Appendix A

Analysis of Scoping Comments

Baldy Creek Placer Exploration Project

Three individuals/organizations commented during the public comment period of May 9, 2013 to June 7, 2013. The disposition of the comments are found in the Table below. The original comment letters are available in the project record.

Commenter	Comment	Disposition
Gary Macfarlane Friends of the Clearwater	The project could last for over one year so [it doesn't] meet the requirements of a CE.	The project meets the criteria outlined in 36 CFR 220.6, including being completed within one year or less. Therefore the use of a CE is appropriate.
	INFISH and PACFISH require that structures and other impacts be located outside of riparian habitat conservation areas (RHCAs).	The claimants would not be permitted to construct any structures in a wetland or floodplain within the project area. This is a standard mitigation measure to be included in the Plan Of Operations, if approved. Mineral exploration may occur in riparian areas, so long as potential resource issues have been identified and design criteria, mitigation measures and BMPs are followed.
	The proposal must comply with the Clean Water Act, Sections 303, 313, 401, 402, and 404.	The project would comply with all applicable federal and state laws and regulations, including the Clean Water Act.
	The proposal must comply with the Endangered Species Act for listed fish species.	Potential impacts to Threatened, Endangered and Region 1 Sensitive fish species will be analyzed and discussed in the Decision.
	Cumulative impacts from this and other mining projects in the area need to be evaluated.	Cumulative effects will be analyzed and discussed in the Decision. The scope of the analysis will be determined by the resource specialists.
	The agency's duties under the ESA are not overridden by any "rights" the applicants may have under the 1872 mining law. The courts are clear in ruling that prohibitions under the ESA must be enforced, even to deny mining operations.	The project meets the criteria outlined in 36 CFR 220.6, therefore the claimant has a right under the 1872 Mining Law to enter NFS lands and conduct reasonable activities to prospect and explore for mineral resources. Potential impacts to species listed under the ESA will be analyzed and discussed in the Decision. Consultation with USFWS and NMFS will be conducted and required conservation measures implemented, if necessary.

Commenter	Comment	Disposition
Gary Macfarlane Friends of the Clearwater	The Forest Service is charged to ... minimize the amount of disturbance to surface resources in order to prevent unnecessary destruction of the area, and to ensure to the extent feasible that disturbance is commensurate with each level of development.	All appropriate State of Idaho Best Management Practices for mining will be followed. Standard mitigation measures for mining will be implemented as appropriate. The claimant is in the exploration phase of operations. If the claimant wishes to pursue a higher level of exploration or mining development additional NEPA will be required.
	The question must be asked, "Has the claimant made the discovery of a "valuable mineral deposit" on this claim?" A mining claim location does not give presumption of a discovery.	In order to make a discovery of a valuable mineral deposit or establish a valid mining claim, the operator has a statutory right under the 1872 Mining Law to enter National Forest System lands to conduct reasonable activities to explore for mineral resources.
	The automatic assumption that this can be approved with a CE fails to take a hard look at the crucial issue of RHCAs, and whether the proposal complies with PACFISH, the CWA, and forest plan standards.	The project meets the criteria outlined in 36 CFR 220.6, therefore the use of a CE is appropriate. However, effects to the environment will be analyzed to determine whether extraordinary circumstances related to the proposed action warrant further analysis and documentation in an EA or an EIS.
Jonathan Oppenheimer Idaho Conservation League	The project must comply with all applicable legal and regulatory requirements of the Endangered Species Act, National Forest Management Act, Federal Lands Management Policy Act, and any other applicable laws and regulations governing the use of National Forest System lands.	The project would comply with all applicable federal and state laws and regulations, including the Clearwater Forest Plan.
	The FS needs to consult with the U.S. Fish and Wildlife Service and NOAA Fisheries [National Marine Fisheries Service] on listed species.	Effects to federally listed species will be analyzed and consultation with USFWS and/or NMFS will be conducted, if needed.
	The FS should modify the Plan of Operations to minimize effects to National Forest System Resources as required by 36 CFR § 228.1.	Per 36 CFR Part 228A, changes or additions to the Plan of Operations deemed necessary to minimize adverse environmental effects and to provide for reclamation of surface resources would be made.
	If any mining activities are proposed within Idaho Roadless Areas the FS must rescope the project and disclose the location.	No mining activities are proposed in an Idaho Roadless Area.

