

## Appendix A: Response to Public Comments

The following section responds to *\*substantive comments* received during the 30-day comment period for the Pirates Gold Unpatented Mining Claim Proposed Action. This comment period was initiated on January 27, 2006 and ended February 27, 2006. During the comment period, the Forest Service received eight (8) comment letters from individuals, organizations, and State agencies. Not all letters received contained substantive comments. For example, some letters merely expressed opposition to the project without providing justification for their position.

Some of the comments received were similar in nature and were, therefore, combined for response. In these instances, the comments were combined into one general comment category, and an example of specific comments was extracted from the letters in an attempt to better illustrate the nature of the comments received. While your comment may not be one of those that was extracted and used as an example, it was considered individually.

**\*Substantive comments are those that are within the scope of, are specific to, and have a direct relationship to the Proposed Action. They also include supporting reasons for the Responsible Official to consider. Comments not meeting this definition were not addressed in this section.**

Letter #	Commenter
1	Biodiversity Conservation Alliance
2	Department of Environmental Quality
3	Wyoming Game and Fish Department
4	Stephen Nielsen
5	Wendell Funk
6	Martha Christensen
7	Daniel A. Dale
8	Kenneth E. Zajac

## Issue #1 – The Plan of Operations Contains Insufficient Information

### Equipment Needed and Road Use

<b>Comment #1a</b>	“The FS fails to discuss how equipment will be transported, operated, and removed from the site. Will permanent or temporary roads be constructed? What other equipment and/or facilities will be required for the operations?”
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**Letter #: 1**

**Response:** Proponent plans upon using a Bobcat with a backhoe attachment or a Track-hoe to dig the trench and remove the trees. The equipment would be transported to near the Pirate's Gold mining claims via a tractor truck and lowboy trailer rig on existing roads. The equipment would be off loaded and driven down the existing arterial road to the trench site. The Bobcat or Track-hoe can then maneuver down the fill slope of NFSR 543 to the work site. NO permanent or temporary roads will be constructed. NO existing roads will be reconstructed. Other equipment includes what proponent typically uses in a dredging operation. There will be a pump and hoses to move water from Douglas Creek to the trench. Permission for this has been granted via a Temporary Water Right by the State of Wyoming Engineers office. Proponent also sets up a campsite each summer on his mining claim. This includes a pickup truck, camp trailer, cargo trailer, storage tent, and other incidental possessions.

### Tree Removal

<b>Comment #1b(1)</b>	“The FS fails to discuss the removal of trees, roots, branches, and stumps. How will these activities be conducted? Will logging equipment be required for removal? If so, what type of equipment and how will it be transported to the site? How will the material be removed from the site?”
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**Letter #: 1**

**Response:** Trees to be removed from the trench area will be marked, measured, and sold to the proponent. The proponent plans upon using the bobcat and/or track-hoe to pull up whole trees in the trench area (IE, trunk, limbs, stumps, roots and all). These whole trees would be loaded onto a pickup with a flatbed trailer and transported to proponent's private property that is outside of the Forest Boundary. A dump truck may also be used to remove the woody material. As mentioned above, equipment would be transported to the trench area via tractor truck and lowboy trailer.

<b>Comment #1b(2)</b>	Will tree removal increase the potential for soil erosion? How will tree removal impact streambank integrity? Are there sensitive plant or wildlife species that will be impacted?
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**Letter #:1**

**Response:** *The Hydrologist report has determined that there will be potential for soil erosion. Mitigation measures to minimize the chance of sediment from getting into Douglas Creek will include:*

- *Not have the trench be open ended with water flows directly back into Douglas Creek. The trench will be closed so that water in the trench percolates thru the undisturbed soil and back to Douglas Creek.*
- *Use the old existing ditch that is between the trench area and Douglas Creek as a sediment trap, with weed-free straw bales installed in the ditch as needed.*
- *An area was designated between Douglas Creek and the trench by the Hydrologist and Minerals Administrator (with plastic flagging) to act as a natural sediment trap between the creek and trench area. No trenching or piling of material from the pit itself would extend below this line of flagging.*

