

**United States Department of the Interior  
Bureau of Land Management  
LLES003000**

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**Record of Decision  
for  
Federal Hardrock Mineral Prospecting Permits  
U.S. Department of Agriculture  
Superior National Forest**

**NEPA # DOI-BLM-ES-0030-2011-0008-ROD**

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**Date:** September 2012

**Location:** Cook, Lake, Koochiching, and St. Louis Counties, Minnesota

**Applicants:** DMC (USA) Corporation; Twin Metals Minnesota LLC; Lehmann Exploration Management Inc.; Encampment Resources, LLC; Prime Meridian Resources Inc.

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BLM Northeastern States Field Office  
626 East Wisconsin Avenue, Suite 200  
Milwaukee, Wisconsin 53202-4617  
Phone: [REDACTED]  
Fax: 414-297-4409



## **INTRODUCTION:**

The management of the exploration and development of Federal hardrock mineral resources within National Forest System (NFS) lands is done cooperatively between the United States Department of Agriculture (USDA) Forest Service and the United States Department of the Interior (USDI) Bureau of Land Management. Two interagency agreements between the Bureau of Land Management (BLM) and the Forest Service (completed in 1984 and 1987) establish interagency cooperation policy and procedures in processing, approval, and supervision of leasable mineral operations including Federal hardrock minerals on NFS lands as authorized by licenses, permits, and leases.

The authority to grant prospecting permits and associated operating plans lies with the BLM. However, the applicable legal and regulatory framework provides for specific involvement at various points in the process for the surface management agency (in this case the Forest Service), including that the BLM must have the consent of the surface management agency before issuing a prospecting permit. Further, the BLM must consult the agency with jurisdiction over the land before approving operating plans. In addition, the agencies must also evaluate the proposed project for environmental impacts as described in the National Environmental Policy Act (NEPA) and other applicable laws. See Section 1.7.3 of the Federal Hardrock Mineral Prospecting Permits Final Environmental Impact Statement (FEIS) for a more comprehensive list of authorities.

The Forest Service is the lead agency for conducting NEPA analysis for the Federal Hardrock Mineral Prospecting Permits Environmental Impact Statement (EIS) and the BLM is a cooperating agency. A memorandum of understanding for this project was signed by both agencies on April 29, 2008. As a cooperating agency, the BLM has adopted the Federal Hardrock Mineral Prospecting Permits EIS to support this Record of Decision (ROD). The BLM will authorize or reject the 29 prospecting permits based on Forest Service consent decisions that include stipulations in the Federal Hardrock Mineral Prospecting Permits Final Environmental Impact Statement (FEIS) (Chapter 2.4). After issuance of prospecting permits, the BLM will consult with the Forest Service on conditions of approval prior to approving any ground-disturbing activities. The Forest Service is responsible for issuing any related special use authorizations for any non or off-prospecting permit activities. Any future exploration activities within the current 29 prospecting permits would be approved by the BLM after consultation with the Forest Service on applicable stipulations from this FEIS. New special use authorizations associated with off-permit activities would be approved by the Forest Service on a case by case basis. Any future prospecting permit applications will be subject to applicable NEPA compliance at the time they are received by the BLM.

Issuance of prospecting permits, and approval of site-specific operating plans may or may not result in application for a mineral lease. Should exploration activities find valuable deposits of a mineral commodity or commodities, then leasing may be proposed. Any leasing proposal would also be subject to review under the NEPA. The Forest-wide analysis contained in the Federal Hardrock Mineral Prospecting Permits FEIS will be considered for use in the effects analysis by the Forest Service and BLM if and when future proposals are received. Any future applications for prospecting permits and special use authorizations will be subject to applicable NEPA

compliance, and will be analyzed on their own merits at the time they are proposed.

