempt under FARR or CAA were excluded from the inventory. No air emissions from stationary sources at the Rhoads ~~or Ford~~ Borrow Areas are anticipated.

Table M-7. Midnite Mine Stationary Emission Sources (existing and anticipated).

Stationary Emission Sources	
Downhill Conveyor Units (250~~275~~ hp diesel)	BPA Pump Generator (1.5 hp diesel)
Radial Conveyor Units (50 hp diesel, each up to five)	South Pond Pump Generator (30 hp diesel)
Primary Jaw Crusher (225 tph, 300~~225~~ hp diesel)	East Seep~~South Pond~~ Pump Station (12~~Generator~~ ~~(30~~ hp diesel)
Secondary Cone Crusher (225 tph, 225~~300~~ hp diesel)	Blood Pool~~East Seep~~ Pump Station (24~~12~~ hp diesel~~, emergency~~)
Primary Screening (Grizzly) (50 hp diesel)	PCP~~Blood Pool~~ Pump Station (135~~24~~ hp diesel~~, emergency~~)

Secondary Screening Performed with Crusher	Western Drainage Alluvial GW Wells (47PCP Pump Station (135 hp diesel, emergency)
Tertiary Screening (50 hp diesel)	WTP (604Western Drainage Alluvial GW Wells (47 hp diesel, emergency generator)
Pit 4 Pump Generator (150 hp yr 1 / 50 hp yr 2, 3, 4 diesel)	Diesel Tanks (916,448 gpy)WTP (604 hp diesel, emergency generator)
Pit 3 Pump Generator (50 hp diesel)	GasolineDiesel Tanks (219,960293,269 gpy)
Lime Silo (360 tpy)	Gasoline Tanks (586,539 gpy)

Abbreviations: horsepower (hp), tons-per-hour (tph), year (yr), Backfill Pump Area (BPA), Pollution Control Pond (PCP), ground water (GW), Water Treatment Plant (WTP), gallons-per-year (gpy), and tons-per-year (tpy).

A summary of the PTE and Estimated Actual Emissions by year based on the assumed construction schedule are provided in Tables M-9 and M-10, and ~~also~~ HAPs emissions in Table M-11. Details of the spreadsheet calculations are provided in Attachment M-3 of Appendix M of the Basis of Design Report (BODR)(WME, 2014) and are organized into four parts: PTE calculations (Attachment M-3a), Estimated Actual Emission (Attachment M-3b), HAPs (Attachment M – 3c), and Tanks (Attachment M – 3d). Each section includes basic assumptions, a summary of emissions, and emissions broken out by the various activities and equipment. After Year 10, the construction aspect of the Remedial Action is assumed to be complete and long-term operations and maintenance emissions are expected to be consistent with year 10 emissions.

The PTE for the material handling equipment was based on ~~maximum hourly processing capacity and~~ a maximum run-time of 8,760 hours per year. The PTE for the emergency generators was based on maximum hourly emission rates for the various pollutants and a maximum run-time of 500 hours per year. All other generators and pumps were calculated with a maximum run-time of 8,760 hours per year. Detailed PTE calculations are provided in Attachment M-3a of Appendix M of the BODR (WME 2014) and include: Table -1 ~~–~~ Estimated Potential to Emit of Criteria Pollutants, Table -2 ~~–~~ Secondary Summary of Estimated Potential to Emit of Criteria Pollutants (by Task), Table -3 ~~–~~ Estimated Potential to Emit of Green House Gases (GHGs) by Year and by Task, and Task Specific Worksheets.

The estimated~~Estimated~~ Actual Emissions are based on estimated actual hours of operations for each piece of equipment over the 10 ~~-~~year period. For material handling and associated power requirements, it is based on the amount of drain rock required for each phase and estimated duration of processing time. Emissions from emergency generators are based on minimal use and annual testing ~~and exercising of equipment~~ to ensure proper functionality. Calculations for estimated~~Estimated~~ Actual Emissions~~emission~~ in Attachment M-3b includes: Table -1 ~~–~~ Estimated Potential to Emit of Criteria Pollutants, Table -2 ~~–~~ Secondary Summary of Estimated Potential to Emit of Criteria Pollutants (by Task), Table -3 ~~–~~ Estimated Potential to Emit of Green House Gases (GHGs) by Year and by Task, and Task Specific Worksheets.

HAPs were calculated based on estimated actual hours and used AP-42 emission factors from stationary sources and fugitive construction dust based on composition of mine waste and soil (WME, 2012). ~~.~~ Mine waste and soil composition was derived from analytical results presented in the RI/FS (URS, 2005). HAPs calculations in Attachment M-3c include: Table -1 ~~–~~ Summary of Total Estimated Actual Emissions of Hazardous Air Pollutants (HAPs) by Year, Table -2 ~~–~~ Calculation of Hazardous Air Pollutant (HAP) Concentrations in Dust by Material Type, Table -3 ~~–~~ Calculation of Waste Rock Earthwork Hazardous Air Pollutants (HAP) Emissions by Year, Table -4 ~~–~~ Calculation of Ore/Protore Earthwork Hazardous Air Pollutant (HAP) Emissions by Year, Table -5 ~~–~~ Calculation of Rhoads Cover Soil Hazardous Air Pollutant (HAP) Emissions by Year, Table -6 ~~–~~ Calculation of Silo and Engine Hazardous Air Pollutants (HAP) Emissions by Year, Table 7 ~~–~~ Calculation of Hazardous Air Pollutant (HAP) Emissions from Unpaved Roads and Material Processing by Year, Table 8 ~~–~~ Calculation of Hazardous Air Pollutant (HAP) Emissions from Generators by Year, and Table 9 ~~–~~ Calculation of Fuel Transfer and WTP Hazardous Air Pollutant (HAP) Emissions by Year.

The parameters of the liquid and dry material storage and their use were input~~inputted~~ into EPA's TANKS 4.0.9d Software. Tank emissions calculation outputs include: Tank Identification and Physical Characteristics, Liquid Contents of Storage Tank, Detail Calculations (AP-42), and Individual Tank Emission Totals for each tank.

No emissions from stationary sources are anticipated at~~would be emitted as part of~~ the Rhoads Borrow Area or at any other Off-Site area.

