

## DECISION MEMO

### MINERAL EXPLORATION by TRENCHING

### **PIRATE'S GOLD UNPATENTED MINING CLAIM**

Township 14 North, Range 79 West, 6<sup>th</sup> PM  
Section 27: NE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>  
Albany County, Wyoming

USDA Forest Service  
Rocky Mountain Region  
Laramie Ranger District  
Medicine Bow-Routt National Forests  
& Thunder Basin National Grassland

## BACKGROUND INFORMATION

### **A. Original Plan of Operation:**

On October 06, 2005, the Laramie Ranger District received a Plan of Operation for conducting mineral exploration on the Pirate's Gold unpatented mining claim. The Plan of Operation, as submitted, requests authorization to dig a trench on an alluvial bench between National Forest System Road (NFSR) # 543 and Douglas Creek. The alluvial bench is thought to be part of a historic bend in the creek where gold may have been deposited. Mining activities would be conducted between July 01 and October 14 and be over a three year period, beginning in 2008 and ending in 2011.

The proposed trench would be approximately 20 feet wide by 300 feet long, and 3 to 4 feet deep (down to bedrock). The topsoil would be placed upon the uphill side of the trench and gravels from the trench itself would be placed on the downhill side of the trench. Following excavation, water from Douglas Creek would be pumped into the trench and a 3-inch suction dredge would be used to recover gold from the cracks and crevices in the bedrock. The 300 foot long trench would be filled with approximately 1-foot of water. The lower end of the trench would be open toward Douglas Creek, thus allowing water to return to Douglas Creek. After dredging is complete, the material on the downhill side of the trench would be tested for the presence of gold. If gold is present, the material would be run through a sluice box and deposited back into the trench. If gold is not present, the material would be backfilled into the trench. The area would be re-contoured and the topsoil spread back over the trench area. A Forest Service recommended seed mixture would be raked in by hand. The proponent has used a campsite that is about 200 yards downstream from the alluvial bench and on the west side of Douglas Creek.

The trench would be dug with a backhoe. The backhoe would be transported via a lowboy trailer to NFSR #543 where it would be unloaded onto the existing collector road. The trench area would be accessed by driving the backhoe down a slope (approximately 50 feet) from NFSR #543 to the alluvial bench. No road construction or reconstruction is necessary for the backhoe to access the alluvial bench. No chemicals would be used in the processing of mineral materials.

Trees along the trench and in the immediate area of the trench would be sold to the proponent under a Timber Sale Contract. The proponent plans to cut the trees and use a pickup truck and a flatbed trailer to move the designated trees to his private property that is outside of the Medicine Bow National Forest boundary. This would include the stumps, boles, limbs and tops. If necessary, a dump truck would also be used to move this woody material. Stumps, limbs, and tops would not be disposed of on National Forest System (NFS) land.

Approximately 0.2 acres of NFS land would be involved.

**B. Modified Plan of Operation:**

On December 10, 2005, the proponent submitted a letter modifying his October 06, 2005 Plan of Operation. In order to minimize sediment into Douglas Creek, the trench would not be open ended as previously planned. Instead, the proponent would only dig 100 feet of the trench at a time. The trench would be filled about half way with water from Douglas Creek. A water pump would be moved next to the trench and used to pump water from the trench through a sluice box. The gravels and water from the sluice box would fall back into the pit, thus insuring that no dirty water would return to Douglas Creek. Each 100 foot section of trench would be reclaimed before moving to the next segment. Plastic tarps would also be placed on the gravel piles downhill of the trench to minimize erosion or runoff into Douglas Creek.

Approximately 0.2 acres of NFS land would be involved.

**C. Current Proposal – Abbreviated Mineral Exploration Activity:**

Based upon a December 2008 discussion with the proponent, the Plan of Operation was revised as follows: 1) The exploration activity would only involve 100 feet of trenching; 2) The Plan of Operation would be approved for one year; and 3) Subsequent trenching operations on the alluvial bench above Douglas Creek is possible, with additional analysis and a separate Decision Document.

Mineral exploration activities that would occur in the summer and fall of 2009 would include:

- Digging the “center” 100 feet of trench on an alluvial bench between NFSR #543 and Douglas Creek.
- The trench would be dug with a “Track-hoe” or a “Bobcat” type of machine with a bucket attachment. The Bobcat machine would be used first and, if large boulders are encountered in the trench area, a track-hoe would then be brought in. The Track-hoe or Bobcat machine would be transported by a lowboy trailer to NFSR #543 where it would be unloaded. The machines can access the alluvial bench by driving down a slope (approximately 50 feet) from NFSR #543. No road construction or reconstruction is necessary for mineral exploration activity on the alluvial bench.

