Decision Memo

KIMMERLE URANIUM EXPLORATION DRILLING

Manti-La Sal National Forest
September 2011

Moab/Monticello Ranger District
San Juan County, Utah

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INTRODUCTION

The Manti-La Sal National Forest proposes to approve Kimmerle Mining, LLC (Kimmerle) proposed Plan of Operations dated June 15, 2011 to conduct uranium exploration activities located approximately 3 miles east of La Sal, Utah in Section 5, Township 29 South, Range 25 East, Salt Lake Base Meridian (SLM), San Juan County, Utah. See Map 3 for location of the access roads and proposed drill holes. These exploration holes are located on or as close as possible to existing roads to minimize surface disturbance.

Kimmerle’s proposed activities are pursuant to the Mining Law of 1872, as amended. Operations approved by this decision must be in compliance with the rules and regulations for operations on National Forest System lands (36 CFR 228, Subpart A). All operations shall be conducted so as, where feasible, to minimize adverse environmental impacts on National Forest System surface resources (36 CFR 228.8). Approval of this Plan of Operations is consistent with 36 CFR 228.5.

PURPOSE AND NEED:

Kimmerle is entitled to conduct operations that are reasonably incident to exploration and development of mineral deposits on its unpatented mining claims pursuant to the United States Mining laws. Under regulations of the Secretary of Agriculture, Kimmerle must conduct activities in accordance with the regulations at 36 CFR 228A, and in accordance with a Plan of Operations that has been approved by the Forest Service. The need for the proposed Federal action is that the Forest Service is required by regulation to respond to a proposed plan of operations to conduct operations pursuant to the Mining Laws.

Under 36 CFR 228.5, the Forest Service must determine whether to approve the Plan of Operations submitted by Kimmerle as proposed, or to require changes or additions deemed necessary to meet the requirements of the regulations for environmental protection. The purpose of the proposed action and the associated review documented here is to determine if changes or addition to the Plan of Operations are required to meet the environmental protection requirements set forth in 36 CFR 228.8.

PROPOSED ACTION

Kimmerle proposes to drill 8 exploration drill holes to a depth of approximately 560 feet in Section 5, Township 29 South, Range 25 East, Salt Lake Base Meridian (SLM), San Juan County, Utah (See Map on page 10).

The following is taken from the Plan of Operations:

"First the access will be minimally improved enough to enable passage, by removing boulders, shrubbery, and logs, which were placed in the roadway by prior operators and more recently the USFS. Then a rubber tired drill rig will be driven to the site. The holes will be drilled. Next a
pickup with probing equipment will be brought in, and each of the holes logged. Drill cuttings will then be shoveled back into the holes. The top five feet of each hole will be filled with concrete, as a permanent cap. The drill sites will be scarified using a rubber tire tractor pulling a disc. Finally the disturbed soil will be seeded with an approved seed mix.”

The access road and drill locations are all on previously disturbed uranium exploration roads and pads. Equipment used in the exploration activities will include one skid steer loader, drill rig, probe truck, farm tractor with disc, and work pickups. Each hole is expected to take approximately one day to drill and log. Reclamation of drilling areas will be conducted within 30 days of completion of drilling activities, weather permitting.

Exploration is expected to begin upon approval of the Plan of Operations (Plan) and acceptance of Kimmerle’s bond and Road Use Permit by the Forest Service. Activities are anticipated to take approximately three weeks; however, inclement weather could prevent access to the site and exploration activities may be extended.

**DECISION TO BE IMPLEMENTED**

It is my decision to approve the Plan of Operations to allow for the uranium exploration activities as described in the project description subject to Kimmerle incorporating the attached changes and additions into its proposal. Through the environmental process, including public involvement, the Forest has decided upon changes and additions that will be included with the Plan of Operations and which are included with this decision. Other specific details of the operation will be worked out within the plan design and before operations begin. This decision will allow the proponent to explore for uranium and improve the access roads, but with measures taken to minimize any effect the operation may have on the environment.