Table M-8. Potential to Emit Emissions (TPY)~~).~~

Pollutant	Year									
	1	2	3	4	5	6	7	8	9	10
NO_x Uncontrolled	217.41~~155~~	217.41~~19~~	217.41~~141~~	217.41~~141~~	217.41~~23~~	217.41~~23~~	217.41~~23~~	217.41~~23~~	217.41~~23~~	217.41~~18~~
CO	46.90~~33~~	46.90~~4~~	46.90~~30~~	46.90~~30~~	46.90~~5~~	46.90~~5~~	46.90~~5~~	46.90~~5~~	46.90~~5~~	46.90~~4~~
SO_x	14.75~~10~~	14.75~~1~~	14.75~~9~~	14.75~~9~~	14.75~~2~~	14.75~~2~~	14.75~~2~~	14.75~~2~~	14.75~~2~~	14.75~~1~~
PM_{10}	54.19~~43~~	54.19~~42~~	54.19~~42~~	54.19~~42~~	54.19~~2~~	54.19~~2~~	54.19~~2~~	54.19~~2~~	54.19~~2~~	54.19~~1~~
$PM_{2.5}$	54.19~~6~~	54.19~~5~~	54.19~~5~~	54.19~~5~~	54.19~~1~~	54.19~~1~~	54.19~~1~~	54.19~~1~~	54.19~~1~~	54.19~~1~~
VOC	17.60~~13~~	17.60~~11~~	17.60~~11~~	17.60~~11~~	17.60~~2~~	17.60~~2~~	17.60~~2~~	17.60~~2~~	17.60~~2~~	17.60~~2~~
GHG CO_2e	5,742	5,742~~238~~	5,742~~238~~	5,742~~238~~	5,742~~863~~	5,742~~863~~	5,742~~863~~	5,742~~863~~	5,742~~863~~	5,742~~673~~
GHG mass	5,742	5,742~~238~~	5,742~~238~~	5,742~~238~~	5,742~~863~~	5,742~~863~~	5,742~~863~~	5,742~~863~~	5,742~~863~~	5,742~~673~~

See Attachment M-3 for Potential To Emit (PTE) spreadsheet calculations.

Table M-9. Estimated Actual Emissions (TPY).

Pollutant	Year									
	1	2	3	4	5	6	7	8	9	10
NO_x Uncontrolled	16	2	21	31	8	8	8	8	8	3
CO	3	0	5	7	2	2	2	2	2	1
SO_x	1	0	1	2	0	0	0	0	0	0
PM_{10}	6	0	9	14	0	0	0	0	0	0
$PM_{2.5}$	1	0	1	1	0	0	0	0	0	0
VOC	1	0	2	3	0	0	0	0	0	0
GHG CO_2e	590	83	781	1,142	159	159	159	159	159	113
GHG mass	590	83	781	1,142	159	159	159	159	159	113

See Attachment M-3 for Estimated Actual Emissions spreadsheet calculations.

Table M-10. Estimated Actual HAPs emissions (TPY), including fugitive sources.

Description	Year									
	1	2	3	4	5	6	7	8	9	10
Chloride	4.56E-04	5.33E-04	1.76E-03	2.73E-03	1.79E-03	3.34E-03	3.14E-03	1.48E-03	8.70E-04	7.76E-04
Phosphorus	0.46	0.54	1.78	2.76	1.81	3.38	3.18	1.50	0.88	0.79
Sulfate	0.16	0.19	0.62	0.96	0.63	1.17	1.10	0.52	0.31	0.27
Antimony	0	0	0	0	0	0	0	0	0	0
Arsenic	0.04	0.04	0.14	0.21	0.14	0.26	0.25	0.12	0.07	0.06
Beryllium	1.36E-03	1.59E-03	5.25E-03	8.11E-03	5.33E-03	9.95E-03	9.34E-03	4.41E-03	2.59E-03	2.31E-03
Cadmium	2.17E-04	2.54E-04	8.40E-04	1.30E-03	8.53E-04	1.59E-03	1.49E-03	7.06E-04	4.14E-04	3.70E-04
Chromium	0.02	0.02	0.07	0.10	0.07	0.13	0.12	0.06	0.03	0.03
Cobalt	0.01	0.01	0.05	0.08	0.05	0.09	0.09	0.04	0.02	0.02
Lead	0.02	0.02	0.08	0.12	0.08	0.15	0.15	0.07	0.04	0.04
Manganese	0.93	1.09	3.60	5.56	3.66	6.82	6.41	3.03	1.78	1.58
Mercury	4.34E-05	5.08E-05	1.68E-04	2.60E-04	1.71E-04	3.18E-04	2.99E-04	1.41E-04	8.29E-05	7.39E-05
Nickel	0.02	0.02	0.07	0.10	0.07	0.13	0.12	0.06	0.03	0.03
Selenium	2.93E-04	3.43E-04	1.13E-03	1.75E-03	1.15E-03	2.15E-03	2.02E-03	9.53E-04	5.59E-04	4.99E-04
Radionuclides	0.08	0.10	0.33	0.51	0.33	0.62	0.58	0.28	0.16	0.14
Benzene	0.04	0.02	0.04	0.05	0.03	0.03	0.03	0.03	0.03	0.02
Toluene	0.02	0.01	0.02	0.02	0.01	0.01	0.01	0.01	0.01	9.26E-03
Xylenes	0.01	7.62E-03	0.01	0.01	7.89E-03	7.89E-03	7.89E-03	7.89E-03	7.89E-03	6.45E-03
Propylene	0.10	0.07	0.11	0.13	0.07	0.07	0.07	0.07	0.07	0.06
1, 3-Butadiene	1.58E-03	1.05E-03	1.62E-03	1.92E-03	1.08E-03	1.08E-03	1.08E-03	1.08E-03	1.08E-03	6.45E-03
Formaldehyde	0.05	0.03	0.05	0.06	0.03	0.03	0.03	0.03	0.03	0.03
Acetaldehyde	0.03	0.02	0.03	0.04	0.02	0.02	0.02	0.02	0.02	0.02
Acrolein	3.73E-03	2.47E-03	3.84E-03	4.54E-03	2.56E-03	2.54E-03	2.56E-03	2.56E-03	2.56E-03	2.09E-03
PAH	6.77E-03	4.49E-03	6.97E-03	8.25E-03	4.65E-03	4.65E-03	4.65E-03	4.65E-03	4.65E-03	3.80E-03
HCl	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20
Total	**2.66**	**2.84**	**7.67**	**11.39**	**7.68**	**13.61**	**12.84**	**6.51**	**4.16**	**3.77**

See Attachment M-3 for Estimated Actual Emissions of Hazardous Air Pollutant (HAPs) spreadsheet calculations.