- The proponent's campsite would be about 200 yards downstream of the alluvial bench and on the west side of Douglas Creek.
- Trees in the trench area and immediately adjacent to the trench would be sold to the proponent via a Timber Sale Contract. The proponent would use his pickup and a flatbed trailer to move the purchased trees from NFS land. This includes the stumps, boles, limbs, and tops. If necessary, a dump truck would also be used to move this woody material. Stumps, limbs, and tops would not be disposed of on NFS land.
- A water pump would be used to fill the trench about ½ full with water from Douglas Creek. The pump would be moved to the edge of the trench and used to move water over a sluice box. Tailings and water from the sluice box would fall back into the trench.
- Upon completion of dredging and sluicing operations in the trench, the trench would be backfilled with the Bobcat machine or Track-hoe using material piled on the downhill side of the trench. The trench and other disturbed areas would be recontoured and seeded by hand with a Forest Service recommended seed mixture.
- No chemicals would be used to process mineral materials.

Less than **0.1 acres** of NFS land would be involved.

## **DECISION**

Based on a review of the environmental analysis completed for this mineral exploration activity, it is my decision to proceed with the approval of the Plan of Operation for the activities outlined in Part C: Current Proposal – Abbreviated Mineral Exploration Activity as described above. The following modifications/special mitigation, as per Section VI of the Plan of Operation, will be included to protect the natural resources of the area.

1. Depending upon snow conditions, the Season of Operation would be from June 01 to September 15, 2009. Plowing of snow from Forest Service roads will not be authorized. Backfilling, re-contouring, spreading of topsoil, seeding, and mulching will be completed prior to October 15, 2009.
2. A Temporary Water Right to use water from Douglas Creek in the dredging and sluicing operations has been obtained from the State of Wyoming Engineer's Office for use of water from Douglas Creek.
3. Access to the alluvial bench will be by driving down a slope (about 50 feet) from NFSR #543. Driving a "Bobcat," track-hoe, or other machinery from the proponent's campsite on the west side of Douglas Creek to the alluvial bench on the east side of Douglas Creek will not be authorized.
4. A sediment buffer zone, consisting of undisturbed natural vegetation that is approximately 75 to 100 feet wide, has been flagged between the trench site and Douglas Creek. Gravel piles on the downhill side of the trench will not extend into this sediment buffer zone. This buffer zone will be maintained to minimize sediment from getting into Douglas Creek.

5. Topsoil piles on the uphill side of the trench and gravel piles on the downhill side of the trench will be covered with tarps to minimize erosion of the piles.
6. A row of weed-free straw bales will be placed on the downhill side of each gravel piles to act as sediment traps. The straw bales will be keyed into the ground and staked to the ground.
7. There is an existing ditch that runs parallel to Douglas Creek. This ditch is between the trench site and the creek bank. The ditch could act as a secondary sediment barrier, with straw bales to be placed along the existing ditch as determined necessary.
8. Seed mixtures and amounts for reclamation of the disturbed areas, as recommended by the Medicine Bow National Forest Range Management and Botany Cadre, are:

Mountain bromegrass ( <i>Bromus marginatus</i> )	2 pounds
Blue wildrye ( <i>Elymus glaucus</i> )	1 pound
Slender wheatgrass ( <i>Elymus trachycaulus</i> )	1 pound
9. After the trench and topsoil/gravel pile areas are backfilled, re-contoured, and seeded, weed-free straw mulch will be spread over the disturbed areas to protect the soils while the planted grasses become established.
10. The slope from NFSR #543 to the trench area will be seeded and mulched with weed free straw. Small logs and branches will be placed parallel with the slope contour to help slow down runoff on this slope.
11. To reduce mortality to juvenile trout, the intake of the water pump will be properly screened by either a 0.06 inch (eighteen gauge) woven wire mesh with openings no greater than 1/16 inch or a perforated plate with openings no greater than 3/32 inch.
12. Warning signs, stating "Work area ahead" or "Caution" will be placed on NFSR #543, both above and below the trench area, whenever vehicles and machines are being unloaded, loaded, or are moving along NFSR #543.
13. Proponent will take appropriate preventive measures to ensure that any spill of oil or oil products does not enter any stream or other waters of the United States. Refueling and maintenance of motorized equipment will not occur within riparian/wetland areas. Fuel containers will be stored away from the water influence zones.
14. Machinery (IE Bobcat with backhoe attachment, Track Hoe, and/or dump truck) will be cleaned, washed, and also inspected by Forest Service personnel prior to being moved onto NFS land.
15. An onsite meeting between Forest Service personnel and the proponent will be completed prior to the start of any work. The purpose of this meeting is to 1) designate, mark and measure the trees to be removed; 2) to determine placement of topsoil piles and gravel piles; 3) to determine the placement of straw bales; and 4) to show proponent the boundary of the sediment buffer strip between the trench and Douglas Creek.

