

Dated: December 6, 1996.  
John G. Rogers,  
*Acting Director, U.S. Fish and Wildlife  
Service.*  
[FR Doc. 96-32682 Filed 12-23-96; 8:45 am]  
BILLING CODE 4310-55-M

## Bureau of Indian Affairs

### National Environmental Policy Act: Implementing Procedures (516 DM 6, Appendix 4)

**AGENCY:** Bureau of Indian Affairs,  
Interior.

**ACTION:** Final notice of revised  
procedures.

**SUMMARY:** This notice announces  
revisions to Appendix 4 of the  
Departmental Manual (516 DM 6) for  
implementing the National  
Environmental Policy Act (NEPA)  
procedures within the Bureau of Indian  
Affairs (BIA), which were published in  
the Federal Register on March 31, 1988  
(53 FR 10439).

**EFFECTIVE DATE:** December 24, 1996.

**FOR FURTHER INFORMATION CONTACT:** Dr.  
Willie R. Taylor, Director, Office of  
Environmental Policy and Compliance,  
at (202) 208-3891. For the BIA, contact  
Donald Sutherland at (202) 208-4791.

**SUPPLEMENTARY INFORMATION:** This  
notice is published in exercise of  
authority delegated by the Secretary of  
the Interior to the Assistant Secretary—  
Indian Affairs by 209 DM 8.

#### Background

On July 7, 1995, the BIA published a  
notice in the Federal Register (60 FR  
35417) proposing revisions to 516 DM 6,  
Appendix 4. These provided more  
specific NEPA compliance guidance to  
the BIA by updating the BIA's  
organizational responsibilities for  
compliance, updating guidance to  
applicants, adding to the list of actions  
normally requiring an environmental  
impact statement (EIS), and updating,  
revising and adding to the list of actions  
categorically excluded from the NEPA  
process. The notice afforded the public  
30 days to review and comment on the  
proposed revisions. Certain changes in  
this final version of the revisions are in  
response to those comments.

#### Discussion of Comments and Changes

The BIA received 14 comment letters  
on the proposed revisions to Appendix  
4. Nine of these were from four federal  
agencies. Of these nine, one was from a  
central office and eight were from field  
offices. Three Indian tribes, an  
environmental organization and a

private individual submitted the  
remaining five letters.

Seven changes were made to the  
proposed revisions as a result of the  
comments received. Two of the changes  
are deletions; section 4.2.C.24 because it  
was contradicted by section 4.2.B., and  
section 4.4.G.4 because it was  
inconsistent with the case law (*Connor  
v. Burford*). The other five changes are  
clarifications in wording. These are in  
sections 4.3.A.3, 4.4.C, 4.4.H.2, 4.4.J and  
4.4.L.2.

One further change was made as a  
result of internal BIA review, and three  
as a result of Council on Environmental  
Quality (CEQ) review of the proposed  
revisions. The BIA change is the  
addition at section 4.4.M.5 of the  
categorical exclusion for the issuance of  
permits under the Archaeological  
Resources Protection Act (16 U.S.C.  
470aa-11) in cases where the permitted  
work is connected with an action for  
which an environmental analysis has  
been, or is being prepared. In such  
cases, a separate environmental process  
for the archaeological permit would be  
redundant.

One of the changes resulting from the  
CEQ review is the deletion of section  
4.4.M.3., and the subsequent re-  
numbering within 4.4.M. The deleted  
item would have categorically excluded  
actions where the BIA had concurrence  
or co-approval with another agency and  
the action was a categorical exclusion  
for that agency. To be used, an  
exclusion must be listed by the BIA, as  
well. The other two changes are  
clarifications in the wording of sections  
4.3.B and 4.4.H.1.