M3.21.4 ANALYSIS

Based on the PTE, the activities proposed at the Site are not considered to be a source is not a Major Source for purposes of the PSD/NSR program. The EPA Air Administrator confirmed in an email dated September 3, 2014 that the PTE is well below the PSD applicable thresholds for a Major Source and would constitute as a minor source under the Tribal NSR. There are no substantive requirements under the PSD/NSR Program applicable to minor PSD sources. The EPA Air Administrator also confirmedOn-going discussions with EPA regarding the PTE calculations for PSD/NSR major source thresholds will require the addition of supplemental calculations. However, initial review of these calculations indicates that the conclusion that modeling is not necessary since the actual emissions will be distributed across the project the site and the PTE emissions are conservative, both with emission values and in sequential operationwill be a minor source remains valid.

Based on the PTE, the source exceeds the Title V Major Source Thresholds for NO_x. However, actual emissions of NO_x will be less than 50 percent of the Major Source Threshold for Title V Permitting (100 -TPY). The source is not a major HAPs source (HAPs emissions are below 10 TPY, individually, and 25 TPY, cumulatively).) nor a major GHG source (100,000 TPY CO_2e and 100/250 TPY mass basis). Consistent with EPA's guidance regarding PTE for Part 71 Implementation in Indian Country, the source should be considered a minor source for purposes of the Federal Operating Permits Program under 40 CFR Part -71.

Consistent with EPA'sthe guidance, for every consecutive 12-month period (commencing after start-up of the stationary sources), the source will maintain adequate records to demonstrate that actual emissions are kept below 50 percent of the Major Source Threshold for NO_x. If calculations indicate actual emissions at or greater than 50 percent of the Major Source Threshold for NO_x, the source will limit run-time of the various equipment to prevent NO_x emissions from exceeding 100 TPY.

With the exception of the WTP, the Midnite Mine does not contain radioactive material subject to NRC or Washington State regulatory requirements. Washington State is an "Agreement State". That is Washington has entered into an agreement with the Nuclear Regulatory Commission (NRC) to regulate the use of radioactive materials within the state. The Washington Department of Health (WDOH) issued a Radioactive Materials License (RML) to Dawn Mining for the WTP. The license was terminated on December 31, 2008. The WTP residuals are managed, stored and disposed of in accordance with the license conditions in the terminated WDOH license. The WTP residuals do not include air emissions and the WDOH RML did not include conditions for monitoring emissions from the WTP residuals except as required for occupational radiation protection. Further, the NRC promulgated standards for the protection of public health from the adverse effects of radioactive emissions from licensed materials under 10 CFR Part 20, Subpart D §20.1301 (Dose limits for individual members of the public) and 20.1302 (Compliance with dose limits for individual members of the public). WDOH adopted the 10 CFR 20 standards (WAC 246-221). The effective dose limit to individual members of the public is 0.1 rem (1 mSv) above background in a year (WAC 246-221-060). In addition, 20 CFR §20.1101 and WAC 246 221-005 mandate an annual constraint limit of 0.01 rem (0.1 mSv) per year on radioactive air emissions, excluding radon and background. Based on the mine waste composition, the control of fugitive dust as described in the Air Emission Control Technology, and the required regulatory monitoring, radiological doses are not expected to be exceeded. If these voluntary thresholds are exceeded, a determination will be made if the exposure from the source can be reduced or if the continued implementation of the RA is required to reduce the exposure level.

The implementation of the RA will include compliance with the following substantive requirements in

accordance with the CAA and FARR.

On-Site Substantive Requirements

- A site specific fugitive dust control plan will be prepared prior to commencing construction or demolition (40 CFR §49.126).
- Implement work practices in accordance with Asbestos NESHAP (40 CFR §160.145)- work practices will be implemented during demolition and disposal of any asbestos materials if they are found.
- Within 90 days after beginning operations, the facility will be registered with EPA under FARR requirements, and annually thereafter by February 15 of each year (40 CFR Part 49, Section 138). – EPA considers this an administrative requirement thatand is- considered voluntary and not required under the CERCLA permit exemption.
- Maintain adequate records to demonstrate that actual emission remain below 50 percent of the PTE thresholds for Major Source status for purposes of Title V.
- If necessary, prevent emissions from stationary sources from exceeding 100 TPY of NO_x by limiting run-time for certain equipment, installing non-resettable runtime meters on the engines and calculating emissions on a rolling 12 month basis.
- Implement Best Management Practices (BMPs) to control fugitive PM as described in the Surface Water and Sediment Controls Plan in BODR Appendix F and the Operations, Maintenance, and Monitoring (OM&M) Plan in BODR Appendix P.
- Monitor visible emissions fugitive PM in accordance with EPA Method 9 and fugitive PM emissions with EPA Method 22 within 30 days of start of the operation and on an annual basis thereafter, during typical operating and weather conditions (40 CFR Part 49.124 and 49., Section 126). The date, time, and results of the survey will be documented.
    - If visiblefugitive PM emissions from stationary sources exceed 20 percent opacity requirementrequirements, an action plan will be prepared to identified sources and actions to prevent exceedance.
    - If fugitive PM emission is identified, measures will be taken to minimize fugitive emission.
- Comply with the applicable requirements of 40 CFR § 60.4200 *et seq*. for stationary compression ignition internal combustion engines.
    - All stationary engines will be certified to meet EPA required emission standards for the year manufactured.
    - All stationary engines will be maintained and operated consistent with the manufacturer's recommendations. Records of conducted maintenance will be kept, consistent with a maintenance plan to demonstrate compliance and to maintain and operate the engine consistent with good air pollution control practice for minimizing emissions.
    - Emergency stationary engines, will be operated for the purpose of maintenance checks and readiness tests, consistent with the manufacturer's recommendation, and will not exceed 100 hours per year.