*The removal of trees should not affect streambank integrity because of the undisturbed area left between the trench/gravel piles and Douglas Creek itself. The bobcat/track-hoe will be prohibited from crossing Douglas Creek (below the trench area) in order to get to proponen'ts campsite.*

*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 should 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 the operation any impacts to these species should be minimal.*

**Surface Area Disturbed**

<b>Comment #1c</b>	"The scoping notice fails to disclose the total surface area that will be disturbed."
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**Letter #: 1**

**Response:** *The main area of disturbance will be a trench that is approximately 20 to 25 feet wide by 100 feet long by 4 to 6 feet deep. This trench is located at the base of the fill slope of NFSR 543 and on the east side of Douglas Creek. Topsoil will be piled on the uphill side of the trench. "Gravels" from the trench will be piled on the downhill side of the trench and placed back in the trench after the bedrock is reached. Proponent's campsite on the west side of Douglas Creek is a popular dispersed recreation site that has been used for many years. Overall, it is estimated that approximately 0.10 acres of NFS land will be impacted by this one (1) year mineral exploration by trenching proposal.*

## Issue #2 – Floodplains, Wetlands, and Municipal Watersheds

### Impacts to Douglas Creek

<b>Comment #2a</b>	<p>“Douglas Creek has been identified as a 5<sup>th</sup> level Priority Watershed for protection and restoration, primarily for its outstanding fishery value and because it drains into the North Platte River, a river recommended for Wild and Scenic River designation. The proposed mineral exploration activities will have significant impacts on the Douglas Creek watershed because of the current condition of the creek and its selection for priority protection and restoration.”</p>
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#### Letter #: 1

**Response:** *Douglas Creek has a long history of human activities which have altered the stream channel. Tie driving probably occurred for a longer period of time on Douglas Creek than any stream in Wyoming, continuing from the late 1860's until 1940. Tie drives occurred during high spring flows to carry the ties downstream. Tie driving changed stream channel configuration – reducing habitat complexity and forming wider, shallower stream channels without large woody debris or pool habitat. A strip of trees is being left between the trench and Douglas Creek so woody debris is available next to Douglas Creek.*

*Mining activities have also occurred along Douglas Creek since placer gold was first discovered near Keystone in 1868. Several large dredging operations have occurred along Douglas Creek where the stream channel was altered. Piles of gravels, cobbles and small ponds were left along the stream. This can still be seen, both above and below the Pirate's Gold claim (IE near Bobby Thompson Campground and on private lands south of the campground bridge). This mineral exploration by trenching proposal will have minimal impact to the stream channel and minimal sediment into the stream channel, with the previously described mitigation measures.*

*No streambank or stream channel disturbance is allowed under this Plan of Operation. The trench is set back from the streambank and erosion control measures would be used to minimize sediment reaching Douglas Creek. For these reasons, it is believed that this mineral exploration by trenching proposal will have minimal impact to the stream channel and minimal sediment into the stream channel.*

*The North Platte River, from the Colorado/Wyoming State line to the confluence with Douglas Creek is recommended for Wild designation. It is recommended for Scenic designation from the mouth of Douglas Creek to Bennett Peak. However, a recommendation by the USDA-Forest Service does not guarantee that Congress will proceed with the recommendation.*

### Water Conservation Practices Requirements

<b>Comment #2b</b>	<p>“According to the FS's WCP Handbook, FSH 2509.25, and the Forest Plan, management actions must be undertaken so that “stream patterns, geometry, and habitats are maintained or improved toward robust stream health.” There is</p>
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	no indication that the proposed actions will maintain or improve stream patterns, geometry, and habitats toward robust stream health.”
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**Letter #:** 1, 8

**Response:** *This mineral exploration by trenching proposal is not in the stream channel and should not affect stream channel geomorphology. The trench area is classified as a terrace or abandoned floodplain. Erosion control measures and the location of the trench are designed to maintain the condition of Douglas Creek.*