Commenter	Comment	Disposition
Jonathan Oppenheimer Idaho Conservation League	A water right must be sought and obtained from the Idaho Department of Water Resources prior to approving the plan of operations.	A temporary water permit would be obtained from the Idaho Department of Water Resources before water could be drawn from any stream located on Forest Service lands.
	All activities need to be completed within one year from issuance of the permit or the bond should be forfeited.	The project, as required in 36 CFR 220.6, would completed within one year or less.
	NEPA requires including "appropriate mitigation measures not already included in the proposed action or alternatives." 40 CFR § 1502.14(f).	A set of standard mitigation measures developed for exploration proposals and the Idaho Best Management Practices for Mining would be implemented as appropriate. A field review (which includes the operator) would be necessary before the project is initiated to identify specific sites and related issues and possible site specific mitigation measures. All mitigation measures would be included in the Plan Of Operations, if approved.
	Forest Service regulations at 36 CFR part 228 require the Forest Service to establish an adequate reclamation bond for mining operations.	A reclamation bond sufficient to cover all necessary reclamation would be calculated by the Forest Service. The bond would be submitted by the operator before the Plan of Operation was approved and work began.
	Numerous mining projects have violated BMPs and operating plans. A formal monitoring plan should be developed, with monitoring being conducted at specified intervals throughout the mining operation and reclamation.	The project would be administrated with site inspections conducted periodically to ensure compliance with the approved Plan of Operations. There are no requirements to initiate a formal monitoring plan.
Daniel Stewart Idaho Department of Environmental Quality	The project is in IDl 7060305CL070_02, a water body included in the South Fork Clearwater River Subbasin Assessment and Total Maximum Daily Load. Activities cannot result in an increase in stream temperature or an increase in sediment delivered to the water body. The TMDL lists allowable load allocations for point and nonpoint sources within this water body.	Thank you for your comment.
Nez Perce Tribe NPT DFRM Watershed Division	Threatened, Endangered, and/or Sensitive fish species and/or habitat in Baldy Creek (Chinook, Steelhead, Bull Trout, and Cutthroat). NPT staff believes this project should require consultation with the services.	Effects to federally listed and sensitive fish species will be analyzed and discussed in the Decision. Consultation with USFWS and/or NMFS for Threatened and Endangered species will be conducted, if necessary.

Commenter	Comment	Disposition
Nez Perce Tribe NPT DFRM Watershed Division	The Idaho Water Resource Board designated Newsome Creek and several tributaries as Recreational Rivers under the South Fork Clearwater River Plan. The designation prohibits activities including…placer mining.	No instream dredging or placer mining would occur below the mean high water mark. Without a mineral withdrawal, the Forest Service is obligated to approve the Plan Of Operations with mitigation measures.
	NPT staff believes this project should not be considered under small NEPA, but rather an EA or EIS, taking into consideration the cumulative effects of all other mining (Heritage Gulch, Heritage 2, Newsome Creek Placer, and others) and non-mining proposals within the watershed.	The project meets criteria outlined in 36 CFR 220.6, therefore the use of a CE is appropriate. However, effects to the environment will be analyzed to determine whether extraordinary circumstances related to the proposed action warrant further analysis and documentation in an EA or an EIS. Cumulative effects will be analyzed and discussed in the Decision. The scope of the analysis will be determined by the resource specialists.
	Any past performance by this applicant needs to be evaluated and current and future permits tailored and complied to ensure all aspects of the permit are followed and there is no resource damaged caused by the proposed operation.	Compliance inspections are conducted to ensure all aspects of the permit are being followed.
	Test pits and roads/trails used by the claimant should have adequate erosion controls to prevent sediment from reaching any stream. If observed, as a condition of the permit, work should be halted until the problem is corrected.	This is a standard mitigation measure and would be included in the approved Plan Of Operations.
	What will happen if subsurface water is found during excavation ?	If subsurface water is encountered, excavation would continue to bedrock and BMPs used to prevent runoff from entering adjacent creeks.
	Why are any operations being allowed within the RHCA?	Mineral exploration may occur in riparian areas, so long as potential resource issues have been identified and design criteria, mitigation measures and BMPs are followed.
	USFS and NPT completed restoration work in the Newsome Creek area as recently as last year [*comments provided May, 2013*]. How will this proposal affect the restoration efforts?	Without a mineral withdrawal, the claimant has a right to enter National Forest System lands and conduct reasonable activities to explore for mineral resources. Reclamation of the site and associated disturbance (e.g. areas impacted by equipment travel) would be required at project completion.