

# CRS Report for Congress

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## **New World Gold Mine and Yellowstone National Park**

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### **Summary**

Crown Butte Mines, Inc. wants to develop its New World gold mine deposit located near Yellowstone National Park. The proposed mine is located almost entirely on private property about 3 miles east of the northeast corner of Yellowstone National Park and next to the Absaroka-Beartooth Wilderness area. The New World Mine Project would mine an estimated 1,800 tons of gold/silver/copper ore per day (500,000 tons annually), valued at an estimated \$800 million over a 10-15 year period. The project would include an underground mine, an ore processing mill, a tailings pond, a waste rock storage site, access roads, a work camp and transmission lines. A draft environmental impact statement (EIS), required under both NEPA and the Montana Environmental Policy Act, is in the final months of a three-year preparation.

The project has stirred controversy because of its possible environmental impacts. Environmental groups oppose the project because of the potential for damage to water, recreational assets and wildlife in the area, and in particular, to Yellowstone Park itself. Crown Butte maintains it would employ

"state-of-the-art" technology to contain waste in a proposed 106-acre tailings pond. Opponents of the project fear that the tailings pond may fail in the future due to earthquakes, avalanches or other events, leading to acid mine drainage. Several permits from the federal and state level are required to operate the mine and mill. The issuing agencies could approve the mine plan, approve the plan with stipulations, or deny the permit. Without the necessary permits, mine development could not go forward.

Environmentalists have received support from two highly visible events. In July 1995, the President called for a moratorium on mine patents and new claims on federal lands in the area around the mine site. In December 1995, the United Nations World Heritage Committee declared the Yellowstone National Park "in danger" because of the New World mine proposal, and other activities in the area. In the 104th Congress, a Senate proposal (S. 1737) would permanently withdraw from location under the Mining Law 19,000 acres, and affect 5,000 additional acres of federal lands near the Crown Butte mine site. A House bill (H.R. 1846) would withdraw lands upstream from the Park. None of these measures would affect the New World Mine directly, but might affect the economics of the project by precluding future expansion.

## **Background**

The area around Henderson Mountain known as the New World Mining District has been mined for over one hundred years, primarily for gold, silver and copper. The Mining District consists of 130 patented mining claims (2,600 acres). Because of its rich geology, the District has been excluded from wilderness designation even though it is surrounded by wilderness areas and is located only about 3 miles east of the northeast corner of Yellowstone National Park.<sup>1</sup> Portions of the mining district were patented under the General Mining Law of 1872, became private property and are now leased by the owners to Crown Butte Mines, Inc. Some sites, previously overlooked or regarded as uneconomic, are viewed by Crown Butte as having great economic potential. Crown Butte submitted its operating plan for a hardrock mine permit to the Montana State Department of Lands November 15, 1990.

The proximity of the Crown Butte site to Yellowstone National Park has generated opposition to the project. The project is strongly opposed by environmental groups because of the potential damage that could occur to the water, recreational assets and wildlife habitats in and around Yellowstone National Park in the event of an accident or the improper treatment of waste.

### ***Yellowstone National Park***

Yellowstone National Park was established by Act of Congress in March 1872 to preserve certain lands from development. It encompasses more than 2 million acres primarily in Wyoming but also in Montana and Idaho. The Park contains a diverse wildlife population, high plateaus, geysers, waterfalls, lakes, and the headwaters for a number of rivers, all of which provide scenic and recreation opportunities for millions of visitors each year.

The area was withdrawn from settlement or sale (including mining activity) and set aside as a "pleasuring ground" for the enjoyment of the people. Later laws were enacted to create the U.S. National Park System and place some public lands off limits to the Mining Law. Other federal laws permitted disposal of lands to the private sector. At issue, in part, is whether Yellowstone National Park and the Absaroka-Beartooth Wilderness would be in danger from acid mine drainage and whether wildlife habitats and wetlands would be destroyed if the Crown Butte project proceeds.

### ***Federal/State Decisions***

Decisions made at the federal and state levels will determine whether the mine plan will go forward. The State of Montana issues the permits necessary to operate a mine. U.S. Forest Service approval is necessary to use Forest Service lands in the project. Legislative and executive proposals (e.g. H.R.

