



United States
Department of
Agriculture

Forest
Service

Salmon-Challis
National Forest
Salmon/Cobalt Ranger District

311 McPherson St.
Salmon, ID 83467
208 756-5200

File Code: 2840

Date: December 20, 2014

Jim Chadwick
291 East 20th Street
Idaho Falls, ID 83404

Dear Mr. Chadwick:

We have received your letter of December 16, 2013 and are writing to respond to the statements contained in that letter.

The Salmon-Challis National Forest (SCNF) is not trying to prevent you from mining, only to ensure that mining or mineral exploration activities follow an approved Plan of Operations (POO), as required in 36 CFR 228, Subpart A. Your 2004-2008 POO required that you maintain your operating area in a clean, neat, and orderly appearance, and that at the end of operations you would conduct reclamation, both of which you failed to do. That Plan expired in 2008. The SCNF granted you leeway to leave facilities onsite, provided you perform some site clean-up and submit a new POO.

Processing and subsequent approval of your new plan (submitted July 2011) have been delayed solely due to inaction on your part, specifically:

1. Clean-up activities were not performed by you until August of 2012.
2. Requests for information from you that would enable us to move forward with the environmental analysis (1/8/13 and 3/7/13, copies attached for your reference) were never responded to.

Your letter indicates confusion and frustration with the lengthiness of our permitting process. A prompt response from you when the minerals administrator requested either information or action would have ensured timely environmental analysis and processing of your POO.

Your letter states that you ran water down the ditch, although it doesn't indicate when this was done. The field review of your project in the fall of 2010 indicated two significant breaches of the ditch that would have likely not allowed water to reach the location where your pipe comes off the ditch. Your letter also indicates that you hadn't used the water, which conflicts with your assertion that you ran water into the ditch.

If you did open the headgate and allow water to run in the ditch, we are concerned about the use of the ditch for several reasons. First, although you have a water right from the State of Idaho, the FS determines how that water is conveyed across National Forest System (NFS) lands.

The Federal Land Policy and Management Act states that the Forest Service is "authorized to grant, issue, or renew rights-of-way over, upon, under, or through such lands for (1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water" (43 USC 501(a)); and that prior to granting, issuing or renewing such rights of way, the FS shall also "include . . . the terms and conditions which should be included in the right-of-way" to protect public lands (43 USC 501(b)),

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Eastern Region



505(b)). These terms and conditions are contained in an approved POO, which you have not had since your previous POO expired in 2008.

Secondly, based on information from the field review, breaches in the ditch would need to have been repaired in order for water to reach your pipeline, and this would have required excavation and surface disturbance which are also not authorized without an approved POO.

Next, breaches in the ditch and punctures and breaks in the pipeline would have allowed water to travel overland in locations not approved by the SCNF, potentially resulting in environmental consequences.

Finally, conducting any activity at the site other than the required reclamation indicates your disregard for following guidance from your minerals administrator and for adhering to the requirements of your previous POO.

Your letter also indicates that you are only "doing a little recreational mining." Federal mining regulations (30 USC 20-54) view all mining activities as commercial, and there is no recognized category for "recreational" mining. Regulations do not differ based on the size of an operation.

Based on the history of non-use of water for your operation and the condition of the ditch and facilities for water conveyance, the SCNF will not withdraw its request for the forfeiture of your permanent water rights. The condition of your facilities, particularly those used for water conveyance, does not indicate a desire on your part to maintain them in good working condition for the protection of surface resources. In the event that your permanent water right is revoked, you may still apply for a temporary water right from the State of Idaho to conduct mineral exploration activities on NFS lands.

Your plan may still be approved, provided you work with the SCNF to provide the necessary information to make your plan complete. It is in your best interest to establish a good working relationship with your minerals administrator, and to follow the terms and conditions of agreements that you have executed with the SCNF.

The SCNF still requires that you complete final reclamation, as described in the Notice of Noncompliance sent to you on December 9, 2013, as demonstration of your commitment to complete the requirements of your 2004-2008 POO.

If you have any questions or wish to discuss this further please contact myself at 208 756-5247 or your minerals administrator, Julie Hopkins at 208 756-5279.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Winfield", with a stylized, looping flourish at the end.

JAY WINFIELD
District Ranger

cc: Donnie Hudson, co-claimant
James Cefalo, IDWR

attachments