This ROD addresses 29 Federal hardrock mineral prospecting permit applications located within the Superior National Forest (SNF) that the BLM received from DMC (USA) Corporation (DMC), Twin Metals Minnesota LLC (Twin Metals), Lehmann Exploration Management Inc. (Lehmann Exploration), Encampment Resources LLC (Encampment Resources), and Prime Meridian Resources Inc. (Prime Meridian). The DMC and Twin Metals applications were originally submitted by Duluth Metals Corp. and the company has since gone through restructuring. For applications to be considered complete, they must include an exploration plan that contains enough information to conduct the required NEPA analysis. At this time, 29 applications are complete, and therefore eligible for prospecting permits.

**DECISION:**

The BLM will issue 28 prospecting permits and reject 1 overlapping prospecting permit application (MNES-054233), see Table 1 below. The issuance of the prospecting permits is in accordance with the Forest Service ROD for the Federal Hardrock Minerals Prospecting Permits FEIS signed May 18, 2012. The 28 prospecting permits will cover approximately 38,545 acres of the Superior National Forest in northeastern Minnesota and include stipulations for use and protection of the NFS lands involved.

Consistent with 40 Code of Federal Regulations (CFR) 1506.10(b)(2), this decision will be in full force and effect commencing with the date it is signed by the Authorized Officer.

**Table 1. Prospecting Permits**

Company	Approved: Yes or No	BLM Prospecting Permit Application #	Acres	Acres Approved	Public Domain Authority	Weeks Act Authority/acres
<b>Lehmann</b>	Yes	MNES 053731	590.87	590.87	X	
	Yes	MNES 054387	1293.8	1293.8	X	
	Yes	MNES 055301	91.44	91.44	X	
	Yes	MNES 055302	11.15	11.15	X	
<b>Encampment Resources</b>	Yes	MNES 053462	2423.96	2423.96	X	
	Yes	MNES 053463	2060.95	2060.95	X	
	Yes	MNES 053464	2345.04	2345.04	X	
	Yes	MNES 053465	2345.02	2345.02	X	
	Yes	MNES 053466	1707.28	1707.28	X	
	Yes	MNES 053564	1720	1720	X	
	Yes	MNES 053565	1640	1640	X	
	Yes	MNES 053566	1898.76	1898.76	X	
	No	MNES 054233	160	0	X	
<b>DMC</b>	Yes	MNES 053868	2090.4	2090.4	X	X/342
	Yes	MNES 054037	2329.54	2329.54	X	
	Yes	MNES 054366	2370.8	2370.8	X	
	Yes	MNES 054367	2360	2360	X	

Company	Approved: Yes or No	BLM Prospecting Permit Application #	Acres	Acres Approved	Public Domain Authority	Weeks Act Authority/acres
DMC	Yes	MNES 054368	1237.96	1237.96	X	
	Yes	MNES 054385	200.22	167.00	X	X/40
	Yes	MNES 055203	1191.03	1191.03	X	
	Yes	MNES 055205	639.55	639.55	X	
	Yes	MNES 055206	2515.22	2515.22	X	
Twin Metals	Yes	MNES 054050	.5	.5	X	
	Yes	MNES 054194	1780.2	1780.2	X	X/40
	Yes	MNES 054195	2033.7	2033.7	X	
	Yes	MNES 054196	947.08	947.08	X	X/120
	Yes	MNES 055305	320	320	X	
Prime Meridian	Yes	MNES 054045	360	360	X	X/560
	Yes	MNES 054217	40	40		X/40
<b>Total Acres</b>			<b>38,704.47</b>	<b>38,544.47</b>	<b>37,402.47</b>	<b>1,142</b>

### Stipulations

This decision includes the stipulations shown in the Forest Service ROD, Attachment 2. The stipulations minimize adverse impacts to social and natural resources including water quality, address the noise issue analyzed in the FEIS, respond to Forest Plan direction, allow for mineral exploration, and provide for public safety.