- Comply with the applicable requirements of 40 CFR § 63.6580 *et seq*. for stationary reciprocating internal combustion engines.
    - Stationary combustion engines will comply with EPA Tier III or Tier IV emission standards, excluding the rock crusher equipment.
- ~~Comply with the applicable requirements of 40 CFR § 61.220 *et seq*. for radon emissions from the disposal of uranium mill tailings after closure.~~
- Comply with the applicable requirements of 40 CFR § 60.670 *et seq*. for sources at nonmetallic mineral processing facilities.
    - If a bag house is used to control fugitive emissions on the rock crusher, quarterly monitoring using EPA Method 22 for will be conducted for 30 minutes to determine if fugitive PM emissions are being emitted from the baghouse (40 CFR §60.674). If fugitive PM emissions are identified, corrective actions will be initiated within 24 hours. Quarterly monitoring will be documented as required by 40 CFR §60.674.
- Comply with the applicable requirements of 40 CFR §49.130 et seq. for rules for reducing sulfur in fuels.
    - Ultra-low sulfur diesel fuel will be used for diesel engines re-fueled on-site.
- Comply with the applicable requirements of 40 CFR §63.6580 *et seq*. for National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (40 CFR).
    - If the stationary engine for the rock crushers was manufactured prior to June 12, 2006, the non-emergency, non-black start CI stationary RICE ≤ 300 hp would:
        - Change oil and filter every 1,000 hours of operation or annually, whichever comes first;
        - Inspect air cleaner every 1,000 hours of operation or annually, whichever comes first, and replace as necessary;
        - Inspect all hoses and belts every 500 hours of operation or annually, whichever comes first, and replace as necessary.
    - If the stationary engine for the rock crushers was greater than 300hp and manufactured prior to June 12, 2006, additional requirements would apply (Table 2d to Subpart ZZZZ of Part 63).

Off-Site Permitting Requirements – Rhoads Borrow Area

- Monitor and document fugitive PM at the Rhoads Borrow Area as described above.
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M3.21.5 AIR EMISSIONS CONTROL TECHNOLOGY

Consistent with the rules for limiting fugitive particulate matter under 40 CFR §49.126, air emissions control technology will be implemented at the Site to minimize fugitive PM. The control technologies described in Basis of Design Report (BODR) are listed below summarized.

Stationary Internal Combustion Engines

- With the exception of the rock crusher and it's supporting equipment (conveyors and screens), any stationary internal combustion engines used for the project will comply with at least the Tier III or IV EPA emissions standards (40 CFR § 60.4200 et seq.).
- All stationary compression ignition internal combustion engines will be operated and maintained in accordance with the manufacturer's instructions (40 CFR § 60.4200 *et seq.*).

Fuel

- All project specific diesel fueled equipment will use ultra-low sulfur diesel fuel.
- Equipment will be appropriately sized to minimize fuel consumption and emissions.
- Engine idling will be minimized to control exhaust emissions.

Rock Crusher

- The rock crusher units will be equipped with continuous wet suppression emitters or ventilated abatement equipment to control dust, specifically at all crushers, screens, drop points, and other possible release points.
- The drop distance for developing storage/stock piles will be minimized.
- If practicable and technically feasible, diesel particulate filters Forestry and silviculture activities are exempt from air emission standards.

Off-Site Permitting Requirements – Ford Borrow Area

- If the Ford Borrow Area is used, reasonable precautions will be used on the rock crusher engines.

Dust Control on Roads

- The New Site Access Road from the Westend-Wellpinit Road to the Construction Support Facilities will be paved to control fugitive dust.

Dust Control on Roads (cont.)

- Water and/or biodegradable dust suppressants (e.g. lignin sulfonate) will be applied directly onto soils, work areas, and dirt roads as necessary to control dust.
- To minimize water use, organic dust suppressant additives such as lignin sulfonate will be used during demolition and construction activities. Use of dust suppressants will be coordinated and approved by the Tribe.

Speed Limits

- On-site and haul roads speed limit and no-idle zone signs shall be posted and designed to comply with WSDOT requirements, including but not limited to sign size, letter size, and posts. Size of lettering shall comply with the appropriate comprehension rate given the speed limit (refer to WSDOT Traffic Manual).
- On-Site vehicle speeds will be restricted to accommodate safe roadway conditions based on roadway grade, roadway soil conditions, roadway congestion, and the need to limit fugitive PM emissionsto prevent fugitive dust from roadway surfaces. These fugitive PM emissions shall be controlled on-site through use of chemical dust suppressant and/or water applications to roadways.

Vehicle Loads

- Vehicle loads of soil, sand, or other loose material being hauled off site will be covered or at least two feet of freeboard vertical distance will be maintained to control dust.

Stockpiles

- Stockpiles will be watered or applied with a non-toxic soil binder as needed to control dust.
- Stockpiles remaining after the construction season will be stabilized with seed and hydromulch to control dust emissions.
- Soil-Sement® (polymer emulsion dust suppressant; see Appendix F in the Rhoads Property Plan of Operations and Reclamation for product information) and/or hydro-mulch/seed will be applied to inactive topsoil and cover soil stockpiles to control fugitive dust.

General Construction

- The cleared footprint will be limited to the area necessary for active construction.
- A non-toxic soil stabilizer will be applied to inactive areas or the areas will be watered as needed to control fugitive dust.
- Wheel washers will be used to control on-road dust if vehicle track-out onto public roads develops.
- Erodible areas will be stabilized with non-erodible permanent material such as crushed aggregate, riprap, gabbions, etc.

Demolition

- A water truck will be used to wet haul roads from the specific demolition site to the temporary storage or disposal location. The structures will be wetted to control fugitive dust during demolition, including the loading and dumping of debris.
- If asbestos is identified in the buildings to be demolished, the Asbestos NESHAP (40 CFR §160.145) work practices will be implemented. Prior to demolition, the existing structures will be evaluated by a certified asbestos building inspector or other qualified professional. If asbestos is found, it will be removed prior to demolitions. The Asbestos NESHAP requires notifications; material identification; control procedures for removal; adequate wetting; local exhaust ventilation; negative pressure enclosures; glove-bag procedures; High Efficiency Particulate Air (HEPA) filters; waste disposal work practices; reporting and recordkeeping; and, asbestos hazards and worker protection.

Revegetation

- Following soil stabilization, inactive areas will be seeded to establish at least 70 percent vegetative cover by perennial vegetation.