1846, S. 1737) that would withdraw acreage from the Mining Law of 1872, would restrict expansion of the mine. The analysis in the environmental impact statement is expected to be a major factor in federal and state decisions on the mine plan.

Public pressure is likely to come from both the proponents and opponents of the mine plan. Opponents of mine development called upon the United Nations World Heritage Committee to evaluate the potential dangers to Yellowstone that could occur from the New World Mine Proposal. Mine proponents claim that the United Nations input interferes with the EIS process and is unnecessary.

### **The Crown Butte Plan**

Crown Butte Mines, Inc., an U.S. subsidiary of Canadian-owned Noranda, Inc.<sup>2</sup> has either leases or claims to about 2,600 acres of private and public lands. The actual mine sites are leased from private owners by Crown Butte. About 85% of the proposed facilities to support the mine are on federally owned U.S. Forest Service lands. The proposed project includes an underground mine, an ore processing mill (which will recover the gold without the use of cyanide), a tailings pond, and waste rock storage site, access roads, a work camp and transmission lines. The tailings pond, and waste rock storage site, access roads and a work camp would be on U.S. Forest Service lands (Gallatin and Shoshone National Forests).

The project would mine an estimated 1,800 tons of gold/silver/copper ore per day or an annual production rate of up to 500,000 tons of ore over a 10-15 year period. Reported proven reserves at the property are 2 million ounces of gold, 11 million ounces of silver, and 65,000 short tons of copper.<sup>3</sup> About 10% of the minable ore reserves are located on federal lands. According to Crown Butte representatives, the company has already invested over \$32 million in the project, including reclaiming lands that were mined long before Crown Butte Mines began to explore for minerals in the area.<sup>4</sup>

### **Environmental Concerns**

Environmental groups have detailed numerous concerns with the proposal. One of the major concerns is that the tailings impoundment facility in the mine plan could fail in the future due to earthquakes, avalanches or other events. Among the number of questions being raised by environmental groups are:

- What effect would the proposed project have on Yellowstone National Park?
- How would the project affect wildlife, especially grizzly bears?
- Would tailings disposal at a different location have less environmental impact?

### ***Environmental Permitting***

An extensive permitting process is directed to investigate these and other questions. The U.S. Forest Service (NFS) has authority under the National Forest Act of 1976 to permit and regulate mining operations on its lands. A number of permits are required from the State of Montana that would, among other things, regulate air and water quality. Acquiring all the permits to operate the mine could prove to be time consuming and costly to the mining firm. Permits to operate the mine could be issued, issued with stipulations or denied. Without the required permits, the mine could not be developed. In compliance with state and federal regulations, site reclamation and reclamation bonding would be required for the project.

### ***The Environmental Impact Statement***

In the case of the New World Project, the NFS has required preparation of an environmental impact statement (EIS) under the National Environment Policy Act (NEPA) and Montana Environmental Policy Act guidelines. The EIS, begun in May 1993, will lead to one of three decisions: an approval of the application as submitted, an approval with modifications, or a no-action recommendation. A no-action recommendation would not necessarily prevent the project from going forward but would provide a baseline case from which to examine environmental impacts without the occurrence of mining. The draft EIS is expected toward the end of summer 1996. A panel of scientists has been established to provide expert review of the EIS once it is made available.

### ***U.N. World Heritage Action***

The World Heritage Committee of the U.N. listed Yellowstone National Park a World Heritage site in 1978. The "in danger" listing came about because according to committee officials, "Yellowstone is considered threatened as a result of proposed gold, silver, and copper mining operations nearby, as well as by construction, logging and the growing number of visitors". An official committee vote was taken in December 1995 to place Yellowstone on its "in danger" list. Although the World Heritage Committee is in charge of approving sites nominated by the United States as World Heritage Sites--and can reach decisions on sites considered to be in danger--it has no legal authority in any country. As park superintendent Marvin Jensen stated, the committee does not do anything but "list and delist."<sup>5</sup> Proponents for the project argue that this U.N. action was a public relations move to influence the outcome of the EIS currently underway. The president of Crown Butte Mines says that he could not accept the U.N. World Heritage Committee as a legitimate source for scientific review or determination of the viability of the project.<sup>6</sup>