## REASONS FOR THE DECISION

The reasons for my decision area as follows:

- The proposal was reviewed by the Laramie Ranger District Timber Staff and no concerns were identified. (Supervisory Forester, October 2005 and Forester, 2009)
- The area was surveyed for cultural resources in 1979, 1989, and 1991. No cultural materials were identified. (Forest Archeologist, October 2005).
- The USDI Fish and Wildlife Service has indicated that Blowout penstemon and Utes Ladies Tresses might have habitat on the Medicine Bow National Forest. There is no presence and no habitat present at the trenching site for Blowout penstemon. This plant's habitat is described as sand dunes and blowouts below 8000 feet in elevation. This mineral exploration site is at approximately 8700 feet in elevation. Utes ladies Tresses habitat is described as seasonally moist soils and wet meadows below 7000 feet in elevation. There are not any sub-irrigated wetlands at the trench site and the elevation is too great. Therefore, there were not any threatened, endangered, or proposed plant species that were known or suspected to occur in the project area. (Forest Botanist/Ecologist, March 2009)
- *Botrychium lineare*, narrowleaf moonwort, is known to be associated with mining and mineral areas. It is also known to be associated with roadsides. *Rubus arcticus ssp. acaulis*, dwarf raspberry, is known to occur on the southern portion of the Snowy Range in similar habitat. There is abundant similar habitat in the vicinity and elsewhere within the range of these species. The two species are known to occur elsewhere in sufficient numbers that viability would not be threatened by any effects of this mineral exploration activity. A determination of "May adversely impact individuals, but not likely to result in a loss of viability on the Planning Area, not cause a trend toward federal listing or a loss of species viability range wide" is made for *Botrychium lineare* and *Rubus arcticus ssp. acaulis*. (Forest Botanist/Ecologist, March 2009)
- Modifications and special mitigation to the Plan of Operation, as shown on pages 3 and 4 of this Decision Memo, will protect riparian and wetland resources. (Zone Hydrologist, May 2006 and February 2009)
- A Corps of Engineer's 404 permit is not required if stockpiles and excavation are kept out of the riparian/wetland area along the creek. (Zone Hydrologist, May 2006 and February 2009)
- Although there would be minor effects on scenic resources as a result of mining operations along Douglas Creek, required reclamation would restore the desired landscape character to meet the adopted scenic integrity objective of Moderate. (Forest Landscape Architect, May 2006)

- Modifications and special mitigation to the Plan of Operation, as shown on pages 3 and 4 of this Decision Memo, will protect fish. (Zone Fisheries Biologist, May 2006 and March 2009)
- A review of the Wyoming Natural Diversity Database (2007) and the Laramie District Files (2008) indicated that boreal toads, wood frogs, and northern leopard frogs (Region 2 sensitive species) have not been found in the vicinity of the proposed Allred Mineral Exploration project area in past and/or current field surveys. However, the project area is within the current ranges for boreal toads and wood frogs. There were wetlands concerns with the original proposal and its open-ended trench. With the revised proposal, the trench stays on the terrace which does not have wetland vegetation or characteristics. (Zone Fisheries Biologist, February 2009)
- The proposed activity was reviewed for impacts to any USFS Region 2 sensitive amphibian species and/or any potentially suitable habitat within the proposed project area. The mineral exploration activities would have no detrimental effects to amphibian species or habit based on the extent of the activity, the timing of activity and the location of activity. (Zone Fisheries Biologist, March 2009)
- There is a temporary water depletion associated with this project. However, temporary withdrawals of water that return to the same drainage basis within 30 days' time are considered to have an insignificant effect and do not require consultation with the U. S Fish and Wildlife Service. (Zone Fisheries Biologist, March 2009)
- This activity as proposed is outside, but adjacent to Canada lynx habitat. Since this is a short-term (1 year) and small area (100ft) Canada lynx will not be affected by this action. There are no other USFWS listed Endangered, Threatened or Proposed species in the area. A review of the USFS R2 Sensitive Species list and district wildlife observations does not identify any species that would be impacted by this activity. There are potential impacts to two management indicator species. Both of these species require riparian areas for nesting. Based on the amount of disturbance and the timing of this mineral exploration operation, any impacts to these species should be minimal. (Wildlife Biologist. February 2009)

Based upon the environmental analysis (40 CFR 1501.2(a)) and public scoping, the effects of implementing this proposal will be of limited context and intensity. It will result in little or no additional impacts to either the physical or biological components of the environment. In addition, this proposal does not involve any extraordinary circumstances as outlined in Forest Service Environmental Policy and Procedures Handbook (FSH) 1909.15 – Chapter 30.4.

Therefore, this project is Categorical Excluded from documentation in an Environmental Assessment or Environmental Impact Statement as described in FSH 1909.15, Chapter 31.2.

