



United States  
Department of  
Agriculture

Forest  
Service

Nez Perce National Forest  
104 Airport Road  
Grangeville, ID 83530

Clearwater National Forest  
12730 Highway 12  
Orofino, ID 83544-4541

File Code: 2810

Date: May 25, 2013

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RE: Small-Scale Suction Dredging in Lolo Creek and Moose Creek

Dear Applicant:

On March 9, 2010, Rick Brazell, Forest Supervisor for the Nez Perce-Clearwater National Forest, selected Alternative 3, as documented in the Record of Decision (ROD) for the *Small-Scale Suction Dredging in Lolo Creek and Moose Creek Final Supplemental Environmental Impact Statement*. The selection of Alternative 3 allows for the approval of proposed Plans of Operation for a maximum of 18 mining operations for Lolo Creek and a maximum of 38 mining operations for Moose Creek (ROD, p. 8). This letter describes what will need to be included with your Plan of Operation with regard to permits/certifications, reclamation bonding and ROD requirements.

On April 4, 2013, the EPA issued an NPDES General Permit for small suction dredge operations in Idaho. As you are probably aware, Lolo Creek and Moose Creek (and the associated tributaries addressed in the ROD) are not open under the EPA's NPDES General Permit (for more information please visit: <http://yosemite.epa.gov/r10/water.nsf/npdes+permits/idsuction-gp>) Therefore, the Nez Perce-Clearwater National Forests are currently in the midst of consultation with the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (FWS) for suction dredging operations in Lolo Creek, and with the FWS for Moose Creek. We are doing this with the expectation that it will allow miners to operate in these streams this summer.

When the consultation documents are complete, the Forest Service will send them to the EPA so that individual miners can avoid the duplication of effort in including these documents with their NPDES General Permit application. If this is not acceptable by the EPA, the consultation documents will be supplied to the individual suction dredgers for submittal to the EPA.

### Permits

Each proposed Plan of Operation applicant will need to have and submit to the Forest, the following items prior to approval of their Plan of Operation:

1. National Pollutant Discharge Elimination System (NPDES) permit, issued by the Environmental Protection Agency (EPA).
2. Letter Permit from Idaho Department of Water Resources. This Letter Permit authorizes the Permit Holder to operate recreational mining equipment to alter a stream channel in accordance with the Stream Channel Alteration Rules (IDAPA 37.03.07 – Rule 64) and the 2013 IDWR Instructions for "Stream Channel Alteration by Recreational Mining Activities."

Without the above permits, no Plan of Operation will be approved by the Forest Service.



## Reclamation Bonding

Reclamation bonding, at the discretion of the District Ranger, due to sensitive and/or endangered fish within the Moose and Lolo Creek drainages, will be required as directed in 36 CFR 228.13 and Forest Service Manual 2817.24. Reclamation costs will be determined on a case-by-case basis at each pre-mining meeting with the operator. The operator will be required to provide a guarantee to perform reclamation work in the amount equal to the estimated cost of the work. An example Reclamation Bonding Cost Estimation is attached.

When estimating a bond, the estimator will follow guidance found in the Forest Service's *Training Guide for Reclamation and Administration*, adopted in April 2004, for plans of operation authorized and administered under Title 36, Code of Federal Regulations, part 228, subpart A (36 CFR part 228, subpart A).

At a minimum, a suction dredging operation being conducted under a Plan of Operation will be bonded for the reclamation of the proposed area of disturbance, cost for the removal of all equipment, and indirect costs associated with the administration of a contract. It will be assumed for bond calculation purposes that all equipment, supplies and labor needed for reclamation will be secured through the federal contracting process, and no onsite equipment or materials will be available to the FS. The reason for this assumption is that facilities, equipment or materials used by the operator may not be available to the FS or its contractors during final reclamation.

## Plan of Operation Requirements

A Plan of Operation is required for suction dredging in Lolo Creek and Moose Creek (and the associated tributaries addressed in the ROD) and many of you may have submitted a Proposed Plan of Operation when the Environmental Impact Statement was started long ago. Now that the ROD has been signed and the EPA's NPDES General Permit is available, your Proposed Plan of Operation needs to be updated, revised, and resubmitted or submitted as a new Proposed Plan of Operation. The new or revised Proposed Plan of Operation will need to incorporate the requirements in the ROD (pages 9-11, Operating Conditions, Design Features, Terms and Conditions, and Mitigation Measures), the EPA's General Permit<sup>1</sup>, and Idaho Department of Water Resources (IDWR) Letter Permit for the 2013 season.

If there are structures or improvements on the claim that are not reasonably incident to mining<sup>2</sup> (i.e., rock patios, rock retaining walls, street signs, clothes lines, enclosed fire rings with chimneys, salt licks, viewing stands, refrigerators, etc.), the removal of these items will need to be addressed in your Plan of Operations. If the improvements are extensive, you will need to coordinate with the Forest Geologist on your new or revised Proposed Plan of Operation. An example Proposed Plan of Operation is attached for your convenience.

<sup>1</sup> In the interest of coordinating on-site visits and the planning involved with each Plan, please submit your POO's ASAP even without the NPDES General Permit.

<sup>2</sup> Multiple Use Mining Act of 1955 (30 U.S.C. 611-615). This Act authorizes the Forest Service to restrict mining operations on National Forest System lands to only those uses reasonably incident to mining and in a manner that minimizes adverse environmental impacts.

In summary, all of the permits clarified above will need to be submitted to the Forest Service by each applicant **prior** to authorization of each Plan of Operation (POO). Additionally, we have a very tight schedule if we are to get you suction dredging this year. The forest needs a complete POO by **June 7, 2013**, to prevent any delays that would potentially bump your POO into being approved next year. There are many factors involved with the processing of your POO and the attached "Example Plan of Operation" contains items that are critical to a smooth process. Stating in your POO that you are going to dredge your entire claim is not realistic and we need detailed locations, with an estimated disturbance length and time frames. Reclamation bonding will be required with each Plan of Operation with the amount being determined at a pre-mining meeting between the Forest Service and the operator, and each Plan of Operation will need to include the 32 design features listed on pages 9-11 of the ROD. If one or more of the other permitting agencies has a set of best management practices (BMPs) or requirements, the operator will be required to meet those, as well. If there are conflicting BMPs or requirements, the operator will need to follow the more stringent BMP or requirement (for example, the ROD states 150 feet between dredges but the EPA's NPDES General Permit says 800 feet, therefore 800 feet between dredges is the requirement). A copy of the ROD, an example of a Proposed Plan of Operation for suction dredging, and an example Reclamation Bonding Cost Estimation is attached.

If there any questions, please feel free to contact the Forest Geologist, Clint Hughes at (208) 983-5146 or me at (208) 476-8223.

Sincerely,



KATHY RODRIGUEZ  
District Ranger

Attachments that can be found at the following website:

<http://www.fs.usda.gov/resources/nezperceclearwater/landmanagement/resourcemanagement>

- Record of Decision (ROD) for Small-Scale Suction Dredging in Lolo and Moose Creeks (consists of three documents)
- Example Reclamation Bonding Cost Estimation
- Example Proposed Plan of Operation for Suction Dredging (with two maps)
- Blank Plan of Operation\_ Form 2800-5