Of the comments that did not result  
in changes, several recommended  
adding details that are covered in 30  
BIAM Supplement 1. As noted under  
the supplemental information for the  
proposed revisions, Appendix 4 is  
intended to be used along with  
Supplement 1, as well as with  
Departmental procedures and the  
Council on Environmental Quality's  
regulations (40 CFR Parts 1500-1508). A  
number of other comments were  
editorial suggestions that offered no  
measurable improvement in the text.  
Yet others, while worthy of  
consideration in another context, were  
beyond the scope of this Appendix.  
One, for example, argued that BIA  
environmental guidance should be in  
the Code of Federal Regulations, not the  
Departmental Manual. Responses, by  
section, to comments that did not fall  
into one of the above three categories  
are as follows:

#### Section 4.3.A.1

**Comment:** Recommendation that all  
mining development applications be  
analyzed to determine if an EIS is  
required, rather than categorically  
excluding applications according to  
production and acreage criteria.

**Response:** The numbers provided in  
this section are intended as general  
guidance. The BIA understands that  
there will be exceptions to this  
categorical exclusion, and has a  
procedure to determine when such  
might be the case.

#### Section 4.4

**Comment:** Recommendation that  
program by program regulations for  
NEPA compliance for a number of parts  
under 25 CFR be promulgated.

**Response:** This would not be  
consistent with the Government's  
current policy of regulatory reduction.

**Comment:** Numerous suggestions for  
new categorical exclusions to be added  
to the list.

**Response:** The exclusions contained  
in this rule are flexible enough to cover  
the suggested exclusions. For example,  
most of the suggested additions fall  
within the broader exclusion for  
operation and maintenance (4.4.A.).

#### Section 4.4.I

**Comment:** Recommendation that a  
categorical exclusion be added for  
federally funded housing projects  
wherein the Department of Housing and  
Urban Development (HUD) will be  
complying with NEPA for the housing  
and the only BIA action would be to  
acquire the land in trust.

**Response:** The categorical exclusion  
was not included because such  
situations are covered under lead/  
cooperating agency arrangements in  
HUD's environmental documents.

**Comment:** Question as to whether the  
categorical exclusion of land  
conveyances where no change in land  
use is planned might still allow for  
some degree of planned development or  
physical alteration of the land without  
triggering NEPA review.

**Response:** It is unrealistic to expect  
land to be conveyed with no plan  
whatsoever for its future use. Whether  
or not the conveyance may be  
categorically excluded is a matter of  
judgement by the BIA official  
responsible for NEPA compliance as to  
how well the plan is established. The  
categorical exclusion does not, however,  
allow for any development or physical  
alteration to actually take place.

**Comment:** Recommendation that all  
land transfers be categorically excluded,  
regardless of plans for future

development or physical alteration, as long as the subsequent activity will be subject to NEPA review.

*Response:* This is in fact the way the categorical exclusion is meant to operate. What the BIA official responsible for NEPA compliance must decide is whether or not plans for development or physical alteration are established to the point where NEPA review of the proposed activity should be done in conjunction with the land transfer.

#### 4.1 NEPA Responsibility

A. Deputy Commissioner of Indian Affairs is responsible for NEPA compliance of Bureau of Indian Affairs (BIA) activities and programs.

B. Director, Office of Trust Responsibilities (OTR) is responsible for oversight of the BIA program for achieving compliance with NEPA, program direction, and leadership for BIA environmental policy, coordination and procedures.

C. Environmental Services Staff, reports to the Director (OTR). This office is the Bureau-wide focal point for overall NEPA policy and guidance and is responsible for advising and assisting Area Offices, Agency Superintendents, and other field support personnel in their environmental activities. The office also provides training and acts as the Central Office's liaison with Indian tribal governments on NEPA and other environmental compliance matters. Information about BIA NEPA documents or the NEPA process can be obtained from this office.

D. Other Central Office Directors and Division Chiefs are responsible for ensuring that the programs and activities within their jurisdiction comply with NEPA.

