



United States
Department of
Agriculture

Forest
Service

Nez Perce -Clearwater National
Forests
Supervisor's Office

903 3rd Street
Kamiah, ID 83536
208-935-2413
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File Code: 2810
Date: April 13, 2015

Dear Interested Party:

The Nez Perce-Clearwater National Forest (Forest) is initiating a combined environmental analysis for small-scale placer mining (suction dredging) in streams with ESA listed species. The Forest and the Bureau of Land Management (BLM), Cottonwood Field Office have had numerous inquiries concerning suction dredging and have received several plans to conduct small-scale placer mining in the South Fork of the Clearwater River and at several locations on the French and Orogrande Creeks. This project is proposing suction dredging within active channels of stream reaches considered "open" to suction dredging.

This letter is to introduce you to the proposed Small-scale Placer Mining Project and to solicit comments on how the project design, effects analysis, and overall decision making process should move forward. Submitted comments on this proposal will be used to assist in refining our proposal and in developing alternative actions relative to the projects Purpose and Need. The proposal and alternatives will be evaluated during the environmental analysis process. At this time we anticipate that the analysis will be documented in an Environmental Assessment (EA), which will be provided, either through a hard-copy, CD, or online, to those individuals or groups responding to this Scoping Letter, as well as any individuals or groups requesting a copy.

Background Information

The proposed Small-scale Placer Mining Project area encompasses approximately 50 miles of stream and would approve no more than 35 small-scale placer mining operations, which would not exceed 5,250 feet (150 feet per dredge per year) of total stream distance dredged per year. The relevant reaches for the South Fork Clearwater River are on the Salmon River and Red River Ranger Districts, with a portion of the river within the BLM's Cottonwood Field Office (see map for legal descriptions of these stream reaches). Additionally, the Forest has received proposals to conduct small-scale placer mining at several locations on French and Orogrande creeks within the boundaries of the North Fork Ranger District. These proposed mining sites would be within the active channels of stream reaches considered "open" to suction dredging and other small-scale placer mining under the Idaho Department of Water Resources' (IDWR) "recreational mining letter permit," and the Environmental Protection Agency's (EPA) National Pollutant Discharge Elimination System (NPDES) permit, which is dependent upon the results of ESA consultation.

For compliance with the National Environmental Policy Act (NEPA) regarding the proposal, the Nez Perce-Clearwater National Forest will act as the lead agency, and the BLM Cottonwood Field Office will participate as a cooperating agency, as defined in the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the NEPA (40 CFR 1501.6).



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Suction dredging has been occurring along Nez Perce-Clearwater National Forest and BLM streams that contain ESA listed species either under a Forest Service Notice of Intent or with little to no direction from the Forest Service or BLM, as long as the suction dredger had an IDWR recreational mining letter permit from the State of Idaho. Until 2013 suction dredgers were unable to obtain a NPDES permit from the EPA.

Existing Conditions

In June 2012, the U.S. Court of Appeals for the 9th Circuit Court ruled that the Forest Service’s processing of a Notice of Intent for a proposed mining operation constitutes a Federal action for the purposes of Section 7 consultation in accordance with the Endangered Species Act (ESA) [*Karuk Tribe of California v. USFS*, 681 F.3d 1006 (9th Cir. 2012)]. On May 6, 2013 the EPA implemented their NPDES General Permit for Small Suction Dredge Placer Miners in Idaho. The EPA can issue a NPDES General Permit after Section 7 consultation with the U.S. Fish and Wildlife Service (FWS) has been initiated by the Forest Service and an appropriate determination has been made by either the FWS and/or the National Marine Fisheries Service (NMFS). The Biological Opinion is then forwarded to the EPA by the Forest Service or BLM and the EPA will decide if the stream can be opened for suction dredging.

Due to several factors coming to light, including those mentioned above, it has been determined that suction dredging along streams that contain ESA listed species within the Nez Perce-Clearwater National Forest is a significant disturbance as defined by 36 CFR 228.4(a)(3) and that a Plan of Operations is now required along with copies of an approved IDWR letter permit and an approved NPDES general permit. BLM’s regulations at 43 CFR 3809.11(c)(6) states that you must submit a plan of operations for “Any lands or waters known to contain Federally proposed or listed threatened or endangered species or their proposed or designated critical habitat, unless BLM allows for other action under a formal land-use plan or threatened or endangered species recovery plan.”

Desired Future Conditions

To have standard procedures in place for small scale mining in the South Fork Clearwater River, and French and Orogrande Creeks that effectively protect surface resources including special status fish, prevent unnecessary and undue degradation to public lands, and improve the efficiency of the approval process for POOs.