**PUBLIC PARTICIPATION**

A Public Notice informing the public of the proposed project was published in the *San Juan Record* and *Times-Independent* newspapers the week of May 9, 2011. A scoping letter was sent to various tribes, agencies, organizations, and individuals. Four comment letters were received during the 30 day comment period. These comments were taken into consideration when making my decision. (See Response to Comments in project record.)

**REASONS FOR CATEGORICALLY EXCLUDING THIS ACTION**

Approving this Plan does not have individual or cumulative significant effects on the quality of the human environment. The project falls under 36 CFR 220.6, which states that there are routine actions that require documentation in a Decision Memo of the rationale for not preparing an environmental assessment or environmental impact statement. Specifically, it falls into 36 CFR 220.6 (e):

8. Short-term (one year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and
equipment, construction of less than one mile of low standard road (Service Level D, FSH 7709.56), or use and minor repair of existing roads.

DECISION RATIONALE

This decision was made after careful consideration of the proposal, public involvement, and the entirety of the supporting record. Approving this Plan of Operation for activities related to mining complies with existing Law, Regulation and Policy. Effects on the environment are minimal individually and collectively. My decision represents an action, which effects are specifically understood and will be minimal. Some of the key factors used in reaching my decision are summarized below.

Existing User Need:

The need for uranium exploration continues to exist. The exploration holes will allow for the company to determine if economical reserves are present within the area while minimizing the effect on the environment. Without these, mining exploration activity would be far more environmentally damaging. The mine exploration activity also provides job opportunities to the general public. My decision will meet this objective.

Science Used:

My conclusion is based on a review of the record that reflects a thorough review of best available scientific information, a consideration of responsible opposing views, and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk. Contradictory science was not presented during the scoping process and was not evaluated in this decision document.

Consistency with the Forest Plan:

Under the regulations in 36 CFR 228, the Forest Service approves exploration and mining operating plans and administers those operations to ensure protection and reclamation of affected surface resources (Forest Plan p. II-51).

The general direction for minerals management is (Forest Plan, page III-34):

- Administer sites with producing facilities and known reserves with consideration of ongoing and potential mineral activities.
- Avoid or minimize significant and conflicting public or private investments near sites where mineral activities may occur within the foreseeable future.
- On classified lands not withdrawn from operations under the general mining laws provide for reasonable protection of the purposes for which the lands were classified and for reclamation of disturbed lands to a condition suitable for the purposes for which the lands were classified. Such lands may include Research Natural Areas, national recreation trails, special interest areas; such as scenic, geologic, or national historic sites, or some other type of specific classification.
The status of classified lands with respect to withdrawal must be checked before an operating plan can be approved.

- On unclassified (remaining) lands, provide for reclamation of disturbed lands to achieve the planned uses specified in the Forest Plan, when those lands are no longer needed for mineral operations (P. III-35).

This project is located in a Range Management emphasis unit. The management prescription for minerals management in this area is (Forest Plan, page III-66):

- Provide appropriate mitigation measures to assure continued livestock access and use.
- Those authorized to conduct developments will be required to replace losses through appropriate mitigations, where a site-specific development adversely affects long-term production or management.

This project conforms to these sections of the Plan and is consistent with other portions relative to this type of activity.

Extraordinary Circumstances:

Existing resource conditions and potential extraordinary circumstances have been considered in making my decision. I have determined that there are no extraordinary circumstances related to the project.

_Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species_. There will be no effect to any federally listed T&E plant or animal species. With regard to R4 sensitive wildlife species, there may be impacts to individuals, but these would not likely contribute to a trend towards federal listing or loss of population viability. No federally listed plant species or R4 sensitive species are known to occur in the project area. (See BA/BE and Wildlife Report for this project).

Management Indicator Species

Due to the limited scope and intensity of the proposed project on NFS lands, there would be no measurable effects to populations/trends of any of the management indicator species. (See BA/BE).

_Floodplains, wetlands, or municipal watersheds_. There are no floodplains or wetlands in the project area that are or will be affected. There are no municipal watersheds or drinking water source areas in the project area. There will be no effect on any municipal watershed. Application of the Soil and Water Conservation Practices would ensure that the proposed activities protect and maintain water-related beneficial uses and prevent or minimize non-point source pollution. (See CE Checklist, Watershed/Soils Technical Report)
Congressionally designated areas, such as wilderness, wilderness study areas, or National Recreation Areas. Wilderness, wilderness study areas, or National Recreation Areas are not in or around the project area. Dark Canyon Wilderness is approximately 50 miles southwest of the project area.