## Adjacent Wetlands

<b>Comment #2c</b>	“Adjacent wetlands will be significantly affected by the proposed activities. These wetlands are part of a fragile ecosystem which not only supports many plant and wildlife species, but also provides erosion protection and soil stability through the presence of trees and vegetation. Removal of these vital, natural checks and balances will expose the wetlands to greater erosion and soil stability. Erosion will, in turn cause heavier sediment loading to Douglas Creek.”
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**Letter #:** 1, 5

- **Response:** *The riparian area adjacent to Douglas Creek below the trench area is narrow, with a 20 to 35 foot band of willows and other riparian vegetation along the streambank. The area where the trench will be is a relatively flat area between the stream and the fill slope of NFSR #543, is vegetated with lodgepole pine, and can be classified as a terrace or abandoned floodplain. No operations would be allowed in Douglas Creek or other wetlands in the area. A sediment buffer zone between the trench site and Douglas Creek has been flagged with plastic ribbon. 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. 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. A row of weed-free straw bales will be placed on the downhill side of each gravel pile to act as sediment traps. The straw bales will be keyed into the ground and staked to the ground. There is an existing ditch that runs parallel to Douglas Creek, between the trench site and the streambank. The ditch could act as a secondary sediment barrier, with straw bales to be placed along the existing ditch as necessary. Runoff uphill of the trench is blocked by NFSR #543, an existing crowned, ditched, and surfaced road. Runoff above the existing road is diverted along the borrow ditch to culverts above and below the trench area. A culvert does not conduct runoff onto the terrace where the trench will be.*

## Section 404 Permit Requirements

<b>Comment #2d(1)</b>	“Digging of the trench and piling topsoil and gravels on both sides of Douglas Creek will have the potential to introduce dredge material and fill into the Creek. According to Section 404, a permit is required for the discharge of dredged or fill material into Douglas Creek, and then only if the activities will cause only minimal adverse environmental effects and will have only minimal cumulative effect on the environment.”
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**Letter #:** 1, 2

**Response:** *This mineral exploration by trenching proposal IS NOT on both sides of Douglas Creek. It is only on the east side of Douglas Creek. According to the Zone Hydrologist, if stockpiles and excavation are kept out of the riparian/wetland area along the creek, then a 404 permit would not be required. A 404 permit applies to operations in wetlands. No operations in Douglas Creek or nearby wetlands would be authorized under this Plan of Operation.*

<b>Comment #2d(2)</b>	“The scoping notice is silent about whether any road construction or re-construction will be needed for the proposed activities. If any road-building activities are to occur, then Section 404 requirements must again be met.”
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**Letter #:** 1

**Response:** *NO roads will be constructed or reconstructed. Access to the trench area is down the fill slope of NFS #543.*

## Storm Water and National Pollutant Discharge Elimination System Permits

<b>Comment #2e</b>	“The Clean Water Act, Clean Water Act regulations, and Wyoming water quality laws also indicate that a storm water discharge and National Pollutant Discharge Elimination System (NPDES) permits are required for any proposed construction project greater than five acres. Since the scoping notice does not disclose how much area will be disturbed, it is impossible to know where these requirements will apply to the project area, or not.”
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**Letter #:** 1, 2

**Response:** *As stated above, the disturbed area for this mineral exploration by trenching proposal is approximately 0.1 acres of NFS land. (one tenth acre). Therefore, a NPDES permit would not be necessary.*

**Issue #3 – Significant Impacts to Soils****“Activity Area” vs. “Land Unit”**

<b>Comment #3a</b>	“According to the Forest Plan, detrimental soil impacts must be limited to no more than 15% of any “activity area.” Yet, according to FSH 2509.25, 14.1, detrimental soil impacts are limited to no more than 15% of any “land unit.” Whichever standard the FS pursues, we request the FS provide a rationale for choosing that standard and explain how it provides adequate protection to soils within the Pirates Gold project area.”
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**Letter #:1**