Wind

- Natural or artificial windbreaks will be installed as necessary to control fugitive dust for small dust sources.
- Work and activity on excessively windy days will be restricted to control dust emissions.

Tanks

- The lime slurry system at the water treatment plant will utilize a baghouse filter system on the lime bin to control dust related emissions.

- The liquid propane tanks will be pressurized and will not be allowed to breathe or vent to the atmosphere.

Plan/Monitoring

- A site-specific fugitive dust control plan will be prepared prior to the commencement of construction and demolition activities.
- Supervisory personnel will be trained and certified to use EPA Method 9 and Method 22 to monitor visible and fugitive dust emissions and stop or modify activity as necessary to control dust.
    - becoming airborne. Fugitive PM will be monitored within 30 day of the start of operations, during typical conditions, to ensure compliance with the 20 percent opacity limit averaged over any six consecutive minute period and annually thereafter (40 CFR Part 49, Section 126).and documented as described above.

Blasting/Scaling

- Hydraulic scaling will reduce dust associated with the rockfall mitigation in the lower pit wall areas.
- The contractor will prepare a General Blasting Plan that includes the control of dust.

Fire

- All equipment will use spark arrestors and smoking will be limited to designated areas to help prevent fires and associated emissions.
- Methods for dealing with accidental fires and potential explosion risks are addressed in Remedial Action Health and Safety Plan.

M3.21.6 AIR MONITORING PROGRAM

The rules for limiting visible emissions (40 CFR §49.124) and rules for limiting fugitive PM emissions (40 CFR §49.126) require the monitoring for visible emissions from stationary sources and monitoring fugitive PM. EPA Method 9 will be used to monitoring visible emissions from stationary emission sources with exhaust stacks and EPA Method 22 will be used to monitor the presence of fugitive particulate emissions. The regulatory limit for visible emission from stationary sources is 20 percent opacity averaged over six consecutive minutes (40 CFR §49.124). The regulatory requirements for limiting fugitive PM emissions are to implement all reasonable precautions to prevent fugitive PM emissions and to maintain and operate identified sources with minimal fugitive PM emissions. Forestry activities and emissions from fuel combustion in mobile sources are exempt from these requirements.

- The air monitoring methods and schedule are described in the Air Quality Monitoring Plan – Revision 1 (WME 2014a). Other voluntary air monitoring for radioparticulates are also described in the Air Quality Monitoring Report.
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M3.22 NUCLEAR ENERGY AND RADIATION CONTROL ACT (RCW 70.98 AND WAC 246-220 AND 246-255)

The Washington Department of Health, under Nuclear Regulatory Commission delegated authority, regulates sources of ionizing radiation for the protection of the occupational and public health and safety. The State terminated DMC's radioactive materials license (WN-I0390-1) on December 31, 2008. However, the requirements of the license are being and will continue for the water treatment plant sludge as part of the implementation through operations and maintenance of the project.

On-Site Regulatory Requirements

- The conditions of the terminated State radioactive materials license (WN-I0390-1) will be continued to be complied with in the operation and management of the WTP and WTP sludge.

M3.23 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (OSHA) (PUBLIC LAW 91-596 84 STAT. 1590)

Occupational Safety and Health Administration (OSHA), under 29 CFR Part 1910, provides requirements for safe and healthful workplaces by setting and enforcing standards, and by providing training, outreach, education, and assistance. Tribal Occupational Safety and Health Administration (TOSHA) are similar to OSHA on lands within the Reservation and provide worker health and safety requirements.

Implementation of all applicable OSHA and TOSHA requirements will be identified in the Health and Safety Plan, included in the ~~90 Percent~~ BODR. All workers will have received OSHA 40 hour and site specific radiation safety training. Implementation of the Health and Safety Plan will be followed and updated as necessary from implementation to maintenance and operation for the life of the project.

On-Site Regulatory Requirements

- Implement OSHA and TOSHA requirements that have been incorporated into the Health and Safety Plan included in the BODR Appendix P - OM&M Plan.

M3.24 HAZARDOUS MATERIALS TRANSPORTATION ACT (49 CFR 105-180)

The U.S. Department of Transportation (DOT) regulates the transportation of hazardous material under the DOT hazardous materials requirements (49 CFR Subchapter C, Hazardous Materials Regulations) under the authority of the Hazardous Material Transportation Act. These regulations requires that any Reportable Quantity (RQ) of Hazardous Substances or Low Specific Activity Group I (LSA-I) be transported, packaged, and labeled in accordance with these procedures. The list of RQ for Hazardous Substances Other Than Radionuclides on Table 1 and Radionuclides on Table 2 by substance in Appendix A of §172.101 - List of Hazardous Substances and Reportable Quantities. DOT defines radioactive material as any material having a specific activity greater than 0.002 µCi/g.

Material that would be transported on public roads include WTP residuals to the off-site disposal facility and potentially sediment from the Blue Creek Delta, if determined to be contaminated which would cross Westend-Wellpinit Road for disposal in the WCA. No material at the site is expected to exceed the Reportable Quantities per container or truckload. However, if any material becomes a RQ, the material will be packages, labeled and transported in compliance with DOT requirements. Dawn Mining Company staff is trained in DOT requirements and will be included~~include~~ in the chain of custody of the material. If it is determined that the sediment at the Blue Creek Delta is required to be cleaned up, sediment characterization will determine the necessary thresholds that would trigger RQ. Based on the maximum concentration of constituents for surface sediment data collected from Blue Creek Delta (Church et al. 2007), the sediment is not expected to trigger a RQ. However, additional sediment characterizations may change that determination.

On-Site Substantive Requirements

- Any Reportable Quantities (RQ) of hazardous substances including LSA-I transported on public roads will be packaged, labeled, and transported in accordance with Hazardous Material Transportation Act requirements.

M3.25 Bald and Golden Eagle Protection Act (16 USC § 668-668c)

The Bald and Golden Eagle Protection Act (BGEPA), promulgated under 50 CFR 22, prohibits "take" of bald and golden eagles, including their parts, nests, and eggs without a permit. The term "take" also includes disturbing or agitating to the degree of injury, decreased productivity, or interfering with normal feeding, breeding or nesting behavior. The Spokane Tribe's Natural Resources Department and other state and federal wildlife agencies do not have any records of eagles within or adjacent to the project area. Prior to construction, a survey for eagle nests and winter roosts will be conducted in the project area to identify if there are any active eagle nests that would need to be seasonally avoided. Surveys would occur in the fall prior to the commencement of construction to ensure that any new nests are identified.