Inventoried roadless areas. There are no Roadless areas in the project area that will be affected. (See Attached Map 1).

Research Natural Areas. The project area is not located within any Research Natural Areas (RNAs). RNAs will not be affected.

Native American religious or cultural sites, archeological sites, or historic properties or areas. The Forest completed a cultural report and sent a copy to the Utah State Historic Preservation Office (SHPO) and to several interested Tribes. SHPO concurred with the findings, which indicates compliance with Section 106 of the National Historic Preservation Act. The Hopi Tribe submitted comments on July 25, 2011. (See letters from the Hopi Tribe, Response to Comments and cultural report, Project Record)

- There aren’t any conditions associated with this action identified during scoping and project analysis as potentially having effects that may significantly affect the environment.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

To the best of my knowledge, my decision to approve the proposed Plan of Operations with attached design features/environmental protection measures would comply with all applicable laws and regulations. My decision in relation to pertinent legal requirements is summarized below.

National Forest Management Act of 1976: The Forest Plan (1986) was developed as required by this Act. This long-range land and resource management plan provides guidance for all resource management activities in the Forest. The National Forest Management Act requires all projects and activities to be consistent with the Forest Plan. The Forest Plan has been reviewed in consideration of this project. My decision will be consistent with the Forest Plan and this Act. (Pages II-51-53, III-15, III-34-36, III-64, and III-66 of the Manti-La Sal National Forest Land and Resource Management Plan)

National Historic Preservation Act: My decision complies with this Act. The project area has been surveyed for cultural resources. The Forest consulted with the Utah State Historic Preservation Office. Project design shall not impact National Register eligible properties. (Cultural Report, on record with District Archaeologist; and other supporting materials, Project Record)

Clean Water Act: My decision complies with this Act. Soil and Water Conservation Practices (SWCP’s) and Best Management Practices will be followed according to District Hydrologist’s
recommendations (CE Checklist, Hydrology Section). The proposed action with the specified design features, SWCP’s and other requirements designed to minimize impacts to soils, the potential for erosion, and impacts to water quality complies with the Clean Water Act.

**Endangered Species Act:** My decision complies with this Act. A review of the project finds there would be “no effect” on T&E species or their habitat. With regard to R4 sensitive wildlife species, there may be impacts to individuals, but these would not likely contribute to a trend towards federal listing or loss of population (See BA/BE).

**Executive Order 12898. “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.”** The decision for this document will not amend or preclude any existing private or treaty rights in the National Forest. A review of potential effects to human health and safety and natural resources in the vicinity of minority and low-income communities did not identify any significant or disproportionately high or adverse effects in these areas because of the lack or residential houses in the vicinity of the existing and proposed development.

**Executive Order 13186. Responsibilities of Federal Agencies to Protect Migratory Birds. January 10, 2001.** The proposed activity would not contribute any measurable effects to migratory bird species in the project area. The project, with design features for wildlife resource protection, meets the intent of the Migratory Bird Treaty Act and E.O. 13186. (See BA/BE for this project).

**National Environmental Policy Act:** The entirety of documentation for this project supports that the analysis and decision comply with this Act.

**IMPLEMENTATION DATE AND APPEAL OPPORTUNITY**

Copies of this decision will be made available to those who expressed interest in this proposed action by participating in the scoping process.

Implementation of this decision may occur immediately.

This decision is subject to appeal pursuant to 36 CFR 251.82(4). It may only be appealed by those who hold or, in certain circumstances, those who have applied for a written authorization to occupy and use National Forest System lands, if that authorization would be affected by this decision. Appeals must meet the content requirements of 36 CFR 251.90.