**Response:** *Effective 5/5/06, FSH 2509.21, 14.1 direction has been revised from “limit the sum of severely burned and detrimentally compacted, eroded, and displaced land to no more than 15% of any land unit” to “limit the sum of severely burned soil and detrimentally compacted, eroded, and displaced soil to no more than 15% of any activity area”.*

*The Medicine Bow National Forest Land and Resource Management Plan follows the Soil Quality Standards outlined in FSH 2509.18, 2.2, 3.*

**2.2 - SOIL QUALITY STANDARDS.**

*3. Detrimental Compaction, Displacement, Puddling, Severe Burning and Erosion. No more than 15 percent of an activity area will be left in a detrimentally compacted, displaced, puddled, severely burned, and/or eroded condition. This does not include the permanent transportation system.*

*As defined in the National Soil Handbook (FSH 2509.18) soil quality standards are intended for areas where management prescriptions are being applied, such as timber harvest areas and range allotments. They are not intended to apply to administrative sites or other areas with dedicated uses such as the permanent transportation system, well pads or ski areas, for example.*

**Cumulative Effects**

<b>Comment #3b</b>	“To properly assess cumulative detrimental soil impacts, we request the FS follow the procedures set forth at FSH 2509.18, 2.41. The Area Extent Sampling method set forth at this section of the FSH is the recommended protocol. If the FS chooses to pursue an alternative protocol for assessing detrimental soil impacts within the project area, we request the agency explain why it is not following the recommended protocol.”
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**Letter #: 1**

**Response:** *The use of visual observations to determine extent of soil impacts follows direction outlined in FSH 2509.18, 2.4.*

*2.4 - MONITORING METHODS. Develop standard sampling methods and techniques for effectiveness and validation monitoring to determine if prescribed soil management practices were applied and if they worked, and to verify or develop soil quality standards.*

*In most cases, visual methods are used to make initial evaluations (like those described in ex. 01, sec. 2.2). Measurements and detailed sampling are used to calibrate visual methods, and to conduct investigations where visual methods are inadequate.*

**Issue #4 – Significant Impacts to Recreation Uses**

**Impacts to Bobbie Thomson Campground**

<b>Comment #4a</b>	“Many people recreate at Bobbie Thomson campground with the expectation of quiet and relatively undisturbed recreational activities. The proposed project would have a significant impact on recreationists who use this area.”
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**Letter #: 1**

**Response:** *People recreating at the Bobbie Thomson Campground could be negatively impacted by the sounds associated with the heavy equipment required to excavate and backfill the trench. These impacts should be confined to the time period associated with the excavating and backfilling operations only; during the remainder of the operation, impacts to users of the area will be minimal if any, and would be consistent with the sights and sounds already present in the area (i.e., vehicle traffic, recreational mining operations, etc.). Some displacement of recreationists from the campground could result from the impacts associated with the use of heavy equipment; however no off-Forest displacement is anticipated. With Bobbie Thomson consisting of only 18 campsites, and its occupancy levels ranging between 5% and 20%, displacement of and/or impacts to users of the site will be relatively small in number.*

**Issue #5 – Aquatic Considerations**

<b>Comment #5a</b>	<p>“The proposed project area is adjacent to Douglas Creek which is a Yellow Ribbon trout fishery. The maintenance and enhancement of instream habitat is important to the long-term sustainability of the Douglas Creek fisheries. To minimize impacts to aquatic resources, we recommend the following:</p> <ul style="list-style-type: none"> <li>• Construction should be designed and completed in a manner that minimizes soil erosion. Disturbed areas should be reseeded with appropriate plant varieties as soon as practically possible after</li> </ul>
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	<p>disturbance. Disturbed areas that are contributing additional sediment to Douglas reek as a result of project activities should be promptly stabilized or revegetated to maintain water quality.</p> <ul style="list-style-type: none"> <li>• Sediment transport to Douglas Creek during the spring (March 15 to May 31) and fall (October 15 to November 30) should especially be minimized to reduce impacts to rainbow and brown trout redds.</li> <li>• Heavy equipment use should be confined to areas necessary for mineral extraction. It would be best if work started each year after the spring runoff to avoid transport of pollutants (topsoil, silt, sand, gravel, solid wastes, slash, debris, or chemicals) stored or deposited within the active flood plain. Overland flow should concentrate materials and carry pollutants directly into Douglas Creek.”</li> </ul>
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**Letter #: 3**

