



United States  
Department of  
Agriculture

Forest  
Service

Nez Perce National Forest

Route 2, Box 475  
Grangeville, ID 83530  
208 983-1950  
208 983-2280 TTY

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**File Code:** 1570-1/2810/1950

**Date:** April 16, 2001

Dan Templeton  
9519 N. Mohawk  
Portland, OR 97203

Dear Mr. Templeton:

This is in reply to your letter dated March 20, 2001, in which you stated that you wanted to appeal and stay (under 36 CFR 251 Subpart C) Ranger Darcy Pederson letter (dated February 20, 2001). Under 36 CFR 251.92(4) and (5), I must dismiss your appeal. The Ranger's letter to you was not an appealable decision. The letter did not state that the Forest Service was deciding not to process your plan. The letter informed you of the reason the Clearwater Ranger District was unable to proceed with the processing of your plan, which was that information that falls within the jurisdiction of the Environmental Protection Agency (EPA) must be provided to the Ranger District before it can finish the NEPA process and approve your plan (36 CFR 251.83(k)). Therefore, the relief you seek cannot be granted.

Under Section 401(a)(2), 33 U.S.C. 1341(a)(1), the Forest Service cannot issue approval of your proposed plan until:

1. The Forest Service receives information from the EPA on whether they will issue you a NPDES permit and what the permit conditions will be; OR
2. You have applied for the NPDES permit and the EPA has informed you and us what alternatives and mitigation measures they will require for you to comply with the Clean Water Act.

You can help advance this process by contacting the EPA, filing for a NPDES permit (if you have not already done so) and assisting the EPA in its analysis so that the District can use that information to complete the review and approval of your plan.

This notice of dismissal is being forwarded to the Regional Forester for consideration of discretionary review under 36 CFR 251.92(c).

Sincerely,

/s/ Philip N. Jahn (for)  
BRUCE E. BERNHARDT  
Forest Supervisor