The appeal must be postmarked by the Appeal Reviewing Officer within 45 days of the date of notification of this decision. However, when the 45-day filing period would end on a Saturday, Sunday, or Federal Holiday, the filing time is extended to the end of the next Federal working day. The Notice of Appeal must be sent to: Regional Forester, Intermountain Region USFS, 324 25th Street, Ogden, Utah 84401; by fax to 801-625-5277; or by email to: appeals-intermtn-regional-office@fs.fed.us. A copy must simultaneously be sent to USDA, Forest Service, Manti-La Sal National Forest, ATTN: Forest Supervisor, Pamela Brown, 599 West Price River Drive, Price, UT 84501. The Notice of Appeal may alternatively be faxed to: the attention of the Forest Supervisor,
Pamela Brown, at 435-637-4940 or e-mailed to pbrown@fs.fed.us. Emailed appeals must be submitted in rich text (rtf.) or Word (doc.) format. Appeals may also be hand-delivered to the above address, during regular business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. Additionally, if an appeal is filed, an oral presentation concerning the appeal (36 CFR 251.97) and/or stay of implementation (36 CFR 251.91) of the decision may be requested at any time prior to closing the appeal record. If an appeal is filed, I am willing to meet and discuss concerns.

CONTACT PERSON

For additional information concerning my decision, please feel free to contact Mike Diem, District Ranger, at (435) 636-3341, or Joel Nowak, Project Leader, at (435) 636-3364.

Michael Diem
District Ranger (Responsible Official)
Moab/Monticello Ranger District
Manti-La Sal National Forest

Date
APPENDIX A

CHANGES AND ADDITIONS REQUIRED FOR APPROVAL OF THE KIMMERLE URANIUM EXPLORATION DRILLING

The following changes and additions include all of the environmental protection measures and design features developed by the Forest Service as a result of the public scoping and analysis processes.

**General**

- The operator will contact the Forest Service representative 1 week before activities begin.
- A reclamation bond is needed before operations begin.
- Approval of this Plan of Operations does not relieve the operator of obtaining all other necessary federal, state, or local permits/authorizations before operations begin.
- Before operations start, the Forest Service will record the radiation levels in the proposed drill hole locations. This measurement will be the target level that will be achieved after reclamation. If target is not achieved, further reclamation will be required until it is attained.
- A road closed sign and other signs warning the public of the construction equipment will be located on the beginning of the access road during construction.
- A Road Use Permit and associated bond will be required before operations begin.

**Erosion Control, Soil Protection and Water Quality**

- Project will not begin until surface soil is dry (or frozen) to minimize compaction, rutting and erosion.
- For the portions of access road and drill sites that have vegetation, material should be windrowed on contour. Little to no soil should be incorporated in the piles. Stockpiled material will be randomly scattered over areas of soil disturbance with preference given to those areas where topsoil was replaced.
- Refueling areas will be a minimum of 300 feet from perennial and intermittent stream channels, seeps and springs, wetlands, lakes and reservoirs, stock water developments, and other water features.
• All heavy equipment and service vehicles will have a supply of absorbent and other cleanup materials on hand for initial containment of spills.

• If any petroleum or other environmentally detrimental products are spilled on the ground, the FS will be notified and the spill and contaminated soil will be contained and removed to dispose of at an approved facility.

• If determined necessary, surface pits or portable mud pits will be required to collect drill cuttings and fluids while drilling. On each drill site, topsoil will be pushed to one side and stored separately for use in reclamation. For each mud pit, one side shall be sloped enough to allow escape if wildlife fall in and will be fenced while operator is not onsite. The pits will be located on the uphill side of the site and will be immediately reclaimed or fenced after operations are complete. They will be reclaimed by backfilling with excavated soil, covered with topsoil and slash material, then seeded.

• The normal operating season on National Forest land in this area is from May 15th to October 30th. Construction and other activities outside the normal operating season require approval from the District Ranger. The proponent shall schedule and conduct most operations within the normal operating season. The normal operating season includes the time period that typically has suitable soil moisture and runoff conditions for most Forest activities and operations.

• Rutting will be used as an indicator of wet conditions. Vehicle traffic and equipment operation will be restricted to prevent rutting in excess of one inch on gravel roads, 2 inches on native surface roads and 4-6 inches in other work areas. Proponent will provide maintenance equipment to repair rutting as soon as ground conditions permit.