**Response:** *The revised Proposed Action (April 2006) detailing the schedule of operations on the Allred Mining Project changes the open-ended trench running parallel to Douglas Creek to a lower end closed trench blocked off from the creek to act as a sediment filter during dredging operations. This will allow the turbid, sediment suspended water to percolate back through the soil before re-entering the water table and eventually Douglas Creek. Additionally, sediment fences and/or straw bales will be installed where designated to prevent or minimize disturbed soils from entering the creek.*

*The proponent has also agreed to refill the active trench at the end of the operating season. The proponent would also re-vegetate the refilled trench with an approved seed mixture. Additionally, any willow clumps removed should be replaced along the altered landscape each season following trench refilling. I concur with the comment by the Wyoming Game and Fish Department that there should not be active trenching operations during the spring (March 15 to May 31) and fall (October 15 to November 30) each year to protect rainbow and brown trout redds. This allows for an active operating window from June 1<sup>st</sup> to October 14<sup>th</sup> each year.*

*All equipment, either personal or mechanized before entering the stream or riparian/wetland area would be washed to remove any mud or chemical products, and then disinfected by using a legal and effective biocide or by using other legal and effective treatments to prevent the inter-drainage spread of Chytrid fungus, the whirling disease protozoan, and other pathogens within Forest habitats.*

*No chemical leaching of mined materials using arsenic or mercury would be performed on Forest Service lands especially in or around Douglas Creek and its associated riparian/wetland areas.*

*All refueling and maintenance of motorized equipment would be done well out of the riparian/wetland and stream area to prevent the accidental spillage of these chemicals into these areas. Also storage tanks for these chemicals should be kept far out of the water influence zone.*

*If these design criteria for a plan of operations are met and adhered too, then I believe there should be minimal impact to fisheries and their associated habitats.*

## Issue #6 – Public Participation

<b>Comment #6a</b>	<p>“Page 2, Public Participation: The text refers to Scoping, as described at 40 CFR 1501.7. The Regulations at 1501.7(a)(2) requires a determination of the scope of the project as described at Section 1508.25, “Scope consists of the range of actions, alternatives, and impacts to be considered...” This scoping document does not contain any range of actions, alternatives, or potential impacts, which prevents the public from providing “substantive comments”, which is required by 36 CFR, Part 215.6(a)(iii).”</p>
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**Letter #: 4**

**Response:** *This project was not designed to meet forest management objectives that would include a range of actions and alternatives. Mineral activities are very site specific because mineral materials are located where they are found. It is not the role of the Forest Service to determine what can be done differently from what the proponent has proposed. The analysis addressed the impacts of the proponent’s activities and where necessary, puts forth necessary and reasonable mitigation measures to protect the natural resources.*

<b>Comment #6b</b>	<p>“Page 3: In the second to the last paragraph it states, “Forest Service regulations outlining the requirements for providing comments on a Proposed Action can be found at 36 CFR 251.6(a)(3).” The correct citation is 215.6(a)(3). This incorrect citation also appears in the Legal Notice that was published. Both documents need to be corrected and released again to the public.”</p>
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**Letter #: 4**

**Response:** *Thank you for noting the error in the citations shown above. However, this is insufficient reason for the Public Scoping Document and the Legal Notice to be rescinded and a second formal scoping period to be initiated. While the citation may have been in error, information provided regarding the requirements for commenting was correct.*

**Issue #7 – Amphibians**

<b>Comment #7a</b>	“This proposal will not protect sensitive amphibian habitat which is in violation of the Forest Plan.”
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**Letter #: 8**

**Response:** *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 to have the trench go all the way to the creek. With the revised proposal, the trench stays on the terrace which does not have wetland vegetation or characteristics.*

*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.*