E. Area Directors and Project Officers are responsible for assuring NEPA compliance with all activities under their jurisdiction and providing advice and assistance to Agency Superintendents and consulting with the Indian tribes on environmental matters related to NEPA. Area Directors and Project Officers are also responsible for assigning sufficient trained staff to ensure NEPA compliance is carried out. An Environmental Coordinator is located at each Area Office.

F. Agency Superintendents and Field Unit Supervisors are responsible for NEPA compliance and enforcement at the Agency or field unit level.

#### 4.2 Guidance to Applicants and Tribal Governments

A. Relationship with Applicants and Tribal Governments.

##### 1. Guidance to Applicants.

a. An "applicant" is an entity which proposes to undertake any activity which will at some point require BIA action. These may include tribal governments, private entities, state and local governments or other Federal agencies. BIA compliance with NEPA is Congressionally mandated. Compliance is initiated when a BIA action is necessary in order to implement a proposal.

b. Applicants should contact the BIA official at the appropriate level for assistance. This will be the Agency Superintendent, Area Director or the Director, Office of Trust Responsibilities.

c. If the applicant's proposed action will affect or involve more than one tribal government, one government agency, one BIA Agency, or where the action may be of State-wide or regional significance, the applicant should contact the respective Area Director(s). The Area Director(s), using sole discretion, may assign the lead NEPA compliance responsibilities to one Area Office or, as appropriate, to one Agency Superintendent. From that point, the Applicant will deal with the designated lead office.

d. Since much of the applicant's planning may take place outside the BIA system, it is the applicant's responsibility to prepare a milestone chart for BIA use at the earliest possible stage in order to coordinate the efforts of both parties. Early communication with the responsible BIA office will expedite determination of the appropriate type of NEPA documentation required. Other matters such as the scope, depth and sources of data for an environmental document will also be expedited and will help lead to a more efficient and more timely NEPA compliance process.

##### 2. Guidance to Tribal Governments.

a. Tribal governments may be applicants, and/or be affected by a proposed action of BIA or another Federal agency. Tribal governments affected by a proposed action shall be consulted during the preparation of environmental documents and, at their option, may cooperate in the review or preparation of such documents. Notwithstanding the above, the BIA retains sole responsibility and discretion in all NEPA compliance matters.

b. Any proposed tribal actions that do not require BIA or other Federal approval, funding or "actions" are not subject to the NEPA process.

##### B. Prepared Program Guidance.

BIA has implemented regulations for environmental guidance for surface mining in 25 CFR Part 216 (Surface

Exploration, Mining and Reclamation of Lands.) Environmental guidance for Forestry activities is found in 25 CFR 163.27 and 53 BIAM Supplements 2 and 3.

##### C. Other Guidance.

Programs under 25 CFR for which BIA has not yet issued regulations or directives for environmental information for applicants are listed below. These programs may or may not require environmental documents and could involve submission of applicant information to determine NEPA applicability. Applicants for these types of programs should contact the appropriate BIA office for information and assistance:

1. Partial payment construction charges on Indian irrigation projects (25 CFR Part 134).

2. Construction assessments, Crow Indian irrigation project (25 CFR Part 135).

3. Fort Hall Indian irrigation project, Idaho (25 CFR Part 136).

4. Reimbursement of construction costs, San Carlos Indian irrigation project, Arizona (25 CFR Part 137).

5. Reimbursement of construction costs, Ahtanum Unit, Wapato Indian irrigation project, Washington CFR Part 138).

6. Reimbursement of construction costs, Wapato-Satus Unit, Wapato Indian Irrigation project, Washington (25 CFR Part 139).

7. Land acquisitions (25 CFR Part 151).

8. Leasing and permitting (Lands) (25 CFR Part 162).

9. Sale of lumber and other forest products produced by Indian enterprises from the forests on Indian reservation (25 CFR Part 164).