• During extended periods of dry weather, additional measures, including vehicle and equipment restrictions, may be necessary to prevent powdering of soils, to maintain firm working surfaces, to limit fugitive dust, and to maintain appropriate moisture conditions to protect topsoil during reclamation.

• The proponent shall conduct all activities to prevent erosion and sedimentation. Temporary erosion control measures may be required to prevent, control, and mitigate erosion and sedimentation. Temporary and permanent erosion control work must be kept current with ongoing operations, especially when construction occurs outside of the normal operating season.

• Where possible, topsoil and vegetation should be removed and stockpiled for use as surface dressing during reclamation.

• Vehicles will be instructed to travel at slow speeds to limit disturbance to roads and creation of dust.
Fire Protection

- Vehicles with catalytic converters will be restricted to existing roads and trails; parking or idling will not be permitted in portions of roads or trails with taller vegetation.

- All vehicles will have working mufflers and spark arresters. Electrical equipment must be properly insulated.

- All vehicles will be equipped with fire extinguishers and shovels.

- The following operational procedures will be followed:

  1. Smoking will only be allowed in company vehicles and/or designated smoking areas; all cigarette butts will be placed in appropriate containers and not thrown on the ground or out windows of vehicles.

  2. Cooking, campfires, or fires of any kind will not be allowed.

Existing Facilities/ROWs Protection

- Any damage caused by the proposal will be repaired or replaced as soon as practical before the end of the project.

- Access to drill sites requires entering private land. The operator will need to secure permission from landowner before operations begin.

Hazardous and Solid Waste/Trash Disposal

- All spills or leaks of diesel fuel, hydraulic fluid, lubricating oil, and coolant, including contaminated soil material, will be excavated to an appropriate container and transported to an approved disposal site.

- All solid waste or trash will be transported for disposal to an approved solid waste disposal facility.

- All other trash associated with project will be removed within one week of completion.

Cultural and Paleontological Resources

- The operator and its contractors will inform their employees about Federal regulations intended to protect paleontological and cultural resources. All personnel will be informed that collecting fossils and artifacts is a violation of Federal law.
• If fossils or cultural resources are uncovered during surface-disturbing activities, the operator and its contractors will suspend all operations at the site and the discovery will be immediately reported to the Forest Service representative, who would arrange for a determination of significance, and if necessary, recommend a recovery or avoidance plan.

• All vehicular traffic, personnel and equipment movement, and construction activities will be confined to the locations surveyed for cultural and paleontological resources as referenced in the report contained in the project record, and to the existing roadways and/or inventoried access routes.

Vegetation Resources Protection

• All equipment, including on-road and off-road equipment, will be cleaned to remove weed seed and soil (may contain weed seed) prior to commencing operations on public lands within the project area. Disturbed areas in the project area will be monitored for project-related establishment and spread of noxious weeds. Weed infestations will be treated as necessary and as approved by the Forest to prevent additional spread.

• Larger shrubs, trees, and other obstacles will be avoided where possible; no cutting or removal of large trees is allowed without prior approval of Forest Service.

Wildlife Resources

• Project activities will be conducted in compliance with applicable requirements of the Endangered Species Act of 1973, as amended.

• Project personnel will be subject to the following requirements: no harassing of wild horses; no dogs may be brought to the project area; and no littering.

• There will not be any construction activity during the seasonal restrictions set by the Forest in connection with wildlife (March 1 – September 30) and outside the normal operating season unless specifically authorized by the Forest Service.

Livestock Grazing

• All gates within the project area will be left as they are found (i.e., open gates will be left open, closed gates will be left closed).

• Removal or alteration of existing range improvements will be prohibited unless prior approval from the appropriate Surface Management Agency is obtained.

• Construction personnel will be instructed to minimize contact with, and avoid harassment of, livestock.