On-Site Substantive Requirements

- Prior to construction, surveys for eagle nests will be conducted to identify active eagle nests. Restricted access within ¼ mile of active nests could be required from November 15 until the nest becomes unoccupied.

M3.26 Paleontological Resources Protection Act (16 USC § 470aaa(4))

The Paleontological Resources Protection Act provides protection for paleontological resources on Federal land. However, Indian land which is held in trust by the United States, is explicitly exempt from protection under this Act. The federal land (Lake Roosevelt National Recreation Area) in the project area is also Indian land. In addition, the Geologic Resources Evaluation Workshop for Lake Roosevelt National Recreation Areas indicated that there are no known paleontological resources at Lake Roosevelt (NPS, 2002). Impacts to paleontological resources would be avoided. In the unlikely event that any fossils are identified during the course of the remediation work, the Tribe and BIA will be consulted. Fossils will not be removed from the site.

On-Site Substantive Requirements

- Consult with BIA if paleontological resources are discovered; however, the presence of fossils in the area is unlikely.

M3.27 Indian Affairs Manual, Environmental and Cultural Resources Management, Paleontological Resources

The Bureau of Indian Affairs (BIA) Directive (#10-32) requires a permit, under 25 CFR 162.100 *et seq*., be issued by BIA prior to the excavation or removal of imbedded fossils from Indian land. There are no known paleontological resources in the area. Impacts to paleontological resources would be avoided. In the unlikely event that fossils are identified during the course of the remediation work, the Tribe and BIA will be consulted and left in place. No permits are required for on-site activities.

On-Site Substantive Requirements

- Consult with BIA if paleontological resources are discovered; however, the presence of fossils in the area is unlikely.

M3.28 Archaeological Resources Protection Act of 1979 (93 STAT. 721; 16 USC § 470 AA et seq.) (PL 96-95)

The Archaeological Resource Protection Act of 1979 (93 Stat. 721; 16 USC § 470aa *et seq*.) (ARPA), implemented under 43 CFR Part 7, protects archaeological resources including material remains of archaeological interest and cultural items from unnecessary removal on public and Indian lands. Material remains include evidence of human activities at least 100 years of age such as human habitation, occupation, use, or activity and capable of providing scientific or human understanding of past human behavior or cultural adaptation. Cultural items includes human remains, associated and unassociated funerary objects, sacred objects, and cultural patrimony as defined in the Native American Graves Protection and Repatriation Act. In off-site areas, Native American material remains must be permitted under Section 4 of the ARPA prior to being removed. In on-site areas, the Tribe must be consulted prior to removal of all Native American material remains. If material remains are discovered, DMC will consult with the THPO and the Preservation Office on proper procedures and approvals required.

On-Site Substantive Requirements

- Upon the discovery of archaeological resources or grave sites, construction activities will immediately stop at that location and the THPO will be consulted and their instructions will be followed.

M3.29 Invasive Species – Executive Order 13112

Executive Order 13112 mandates federal agencies to prevent the introduction and spread of invasive species and rapidly control populations for projects that they have approval or permitting authority over. Control of invasive species will be addressed in the Operations Maintenance and Monitoring Plan, included in the ~~90 Percent~~ BODR. Invasive species control will be addressed in the implementation and as part of operations and maintenance of the project throughout the life of the project.

On-Site Substantive Requirements

- Invasive species will be controlled when identified as described in the Noxious Weed Management Plan (NWMP) found in Appendix E of the Rhoads Property Plan of Operation and Reclamation (POOR) and will be applicable to on-site areas as well . Seed, mulch, and BMP materials will be certified as invasive free for revegetation and erosion control as described in the POOR and will be applicable to on-site areas as well.

M3.30 Integrated Resource Management Plan for the Spokane Indian Reservation

The Integrated Resource Management Plan (IRMP) is a Reservation wide guide for land use and resource management on all lands within the Spokane Indian Reservation. Applicable requirements from the IRMP are as follows:

On-Site Substantive Requirements

Cultural Resource Protection

- NHPA and other cultural resource laws must be followed. Prior to excavation, a Ground Disturbance Permit form will be submitted to THPO for consultation on cultural activities

and follow recommendations.

- THPO has been consulted and a Ground Disturbance permit application has been submitted.

- Survey of lands prior to any undertaking with Federal involvement.
  - The Preservation Office conducted cultural fieldwill conduct surveys in spring 2014 and 2015. No cultural resources were discovered that would affect the recommendations will be incorporated into the final design and the final report summarizing the findings are expected in the fall of 2015implementation.
- Protect cultural aesthetic values within 1 mile of mountain peaks.
  - The remediation will occur within 0.5 miles of the Spokane Mountain; however, the final reclamation will improve the aesthetic values from its current condition following the final grade contours and establishment and maturity of native revegetation.

Water and Riparian Resource Protection

- Discharges to comply with the Tribal Water Quality Standards and the Hazardous Substance Control Act.
  - The Tribe's Water Quality Standard and Hazardous Substances Control Act are identified ARARs that have been considered in developing the clean-up standard.
- Obtain NPDES for point source discharges.
  - An NPDES permit application was submitted to the EPA in March 2013.
- Obtain 401 certification through Tribe for federal permits.
  - A request for a 401 certification will be requested once the NPDES permit is further in development.
- Comply with federal laws such as Clean Water Act and Safe Drinking Water Act.
  - The project is being designed to comply with the Clean Water Act and Safe Drinking Water Act, including minimizing impacts to jurisdictional wetlands and other non-wetland waters of the U.S.use and maintain wellhead protection areas.
- Implement BMPs for new construction.
  - BMPs will be incorporated into the design and SWMP.

Tribal Water Quality Standards and Hazardous Substances Code

- Follow water quality and hazardous substances standards.
  - The Tribe's Water Quality Standard and Hazardous Substances Control Act are identified ARARs that have been considered in developing the clean-up standard.