The mineral exploration activity fits the category of action identified in FSH 1909.15, Chapter 31.2 (8), *“Short-term (one year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than one mile of low standard road, or use and minor repair of existing roads.”*

This determination was also based on consideration that no extraordinary circumstances exist with respect to the conditions stated in FSH 1909.15, Chapter 30.3.

## **PUBLIC INVOLVEMENT**

The proposed action was listed in the MBRNF Quarterly Schedule of Proposed Actions (SOPA) in January 2006 and each subsequent quarterly report to date. A legal notice was published in the *Laramie Boomerang* on January 27, 2006. Also, the Laramie Ranger District mailed letters to 35 individuals, groups and organizations on January 27, 2006, requesting comments on the proposal. Eight (8) comment letters were received on the proposal. See the attached Response to Comments – Appendix A.

## **FINDINGS REQUIRED BY OTHER LAWS**

The Revised Medicine Bow National Forest Land and Resource Management Plan of 2003 (Revised Forest Plan), was reviewed and a determination is made that this decision is consistent with the Revised Forest Plan. The action complies fully and is consistent with the goals and objectives of the Revised Forest Plan, Direction for Management Area 5.13 (Forest Products), and Forest-wide General Direction and Standards and Guidelines (See Revised Forest Plan Chapters 1 and 2, pages 1-1 through 2-80) described in the Revised Forest Plan.

Floodplain, wetlands, threatened and endangered species, global warming and cultural resource implications have been considered and will not be adversely affected.

## **APPEAL OPPORTUNITIES**

This decision is subject to administrative appeal pursuant to 36 CFR 215, "Notice, Comment and Appeal Procedures for National Forest System Projects and Activities." Appeals, including attachments, must be in writing and filed (regular mail, fax, email, hand delivery, or express delivery) with the Appeal Deciding Officer (§215.8) within 45 days following the date of publication of a legal notice of this decision in the *Laramie Boomerang*. The publication date of the legal notice in the newspaper of record is the exclusive means for calculating the time to file an appeal (§215.15(a)). Those wishing to appeal should not rely upon dates or timeframe information provided by any other source.

## **Where to File an Appeal**

Appeal Deciding Officer  
Medicine Bow-Routt National Forests  
2468 Jackson Street  
Laramie, WY 82070  
Fax: (307) 745-2398

The office business hours for those submitting hand-delivered appeals are 8:00 a.m. - 4:30 p.m. Monday through Friday, excluding holidays. Electronic appeals must be submitted in a format such as an email message, plain text (.txt), rich text format (.rtf), and Word (.doc) to [appeals-rocky-mountain-medicine-bow-routt@fs.fed.us](mailto:appeals-rocky-mountain-medicine-bow-routt@fs.fed.us). In cases where no identifiable name is attached

to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification.

For electronically mailed appeal, the sender should normally receive an automated electronic acknowledgement from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgment of the receipt of the appeal, it is the sender's responsibility to ensure timely receipt by other means.

Pursuant to 36 CFR 215.13 (a), only those individuals or organizations who submitted comments during the comment period specified at 36 CFR 215.6 may appeal this decision. It is an appellant's responsibility to provide sufficient activity-specific evidence and rationale, focusing on the decision, to show why the Responsible Official's decision should be reversed (§215.14(a)).

At a minimum, an appeal must include the following (§215.14(b)):

1. Appellant's name and address (§215.2), with a telephone number, if available;
2. Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the appeal);
3. When multiple names are listed on an appeal, identification of the lead appellant (§215.2) and verification of the identity of the lead appellant upon request;
4. The name of the project or activity for which the decision was made, the name and title of the Responsible Official, and that date of the decision;
5. The regulation under which the appeal is being filed, when there is an option to appeal under either this part or part 251, subpart C (§215.11 (d));
6. Any specific change(s) in the decision that the appellant seeks and rationale for those changes;
7. Any portion(s) of the decision with which the appellant disagrees, and explanation for the disagreement;
8. Why the appellant believes the Responsible Official's decision failed to consider the substantive comments; and
9. How the appellant believes the decision specifically violates law, regulation, or policy.

Notices of Appeal that do not meet the requirements of 36 CFR 215.14 will be dismissed.

If no appeals are received, the approval of the Plan of Operations may be implemented on, but not before, five (5) business days after the close of the appeal period. If an appeal is filed, implementation of this decision will not occur until fifteen (15) days following the date of the appeal decision.

## CONTACT PERSON

For further information, contact Melissa Martin at 2468 Jackson Street, Laramie, WY 82070 or telephone (307) 745-2371.

## RESPONSIBLE OFFICIAL

/s/ Larry Sandoval  
**LARRY W. SANDOVAL, JR.,**  
Laramie District Ranger  
Medicine Bow-Routt National Forests  
and Thunder Basin National Grassland

April 9, 2009  
Date

Enclosures: Appendix A: Response to Public Comments

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