### Monitoring and Evaluation

Throughout the life of the project, monitoring data will be reviewed to determine if the stipulations are achieving the reclamation and performance goals. The adaptive management process will use this monitoring data to make the necessary management changes. The specific monitoring actions that are included with this decision are listed in the Forest Service ROD, Attachment 3. Monitoring will help assure that stipulations are implemented and have the intended effect in protecting natural and social resources. The adaptive management process enables managers to rapidly adjust mitigation and management restrictions based on real-time monitoring data.

### ALTERNATIVES:

#### ENVIRONMENTALLY PREFERABLE ALTERNATIVE

Regulations implementing the NEPA require the specification of "...the alternative or alternatives which were considered to be environmentally preferable" [40 CFR 1505.2(b)]. In this project, the minerals exploration activities are conducted to identify the presence or absence of a valuable mineral deposit in the geologic formations present. These activities are not specifically designed to achieve forest structure or composition objectives in the Forest Plan, or to otherwise provide benefits to environmental resources. The application of protective stipulations included in the Forest Service ROD, Attachment 2 will minimize adverse impacts from the action alternatives. However, the environmentally preferable alternative would be Alternative 1 (No Action) since no adverse impacts to natural resources would occur.

## **SELECTED ALTERNATIVE**

### ***Alternative 4***

The SNF based its consent decision on the implementation of Alternative 4. This alternative best meets the goals of fostering and encouraging mineral exploration, in an environmentally sound manner, and best responds to issues raised by the public, state, tribal and local governments. Alternative 4 would reduce impacts to the greatest degree of all the action alternatives for the Boundary Waters Canoe Area Wilderness (BWCAW) for drill sites located near the wilderness by requiring maximum limits for sound levels reaching the wilderness.

## **OTHER ALTERNATIVES CONSIDERED**

Four other alternatives were considered in detail and are discussed below. A more detailed comparison of these alternatives can be found in the FEIS Chapter 2. All of the action alternatives included the same project proposals for minerals exploration activities; therefore, the reasons why an alternative was not selected relates to exploration activities that resulted in different effects between alternatives, in this case, primarily impacts from drilling noise.

### ***Alternative 1, No Action***

Under the No Action alternative, current Forest Service management plans would continue to guide management of the Project Area; however, none of the 29 prospecting permits would be consented to by the Forest Service or approved by the BLM and mineral exploration activities for federal minerals in these permit areas would not occur.

The No Action alternative does not achieve the purpose and need displayed in the FEIS Section 1.6. Additionally, the No Action Alternative would result in no economic activity from minerals exploration or any economic activity or jobs that would occur under the action alternatives.

### ***Alternative 2***

Alternative 2 was the modified proposed action. Alternative 2 does not provide any stipulations to reduce noise impacts, and thus does not address the issue raised during scoping which prompted the Forest Service to develop alternatives in the EIS.

### ***Alternative 3***

Alternative 3 included a requirement for mitigation to reduce sound levels produced at all drill rigs. This alternative has the advantage of requiring consistent application of noise mitigation regardless of location, which would reduce impacts for both known receptor locations, such as campgrounds and residences, and unknown receptors in more remote areas which might be used by recreationists. However, this alternative addresses noise at the drill rig (source) and does not address the noise at the receptor which is the issue raised by the public. Alternative 4 includes limits on sound levels reaching the receptor and that approach more directly addresses the experience of the receptor.

### ***Alternative 5***

Alternative 5 included mitigation to reduce sound levels produced at all drill rigs in the same manner as Alternative 3. It also required that drill rigs operate only during the period of lower recreation use on the SNF (November 1 through April 30), when frozen ground conditions and seasonality of wildlife activity limits impacts. Based on past minerals exploration practices on

the SNF and due to soils stipulations that require operations on frozen ground in some cases, all of the action alternatives would have the majority of activities conducted during the winter. Thus, there would be minimal difference based on season of operation between Alternative 5 and Alternatives 2-4.