Purpose and Need for the Proposed Project

Purpose: To prepare standard procedures and conditions for suction dredging in the South Fork Clearwater River, and French and Orogrande creeks that effectively protect surface resources including special status fish, prevent unnecessary and undue degradation to public lands, and improve the efficiency of the approval process for Plans of Operations (POOs).

Need: Allow the Forest Service and BLM to efficiently process multiple identical POOs that we receive for approval since we currently have to process each POO individually, which is difficult due to NEPA and ESA requirements.

Proposal Summary: The Forest and BLM have received five POOs, and anticipates receiving up to 30 POOs of similar scale, from miners proposing to use small-scale placer mining equipment and techniques (primarily suction dredges with an intake nozzle of 5 inches or less and rated at no more



than 15 horsepower) to prospect, explore, and extract gold from instream gravels on and off placer mining claims. The Forest Service and BLM have the responsibility to analyze these POOs, and to approve them if the surface resource protection requirements found in these plans are reasonable, which would need to meet or surpass the Forest Service's mitigation measures located in the links below. These mitigation measures, along with NEPA and the necessary State and Federal permits (to include ESA consultation), would allow the Forest Service and BLM to approve these POOs.

This proposal would allow POOs for up to a total of 20 small-scale placer mining operations in the French and Orogrande creeks and up to 15 small-scale placer mining operations in the South Fork of the Clearwater River. The current IDWR "recreational mining" seasons for the French and Orogrande creeks is June 30 through September 15, while the season for the South Fork of the Clearwater River is July 15 through August 15. A limit on the number of operations per stream reach would apply to active operations during any one dredging season.

Any approved POO would include specific and mandatory operating conditions, design features, and mitigation measures, which would eliminate or minimize potential adverse effects to resources as a result of any individual proposed mining operations and the cumulative effects as a result of any past, present, and reasonably foreseeable future actions having an effect on the same resource(s) as the proposed mining operation within the same area and at the same time. For a discussion of potential conditions associated with POOs and an analysis of the potential effects of small-scale placer mining projects operating under such conditions, please see the documents associated with approval of POOs along Moose and Lolo creeks at http://data.ecosystem-management.org/nepaweb/nepa_project_exp.php?project=1678. For additional mining information and information concerning suction dredging please see: <http://www.fs.usda.gov/resources/nezperceclearwater/landmanagement/resourcemanagement>

Request for Scoping Comments

The proposed project is an activity implementing a land management plan and is subject to 36 CFR 218 regulations (subparts A and B). In accordance with 36 CFR 218.2, specific written comments should be within the scope of the proposed action, have a direct relationship to the proposed action, and must include supporting reasons for the responsible official to consider. It is the responsibility of all individuals and organizations to ensure that their comments are received in a timely manner. To establish standing for objection, the designated opportunity for scoping comments to be received will be 30 days, beginning on the first day after the date of publication of the legal notice in the newspaper of record (Lewiston Tribune, Lewiston, Idaho). Oral or hand delivered comments must be received within normal business hours of 7:30 a.m. to 4:00 p.m. excluding holidays.

Comments may be mailed electronically to: comments-northern-nezperce@fs.fed.us. The subject line must contain the name of the project for which you are submitting comments (i.e. Small-scale Placer Mining Project). Acceptable formats are MS Word or RTF.

You may also mail or hand-deliver your comments to Cheryl Probert, Forest Supervisor, Nez Perce-Clearwater National Forest, 903 3rd Street, Kamiah Idaho 83536. Office hours are 8:00 am 4:00 pm, Monday through Friday (except Federal holidays). Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on these proposed actions and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the agency with the ability to provide the respondent with subsequent environmental



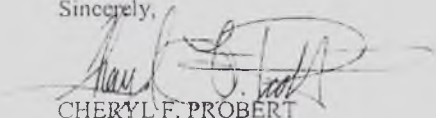
documents. A 30-day notice and comment period will be provided at a future date (218.24). Only those who respond to this request for comments will remain on the mailing list for this project.

An objection period, if required, will follow the regulations found in 36 CFR 218.7. For objection eligibility (218.5), only those who have submitted timely, specific written comments during any designated opportunity for public comment may file an objection. Issues to be raised in objections must be based on previously submitted specific written comments regarding the proposed project and attributed to the objector, unless the issue is based on new information that arose after a designated opportunity to comment [218.8(c)].

Project documents will be available electronically on the Nez Perce-Clearwater National Forest webpage at: http://data.ecosystem-management.org/nepaweb/project_list.php?forest=110105

If you have any questions please contact Rebecca Anderson, Project Team Leader at: telephone (208-476-8351), fax (208) 476-8285, or email at rebeccaanderson@fs.fed.us.

Sincerely,



CHERYL F. PROBERT
Forest Supervisor

Enclosure: Maps of Project Area

cc: Rebecca Anderson, Clint Hughes



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