## **Executive Branch and Congressional Options**

### ***Moratorium on Patents***

In August 1995, President Clinton called for a moratorium on further mining patents on about 19,000 federally owned acres in the area. This was followed by a Notice of Proposed Withdrawal issued by the Department of the Interior (DOI) in late August 1995.<sup>7</sup> A moratorium on new patents would prevent the further transfer of mining claims to the private-sector, but patent applications in the pipeline that have received their first-half final approval would likely be honored. The moratorium segregates the land for up to two years while withdrawal of the lands is studied by the Bureau of Land Management (BLM). While the proposal is under study, patenting of claims is suspended, though the lands remain open to mineral leasing. Valid existing rights (claims that were located under the General Mining Law of 1872 prior to the withdrawal action) must be respected.

Withdrawal of these lands would not affect the site of the proposed New World project, but would curtail any expansion of the mine to adjoining federal lands not already claimed under the Mining Law. The Bureau of Land Management and the Forest Service held several field hearings in July 1996 on the proposed withdrawal. The National Mining Association, meanwhile, has called the moratorium unnecessary and unwise.<sup>8</sup>

Withdrawals under the Federal Land Policy Management Act (FLPMA) have been used in the past to prevent mining activity on certain public lands. The Bureau of Land Management's stated mineral resource policy in part reads except for congressional withdrawals, public land shall remain open and available for mineral exploration and development unless withdrawal or other administrative action is clearly justified in the national interest." This policy has been criticized as making it difficult for land managers to close lands to mineral development, even in cases where there is a strong argument for doing so. Critics of the General Mining Law of 1872 believe that in many cases there is no way to protect other land values and uses short of withdrawal of lands from the operation of the Mining Law.

## ***Legislative Proposals***

Legislation introduced by Sen. Bumpers (S. 1737) would prohibit new mining claims, patents and mineral leases on the federal land segregated by the Interior Department's NPW moratorium, subject to valid existing rights. Further, the bill would prohibit the Secretary of Agriculture from approving a plan of operation for mining that would pollute water flowing into Yellowstone National Park, the Clarks Fork of the Yellowstone National Wild and Scenic River or the Absaroka-Beartooth National Wilderness Area. The total area affected by S. 1737 is about 24,000 acres, none of it located in the present New World mine site.

In the House, proposed legislation (H.R. 1846) would establish the Yellowstone Headwaters Recreation Area and withdraw from mining certain lands upstream from the Park and also require the clean up of pollution from past mining. The Federal lands included in the proposal are currently open to location under the Mining Law.

Proponents of the mine believe that both House and Senate proposals would not affect the mine plan. Furthermore, they say, passage of the legislation would interfere with the environmental review process.

The House Resources Subcommittee on National Parks, Forests and Lands is expected to hold hearings this year on H.R. 1846 after the anticipated EIS is released. The analysis in the EIS will likely be considered at the hearings and may influence the prospects of the proposed legislation.

## **Endnotes**

1 This information was obtained from the company information package: Crown Butte Mines, Inc., New World Project.

2 Noranda, Inc. is a diversified natural resource company with business activities in oil and gas, forest products, mining and metals. Noranda is listed on Canada's major stock exchanges.

3 *Platt's Metal Week*, 29 July 1996, p.7.

4 Crown Butte Mines, Inc. New World Project, Information Package, 1996

5 Valarie Richardson, U.N. "Intrusion" Stirs Anger at Yellowstone, *The Washington Times*, February 1, 1996, p.A 1.

6 Crown Butte Yellowstone Project In Doubt, *Platts Metals Week*, December 11, 1995, p.

7 See: Notice of Proposed Withdrawal: Montana, appearing in: Federal Register, Vol.60, No.170, Friday, September 1, 1995: p.45732.

8 National Mining Association, *Mining Week*, September 5, 1995, p.1.

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