

Sagebrush Ecosystem Program

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STATE OF NEVADA
Sagebrush Ecosystem Program

SAGEBRUSH ECOSYSTEM COUNCIL
STAFF REPORT
MEETING DATE: APRIL 28, 2022

DATE: April 28, 2022
TO: Sagebrush Ecosystem Council Members
FROM: Sagebrush Ecosystem Technical Team
Telephone: 775-687-2000
THROUGH: Kelly McGowan, Program Manager
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SUBJECT: Kinross Gold Corp. – Bald Mountain (Proponent), in coordination with White Pine and Elko Counties, is requesting a review by the Sagebrush Ecosystem Council to determine whether the public health and safety exception (NAC 232.460 2. (e) (1)) should be applied to a proposal for realignment of county roads 1000 and 719.

Background

Kinross Gold Corp. – Bald Mountain, in coordination with White Pine County and Elko County, propose to realign several “blind” curves and widen sections of White Pine County Road 1000 and Elko County Road 719, located in White Pine and Elko counties, Nevada. The road is utilized primarily by Bald Mountain Mine, with some local access to public and private lands. Posted speed limits range from 35-50 on the roads. Thirty-four incidents have occurred between 2017-2019, most of which were livestock and free roaming horse collisions.

The proposed project area is located within all three Greater Sage-grouse habitat management categories and is estimated to result in 16 permanent debits when applying the Habitat Suitability Index at 100 percent. Overall, the project will impact ~12,424 acres of GRSG habitat – 24 **direct** acres and just over 12,400 **indirect** acres, which includes 384 acres of meadow habitat. Like the existing road, several of the new construction areas are within proximity to three leks – two active and one pending active. The lek locations in relation to the proposed project are as follows:

- White Cross Corner: Within 1.4 km (0.9 miles) of a lek
- Y Corner: Within 4.4 km (2.7 miles) of a lek
- Cowboys Rest: Within 2.2 km (1.4 miles) of a lek
- Curve 21: Within 3.1 km (1.9 miles) of a lek

The project proponent is requesting an exemption from Greater Sage-grouse mitigation requirements (Nevada Administrative Code 232.400 – 232.480) maintaining that the road realignment and widening is necessary for public health and safety.

SETT Recommendation

The SETT does not recommend granting the Public Health and Safety exemption for this project.

Rationale For SETT Recommendation

NAC 232.460 Section 2(e)(1) provides that “An activity or project that is necessary to protect public health or safety” is not required to mitigate for impacts to Greater Sage-grouse habitat as required by NAC 232.470.

Because NAC 232.460 does not provide definition of what constitutes “necessary to protect public health or safety”, the SETT reviewed the recordings from the regulation adoption hearings. Much of the discussion at the hearing centered around exemptions that would involve ‘emergency’ related actions and/or activities that required immediate action.

As part of the request to be considered exempt from Greater Sage-grouse mitigation requirements, the project proponent provided the SETT with the Plan of Development (POD) for the project. The POD states that the project is needed “to lessen the potential of accidents and vehicle-wildlife/free roaming horse/livestock collisions (animal)”. The POD also provides the following information regarding incidents on the roads during 2017-19:

Free roaming horse collisions – 14 incidents

Livestock collisions – 10 incidents

Rollovers – 3 incidents

Other minor incidents – 7 incidents

While the POD states that the project is needed to lessen the potential of accidents, the POD does not provide any information as to the cause of the incidents (e.g., road condition, operator error, etc.) or whether a realigned and widened road would have prevented any of the incidents. Nor is any information available demonstrating that the road project will prevent incidents in the future. As such, the SETT could not determine that the project is “necessary to protect public health and safety”.

NAC 232.460 Applicability. ([NRS 232.162](#))

1. Except as otherwise provided in this section and to the extent it is not prohibited by federal law, the provisions of [NAC 232.400](#) to [232.480](#), inclusive, apply to any person or entity that proposes an activity or project on public lands subject to state or federal review, approval or authorization, that will cause an anthropogenic disturbance.

2. The provisions of [NAC 232.400](#) to [232.480](#), inclusive, do not apply to:

(a) A direct anthropogenic disturbance on private lands;

(b) An activity or project which was approved by all relevant federal agencies and state agencies before December 7, 2018, so long as the activity or project maintains compliance with any condition or requirement for any such approval;

(c) An activity or project using a mitigation agreement or framework agreement for greater sage-grouse signed by the United States Fish and Wildlife Service before December 7, 2018, and any amendments thereto;

(d) A mineral exploration project which is limited to a surface disturbance of not more than 5 acres;

(e) An activity or project that:

(1) Is necessary to protect public health or safety; or

(2) Will have a de minimis impact to greater sage-grouse and sagebrush ecosystems in this State; or

(f) Any emergency activity or routine administrative activity that:

(1) Is performed by a federal agency, state agency, local government or utility for a public purpose; and

(2) Does not require any additional approval from the Federal Government or the State.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

Kinross County Road Realignment