Riparian Zones and Corridors

- No new construction or excavation within:
  - 100 ft beyond riparian vegetated streams, lakes, and ponds;
    - The Blue Creek pipeline will be primarily constructed in the existing Blue Creek Road and the pipeline will be buried and will not affect existing riparian

vegetation. A formal IDT review of the limited conditional entry will be requested to confirm that the limited entry is consistent with the Tribe's IRMP Individual Program Goals (watersheds, riparian corridors, and surface water) once the specific engineering plans are refined, **pending resolution of NPDES permitting requirements.**

- The run-off associated with the drainage and haul road cleanup are contaminated and impacts to wetlands and riparian vegetation require cleanup of contaminated soil and sediment.

- Within ½ mile of rivers and 1,310 ft elevation;
  - The Blue Creek Pipeline and drainage clean-up are within ½ mile of Blue Creek and elevation 1,310 and within the designated Riparian Zone. The pipeline will be buried and will not be visible once installed and no riparian vegetation will be impacted as part of the installation of the Blue Creek Pipeline. The Blue Creek Pipeline will cross a short section of upland grasses and shrubs between Blue Creek Road and Lake Roosevelt. This upland vegetation will be revegetated with native species once the pipeline is installed. A formal IDT review of the limited conditional entry will be requested to confirm that the limited entry is consistent with the Tribe's IRMP Individual Program Goals (watersheds, riparian corridors, and surface water) once the specific engineering plans are refined, **pending resolution of NPDES permitting requirements.**
  - BMPs will be implemented to minimize the transport of sediment into riparian and wetland communities.
- No pesticide (e.g., herbicide, insecticide, fungicide, and rodenticide) and fertilizer use within 500 ft.
  - No pesticides will be used within the Riparian Zone corridor.

Shoreline Recreation Zones

- Prohibits development or consumptive or destructive uses within ½ mile from elevation 1,310 ft on Lake Roosevelt.
  - The Blue Creek Pipeline will be within the Shoreline Recreation Zone at the Blue Creek Road and into Lake Roosevelt. However, the pipeline will be buried and primarily be located within the existing dirt road (Blue Creek Road). It crosses a small section of upland vegetation adjacent to Lake Roosevelt with native species and then crosses through the lake bed. A formal IDT review of the limited conditional entry will be requested to confirm that the limited entry is consistent with the Tribe's IRMP Individual Program Goals (watersheds, riparian corridors, and surface water) once the specific engineering plans are refined, **pending resolution of NPDES permitting requirements.**

Surface Water Use for Dust Control

- This section list water source priorities for dust control which are in the following order: 1) Spokane River/Columbia River; 2) Little Falls & Bull Pasture irrigation valves; 3) Western Nuclear; 4) SiJohn Field; 5) Harris Well; 6) Tank Below Post Plant; 7) Turtle Lake[1]; 8) Mathews Lake[1]; and 9) Benjamin Lake[1].
  - Dust control water~~Water~~ would be used from either the WTP water or the water well near the old "mancamp".
  - If WTP water is used, it is consistent with the number one priority water withdrawal source site listed in the IRMP for dust abatement water, since the water would otherwise be discharged to the Spokane River /Columbia River.
  - Any other surface water sources would require review and approval from the

[1] The lakes could be used on a case by case basis with limited withdrawal and close monitoring of lake levels.

Spokane Tribe's Water & Fish Program.

Wellhead Protection Areas

- No new construction or excavation within 500 ft. of community wells and Wellhead Protection Zone.
  - The remediation is not within 500 ft of a Wellhead Protection Zone.
- No pesticide (e.g., herbicide, insecticide, fungicide, and rodenticide) and fertilizer use within 500 ft.
  - The remediation is not within 500 ft of a Wellhead Protection Zone.

Wildlife Management Zone

- Prohibits development on wildlife mitigation lands, as established by covenant.
  - The remediation is not on wildlife mitigation lands.
-
- Tribe follows the federal Endangered Species Act.
  - A Biological Assessment has been prepared to determine if a formal Section Consultation with the U.S. Fish and Wildlife service would be necessary. Only the bull trout has the potential to occur within the project area. No other Threatened or Endangered species are expected to occur within the project site. The proposed remedial action "may affect, but would not likely adversely affect bull trout". EPA submitted the BA to USFWS on 9/29/2014.

Air Quality

- Meet the National Ambient Air Quality Standards (NAAQS) and FARR.
  - Based on the Potential to Emit (PTE), the RA at the Site are not considered to be a Major Source for purposes of the PSD/NSR program. The EPA Air Administrator confirmed in an email (EPA 9/3/2014) that the PTE is well below the PSD applicable thresholds for a Major Source and the PTE would constitute a minor source under the Tribal NSR.
  - The SWMP will address limiting fugitive dust emissions and be included in the 90 Percent BODR. A more detailed site specific fugitive dust control plan will be prepared prior to the commencement of construction or demolition activities.
  - Visible emissions and fugitive PM will be monitored.
  - AnyAny On Reservation and Off-Site emission sources that meet the criteria will be registered under FARR. However, EPA considers registering under FARR administrative and exempt under CERCLA. No rock crusher would be used off-site.

The Selected Remedy being designed and implemented is compliant with the substantive requirements in the IRMP.

Off-Site Permitting Requirements

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- The Plan of Operations and Reclamation for the Rhoads Borrow Area was developed to follow the requirements of the IRMP and was approvedhas incorporated additional

resource concerns provided by the Tribe's IDT and Tribal Council Tribal Resolution 2014-135.

M3.31 Stevens County

M3.31.1 Administrative Conditional Use Permit (3.03.090)

Stevens County regulates development activities on fee land within Stevens County. This includes all fee land within Stevens County regardless of whether that land is also located on lands within an Indian Reservation and is being regulated concurrently by an Indian tribe. Both the Rhoads Borrow Area and the Ford Borrow Area are fee lands within the County. The Rhoads Borrow Area is also within the Spokane Indian Reservation and considered subject to Tribal land use regulations. The County zoning designation for the Ford Borrow Area is Rural Area - 10. The County zoning designation for the Rhoads Borrow Area is Rural Area - 5. Although these lands have different County zoning designations, both designations are appropriate for resource extraction activities such as the development of a borrow area. The Administrative Conditional Use Permit application was submitted to Stevens County on May 5, 2014 and the permit (#ACU 2014-003) was issued on July 30, 2014. The permitting process included a stakeholder meeting that included Spokane Tribe DNR staff and a public notice. No appeals were received by Stevens County prior to the August 14, 2014 appeals window. The development of the Borrow Pit is scheduled for spring of year four2018 and subsequent phases in years seven and ten. 2021 and 2024. The permitting process is expected to take approximately two to three months to complete, once the submittal is deemed complete.