10. Sale of forest products, Red Lake Indian Reservation, Minn. (25 CFR Part 165).

11. General grazing regulations (25 CFR Part 166).

12. Navajo grazing regulations (25 CFR Part 167).

13. Grazing regulations for the Hopi partitioned lands (25 CFR Part 168).

14. Rights-of-way over Indian lands (25 CFR Part 169).

15. Roads of the Bureau of Indian Affairs (25 CFR Part 170).

16. Concessions, permits and leases on lands withdrawn or acquired in connection with Indian irrigation projects (25 CFR Part 173).

17. Indian Electric Power Utilities (25 CFR Part 175).

18. Resale of lands within the badlands Air Force Gunnery Range (Pine Ridge Aerial Gunnery Range) (25 CFR Part 178).

19. Leasing of tribal lands for mining (25 CFR Part 211).

20. Leasing of allotted lands for mining (25 CFR Part 212).

21. Leasing of restricted lands of members of Five Civilized Tribes, Oklahoma, for mining (25 CFR Part 213).

22. Leasing of Osage Reservation lands, Oklahoma, for mining, except oil and gas (25 CFR Part 214).

23. Lead and zinc mining operations and leases, Quapaw Agency (25 CFR Part 215).

24. Leasing of Osage Reservation lands for oil and gas mining (25 CFR Part 226).

25. Leasing of certain lands in Wind River Indian Reservation, Wyoming, for oil and gas mining (25 CFR Part 227).

26. Indian fishing in Alaska (25 CFR Part 241).

27. Commercial fishing on Red Lake Indian Reservation (25 CFR 242).

28. Use of Columbia River in-lieu fishing sites (25 CFR Part 248).

29. Off-reservation treaty fishing (25 CFR Part 249).

30. Indian fishing—Hoopa Valley Indian Reservation (25 CFR Part 150).

31. Housing Improvement Program (25 CFR Part 256).

32. Contracts under Indian Self-Determination Act (25 CFR Part 271).

33. Grants under Indian Self-Determination Act (25 CFR Part 272).

34. School construction or services for tribally operated previously private schools (25 CFR Part 274).

35. Uniform administration requirements for grants (25 CFR 276).

36. School construction contracts for public schools (25 CFR Part 277).

#### 4.3 Major Actions Normally Requiring an EIS

A. The following BIA actions normally require the preparation of an Environmental Impact Statement (EIS):

1. Proposed mining contracts (for other than oil and gas), or the combination of a number of smaller contracts comprising a mining unit for:

a. New mines of 640 acres or more, other than surface coal mines.

b. New surface coal mines of 1,280 acres or more, or having an annual full production level of 5 million tons or more.

2. Proposed water development projects which would, for example, inundate more than 1,000 acres, or store more than 30,000 acre-feet, or irrigate more than 5,000 acres of undeveloped land.

3. Construction of a treatment, storage or disposal facility for hazardous waste or toxic substances.

4. Construction of a solid waste facility for commercial purposes.

B. In exceptional cases, where one of the above actions appears unlikely to

have a significant impact on the human environment, an Environmental Assessment (EA), at least, must be prepared in accordance with 40 CFR 1508.9. In no case may one of these actions be treated as a categorical exclusion.

#### 4.4 Categorical Exclusions

In addition to the actions listed in the Department's categorical exclusions in Appendix 1 of 516 DM 2, many of which the BIA also performs, the following BIA actions are hereby designated as categorical exclusions unless the action qualifies as an exception under Appendix 2 of 516 DM 2. These activities are single, independent actions not associated with a larger, existing or proposed, complex or facility. If cases occur that involve larger complexes or facilities, an EA or supplement should be accomplished.

A. Operation, maintenance, and replacement of existing facilities.

Examples are normal renovation of buildings, road maintenance and limited rehabilitation of irrigation structures.

B. Transfer of Existing Federal Facilities to Other Entities.

Transfer of existing operation and maintenance activities of Federal facilities to tribal groups, water user organizations, or other entities where the anticipated operation and maintenance activities are agreed to in a contract, follow BIA policy, and no change in operations or maintenance is anticipated.