Reclamation
• Reclamation of the access road and drill sites would depend on the amount of use the road received during construction and reclamation. If the vegetation currently present on the road bed appears to retain the ability to recover, ripping and seeding would not be necessary. If the vegetation is beyond recovery and compaction of the road bed has occurred, then the following would be necessary:

  • Re-grading any cuts and fills to re-establish the original ground contours and drainages.
  • Ripping the roads to a depth of 12 to 18 inches.
  • Placing 6 inches of loose topsoil in locations where topsoil was removed (if applicable).
  • Seeding the soil with a Forest Service approved seed mix.
  • The first one hundred feet or so of the access road will be ripped, slash material placed on top, seeded and thoroughly blocked to bring as close as possible to current condition and according to Forest Service specifications. If feasible, the operator, with on-the-ground guidance from the Forest Representative, will carefully take and place/plant live shrubbery from immediately adjacent to road into the closed portion of the road.

• Reclamation of the holes will be according to the Plan of Operations and with any/all additional Forest Service requirements at the time of reclamation.

• All disturbed areas will be seeded with seed mixtures developed for the project. The seed will be certified weed and noxious weed free. Seed all disturbed soils within 6 working days of final grading, weather and soil conditions permitting. If the soil surface is crusted, take appropriate measure to break up the crusted areas prior to seeding.

• The Forest Service representative shall be contacted at least 2 working days prior to the start of reclamation.

• For holes that do not encounter water, the operator shall backfill with cuttings, clean native fill, or other approved materials, then install a non-metallic plug 10 feet below the ground surface and backfilled with concrete to within 1 foot of the surface. The remaining hole shall be backfilled with native soil and covered with topsoil.

• For holes that encounter groundwater, within 30 days of encountering the water stratum, they need to be filled from the bottom upwards to the ground surface using a tremie or similar pipe. The well shall be plugged with bentonite based material or other sealing material approved by the State Engineer and Forest Service. Then a non-metallic plug 10 feet below the ground surface will be installed and backfilled with concrete to within 1 foot of the surface. The remaining hole shall be backfilled with native soil and covered with topsoil.

• All drill cuttings that show radioactive readings in excess of background levels shall be buried and covered with no less than 3 feet of earthen material to bring radiation readings back to background levels. In some cases where it is impractical to dig a pit for cuttings, such as when bedrock is at the surface, the cuttings are to be removed to another
approved site for disposal. No cuttings, even if not radioactive, shall be left on the surface.

- Reclamation is considered complete when the holes are properly plugged according to the methods above, and the surface is regraded, ripped, pocked or scarified, covered with topsoil and slash material, and seeded with the approved Forest Service seed mix. The site will then be monitored by the Forest for 3 years for revegetation (70% of adjacent vegetative cover) and noxious weeds. If considered complete by the Forest, the bond will be released. If not, additional measures may need to be taken for complete reclamation.

- Reclamation of drill site and access roads would include weed control for three years post reclamation.

The following are required and special mitigation statements for uranium drilling and associated projects to be made part of the Plan of Operations:

- Approval of this Plan of Operations (Plan) does not constitute recognition or certification of the validity of ownership by any person named as owner herein.

- Approval of the Plan does not constitute now or in the future, recognition or certification of the validity of any of the mining claims to which it may relate nor the mineral character of the land on which it lies.

- Changes and additions to the Plan must be submitted to the District Ranger for approval as a revised or supplemental plan. The revised or supplemental Plan must be approved by the District Ranger before work may begin.

- The operator shall furnish and maintain a reclamation bond in the amount of $14,680.00 conditioned upon compliance with the terms and conditions of approval of the Plan. (Note: Reclamation does not include fire liability or other actions in connection with the operator.)

- Prior to bond release, a final inspection of the project area must be made by the operator with the District Ranger or his designated representative.

- All surface disturbing activities and operations must be supervised by a company representative knowledgeable of the design features and mitigation measures of the Plan.

- Water must be legally obtained in accordance with State water laws.

- The District Ranger or his designated representative must be notified when operations are completed and informed as to when reclamation work will begin. He must also be notified when operations are on stand-by and for approximately how long.

- The holes, when no longer needed, must be plugged as soon as possible utilizing current accepted practices by the industry and with Forest Service approval.

- All disturbed areas will be ripped and seeded in the late fall.