While Alternative 5 would avoid noise impacts to recreation users and residents during the summer months, noise impacts to winter recreation users would increase under this alternative. Ambient sound levels in winter may be somewhat lower than summer, which would render noise impacts from drilling more noticeable. Alternative 5 would also limit the window of opportunity to operate and significantly prolong the overall time to complete the project activities.

**RATIONALE:**

Factors considered in this decision include:

- 1) The Federal government has a policy of fostering and encouraging private enterprise in the development of a stable domestic minerals industry and the orderly and economic development of domestic resources.
- 2) The BLM has a minerals policy that “except for Congressional withdrawals, public lands shall remain open and available for mineral exploration and development unless withdrawal or other administrative action is clearly justified in the national interest.” This decision is consistent with the BLM policy to allow prospecting on and exploring for leasable hardrock mineral deposits on public and other Federal lands where the BLM does not know a valuable mineral deposit currently exists, while protecting both surface and subsurface resources and complying with coordination requirements and responsibilities of the Federal Land Policy Management Act (FLPMA) of 1976 and the 43 CFR 3500 regulations.
- 3) The Forest Service has a program policy for minerals management that states “the availability of minerals and energy resources within the National Forests and Grasslands significantly affects the development, economic growth and defense of the Nation. The mission of the Forest Service in relation to minerals management is to encourage, facilitate, and administer the orderly exploration, development, and production of mineral and energy resources on National Forest System lands to help meet the present and future needs of the Nation.”
- 4) Minerals exploration may be conducted in an environmentally sound manner with the application of stipulations shown in the Forest Service ROD, Attachment 2, along with State of Minnesota rules for exploratory drilling. Therefore, the decision to issue the permits, subject to the prospecting permit stipulations (Forest Service ROD, Attachment 2), will not result in any undue or unnecessary environmental degradation.

**PUBLIC INVOLVEMENT:**

The Notice of Intent (NOI) was published in the *Federal Register* on December 19, 2008. A scoping package was sent to interested individuals, organizations, and Federal, State and local government agencies on April 1, 2009. Approximately 150 scoping comments were received. A Draft EIS was released and a Notice of Availability (NOA) was published in the *Federal Register* on April 1, 2011 and a legal notice was published in the *Duluth News Tribune* on April 1, 2011. 1,736 comments were received on the Draft EIS from individuals, agencies, organizations and governmental entities. In addition, open houses were held at Duluth MN, Virginia, MN and Roseville, MN on April 12, 13 and 14, 2011 where the public could ask questions about the Draft EIS. The NOA for the Final EIS and ROD(s) was published in the *Federal Register* on Friday, June 1, 2012 and a legal notice was published in the *Duluth News Tribune* on Friday, June 1, 2012.

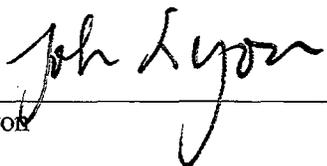
**APPEALS PROCESS**

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.411, 4.413, and 3501.30. If an appeal is filed, your notice of appeal must be filed in this office (Bureau of Land Management, State Director, 7450 Boston Boulevard, Springfield, Virginia 22153) within 30 days beginning the day following the date of publication on the website at: [www.blm.gov/es](http://www.blm.gov/es). It must also be served on the Northeast Regional Office of the Solicitor, U.S. Department of the Interior, One Gateway Center, Suite 612, Newton, MA 02458. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to 43 CFR 4.21 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for stay is required to show sufficient justification based on the standards listed in 43 CFR 4.21(b). If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. Copies of the notice of appeal and petition for a stay must also be submitted to the Interior Board of Land Appeals and to the Northeast Regional Office of the Solicitor at the same time the original documents are filed with this office.

Consistent with 40 CFR 1506.10(b)(2), this decision will be in full force and effect commencing with the date it is signed by the Authorized Officer.

Authorized Officer:



Dr. John G. Lyon  
State Director  
BLM Eastern States

SEP 20 2012

Date