C. Human resources programs.

Examples are social services, education services, employment assistance, tribal operations, law enforcement and credit and financing activities not related to development.

D. Administrative actions and other activities relating to trust resources.

Examples are: Management of trust funds (collection and distribution), budget, finance, estate planning, wills and appraisals.

E. Self-Determination and Self-Governance.

1. Self-Determination Act contracts and grants for BIA programs listed as categorical exclusions, or for programs in which environmental impacts are adequately addressed in earlier NEPA analysis.

2. Self-Governance compacts for BIA programs which are listed as categorical exclusions or for programs in which environmental impacts are adequately addressed in earlier NEPA analysis.

F. Rights-of-Way.

1. Rights-of-Way inside another right-of-way, or amendments to rights-of-way where no deviations from or additions

to the original right-of-way are involved and where there is an existing NEPA analysis covering the same or similar impacts in the right-of-way area.

2. Service line agreements to an individual residence, building or well from an existing facility where installation will involve no clearance of vegetation from the right-of-way other than for placement of poles, signs (including highway signs), or buried power/cable lines.

3. Renewals, assignments and conversions of existing rights-of-way where there would be essentially no change in use and continuation would not lead to environmental degradation.

G. Minerals.

1. Approval of permits for geologic mapping, inventory, reconnaissance and surface sample collecting.

2. Approval of unitization agreements, pooling or communitization agreements.

3. Approval of mineral lease adjustments and transfers, including assignments and subleases.

4. Approval of royalty determinations such as royalty rate adjustments of an existing lease or contract agreement.

H. Forestry.

1. Approval of free-use cutting, without permit, to Indian owners for on-reservation personal use of forest products, not to exceed 2,500 board feet.

2. Approval and issuance of cutting permits for forest products not to exceed \$5,000 in value.

3. Approval and issuance of paid timber cutting permits or contracts for products valued at less than \$25,000 when in compliance with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.

4. Approval of annual logging plans when in compliance with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.

5. Approval of Fire Management Planning Analysis detailing emergency fire suppression activities.

6. Approval of emergency forest and range rehabilitation plans when limited to environmental stabilization on less than 10,000 acres and not including approval of salvage sales of damaged timber.

7. Approval of forest stand improvement projects of less than 2000 acres when in compliance with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.

8. Approval of timber management access skid trail and logging road construction when consistent with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.

9. Approval of prescribed burning plans of less than 2000 acres when in compliance with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.

10. Approval of forestation projects with native species and associated protection and site preparation activities on less than 2000 acres when consistent with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.

I. Land Conveyance and Other Transfers.

Approvals or grants of conveyances and other transfers of interests in land where no change in land use is planned.

J. Reservation Proclamations.

Lands established as or added to a reservation pursuant to 25 U.S.C. 467, where no change in land use is planned.

K. Waste Management.

1. Closure operations for solid waste facilities when done in compliance with other federal laws and regulations and where cover material is taken from locations which have been approved for use by earlier NEPA analysis.

2. Activities involving remediation of hazardous waste sites if done in compliance with applicable federal laws such as the Resource Conservation and Recovery Act (Pub. L. 94-580), Comprehensive Environmental Response, Compensation, and Liability Act (Pub. L. 96-516) or Toxic Substances Control Act (Pub. L. 94-469).

L. Roads and Transportation.

1. Approval of utility installations along or across a transportation facility located in whole within the limits of the roadway right-of-way.

2. Construction of bicycle and pedestrian lanes and paths adjacent to existing highways and within the existing rights-of-way.

3. Activities included in a "highway safety plan" under 23 CFR Part 402.

4. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.