Off-Site Permit Requirements - Rhoads Borrow Area

The Rhoads Borrow Area Plan of Operation and Reclamation has been approved by the Spokane Business Council, on condition that certain specified conditions in that approval are met under Tribal Resolution 2014-135. Stevens County and the Washington Department of Natural Resources both have concurrent jurisdiction since the property is fee land. An Administrative Conditional Use Permit application package was issued bysubmitted to Stevens County for the Rhoads Borrow Area on July 30May 5, 2014. As stated in the ACUP, additional permits are required as follows: and included the application, SEPA checklist, and Rhoads Borrow Plan of Operation and Reclamation.

- Washington State Mine Reclamation Permit – (six to nine months to process)
- Washington State Forestry Practices Act Permit - (60 to 90 days to process)
- EPA Construction General Permit (CGP) (eNOI) (NPDES Stormwater Permit) - (14 day process)
- Tribe 401 Certification - (120 day approval process)

Off-Site Permit Requirements - Ford Borrow Area

A Stevens County Pre-Application form, Site Analysis, Project Description, and SEPA checklist were submitted to Stevens County in October 2013 for the Ford Borrow Area. A Pre-Application Meeting was held with Stevens County, and applicable agencies included:

- Washington State Department of Transportation (WSDOT);

- Washington Department of Natural Resources (DNR);
    - Surface Mining Reclamation Permitting
    - Forest Practices Permitting
- Tri-County Department of Health;
- Washington State Department of Health;
- Bureau of Indian Affairs;
- Spokane Tribe; and
- EPA.

The permitting effort for the Ford Borrow Area has been put on hold as the Rhoads Borrow Area is the preferred~~primary~~ borrow area and the Ford Borrow Area would only be used if the development approvals for the Rhoads Borrow Area cannot be finalized. The design at the Ford Borrow Area will be updated to comply with agency suggestions as necessary to receive agency approval.

M3.32 State Environmental Policy Act (RCW 43.21)

Washington's State Environmental Policy Act (SEPA) requires decision makers to consider potential environmental impact of the proposed action. As part of the Stevens County Conditional Administrative Use Permit, Stevens County requires a SEPA checklist as part of their application. SEPA checklists will be prepared for the Rhoads Borrow Area or Ford Borrow Area, as applicable.

Off-Site Permit Requirements

- Environmental impacts for the Rhoads Borrow Area were documented in the SEPA checklist as part of the Stevens County Administrative Conditional Use Permit application. The SEPA checklist was submitted on May 5, 2014. Stevens County issued a SEPA Determination of Nonsignificance (DNS) on July 30, 2014.
- If it is determined that the Ford Borrow Area will be used, a separate SEPA checklist will be submitted to Stevens County.

M3.33 Forest Practices Permit (RCW 76.09, RCW 6.13 RCW, AND WAC 222-16-010)

The Forest Practices Permit is administered by the Washington Department of Natural Resources for timber harvests on fee land, specifically applicable to Rhoads Borrow Area and Ford Borrow Area. A Class III – General Forest Practices Permit will be obtained for the Rhoads Borrow Area or Ford Borrow Area which allows trees to be logged prior to the excavation of borrow material. The first phase of borrow area development would occur in year four~~2018~~ and the Forest Practices Permit takes 30 days to process and is valid for three years. The Forest Practices Permit will be renewed to include the subsequent phases of borrow area development in years seven~~2021~~ and ten~~2024~~.

Off-Site Permit Requirements

- The Forest Practices application will be submitted to WA DNR for permitting the ~~to be permitted to~~ harvest of timber from the Rhoads Borrow Area, or the Ford Borrow Area if

the alternative borrow area is required. The Forest Practices permit is expected to take 60 to 90 days to process.

M3.34 Surface Mining Reclamation Permit (WAC 332-18 AND 78.44)

Surface Mining Reclamation Permits are administered by Washington Department of Natural Resources for surface mines greater than three acres of disturbed ground or has high-walls greater than 30 ft and slopes steeper than 45 degrees. A Surface Mining Reclamation Permit will be obtained from DNR for the Rhoads Borrow Area or Ford Borrow Area once agencies input is incorporated into the design for submission as part of the Stevens County Administrative Conditional Use Permit. A reclamation plan that includes revegetation is included as part of the Rhoads Plan of Operation and Reclamation and will be submitted as part of the Surface Mining Reclamation Permit.

Off-Site Permit Requirements

- The Application for Reclamation Permit will be submitted to WA DNR prior to the 100 percent design submittal to permit the development of the borrow area at the Rhoads Borrow Area or the Ford Borrow Area, if the alternative borrow area is required. The Mine Reclamation permit is expected to take six to nine months to process.

M3.35 Sanitation Standards for General Industry (29 CFR 1910.141 (a)(2))

Standards for potable water and septic systems have been developed and are implemented locally by both the Tribe's Utility Services Department and the Northeast Tri-County Health District. A potable water system will be developed consistent with the Group A - Non-Transient Non-Community water system. Aseptic waste disposal system would be developed on the Mined Area to serve employee with sanitary requirements. The septic system would be developed to meet both the Tribe's Utility Services Department and Northeast Tri-County Health District requirements for on-site sewage (regulation 01-2007). However, no permits would be required for CERCLA on-Site activities.

On-Site Substantive Requirements

- A potable water system will be developed On-Site for workers consistent with Washington State Department of Health requirements for Group A, Non-Community, Non-Transient water system.
- Design and construct septic system consistent with the Northeast Tri-County Health District as described in the OM&M Plan located in BODR Appendix P.
- Periodically test water system to ensure that standards are being achieved as described in the OM&M Plan located in BODR Appendix P.

M4.0 REFERENCES

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Attachment M-1

Revised Wetland Delineation, Midnite Mine

This provides a placeholder for Attachment M-1 that will include the Wetland Delineation and Conceptual Wetland and Stream Mitigation Approach. These documents are currently under review by EPA and will be included once finalized.

Attachment M-2

Biological Assessment, Midnite Mine

Attachment M-3

Air Emissions Inventory Calculations, Midnite Mine