5. Emergency repairs under 23 U.S.C. 125.

6. Acquisition of scenic easements.

7. Alterations to facilities to make them accessible for the elderly or handicapped.

8. Resurfacing a highway without adding to the existing width.

9. Rehabilitation, reconstruction or replacement of an existing bridge structure on essentially the same alignment or location (eg, widening, adding shoulders or safety lanes, walkways, bikeways or guardrails).

10. Approvals for changes in access control within existing right-of-ways.

11. Road construction within an existing right-of-way which has been acquired for a HUD housing project, and for which earlier NEPA analysis already exists.

M. Other.

1. Data gathering activities such as inventories, soil and range surveys, timber cruising, geological, geophysical, archeological, paleontological and cadastral surveys.

2. Establishment of non-disturbance environmental quality monitoring programs and field monitoring stations including testing services.

3. Approval of an Application for Permit to Drill for a new water source or observation well.

4. Approval of conversion of an abandoned oil well to a water well if water facilities are established only near the well site.

5. Approval and issuance of permits under the Archaeological Resources Protection Act (16 U.S.C. 470aa-ll) when the permitted activity is being done as a part of an action for which an NEPA analysis has been, or is being prepared.

Dated: December 16, 1996.

Dr. Willie R. Taylor,

*Director, Office of Environmental Policy and Compliance.*

[FR Doc. 96-32588 Filed 12-23-96; 8:45 am]

BILLING CODE 4310-W7-P

## Bureau of Land Management

[NV-020-1990-01]

### Final Environmental Impact Statement, Notice of Availability

**ACTION:** Notice of availability, final environmental impact statement for the Santa Fe Pacific Gold Corporation's Twin Creeks Mine Expansion Project.

**SUMMARY:** Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is given that the Winnemucca District of the Bureau of Land Management (BLM) has prepared, by third party contractor, and made available for a 30-day public review, the Final Environmental Impact Statement for Santa Fe Pacific Gold Corporation's Twin Creeks Mine Expansion Project, located in Humboldt County, Nevada.

**DATES:** The Final Environmental Impact Statement will be distributed and made available to the public on December 20, 1996. The period of availability for public review for the Final Environmental Impact Statement ends on January 21, 1997. At that time a

Record of Decision will be issued regarding the Proposed Action.

**ADDRESSES:** A copy of the Final Environmental Impact Statement can be obtained from: Bureau of Land Management, Winnemucca District Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. The Final Environmental Impact Statement is available for inspection at the following locations: Bureau of Land Management Nevada State Office (Reno); Lander and Humboldt County Libraries; and the University of Nevada library in Reno, Nevada.

### FOR FURTHER INFORMATION CONTACT:

Gerald L. Moritz, Project Manager, at the above Winnemucca District address or telephone (702) 623-1500.

**SUPPLEMENTARY INFORMATION:** The Final Environmental Impact Statement has been reproduced in its entirety and contains the original analysis presented in the Draft EIS (issued July 5, 1996), with all text changes highlighted. In addition, the Final EIS also includes an evaluation of two additional alternatives, the West Side alternative (overburden/interburden reconfiguration) and the East Side alternative (stormwater control), that were not analyzed in the Draft EIS. Also included in the Final EIS are responses to comments received by BLM during the public comment period on the Draft EIS. The EIS analyzes the direct, indirect and cumulative impacts associated with continued mining and expansion of the South pit, ore processing facilities, overburden and interburden storage areas, expanded dewatering system and water disposal facilities, diversion of Rabbit Creek and tributaries, and ancillary facilities.

Dated: December 16, 1996.

Ron Wenker,

*Winnemucca District Manager.*

[FR Doc. 96-32571 Filed 12-23-96; 8:45 am]

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[ID-957-1040-00]

### Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. December 9, 1996.

The plat representing the dependent resurvey of portions of the subdivisional lines, of the 1895 meanders of the left bank of the Snake River, and of the 1960 meanders of an island designated as lot 16 in section 3, and the survey of the median line of a relict channel of the Snake River in section 3, T. 6 S., R. 8