

From: [Kinsey, Celeste -FS](#)
To: joseph.nitsche@gmail.com
Cc: [Goshen, Richard - FS](#)
Subject: RE: Hermosa-Taylor scoping notice
Date: Thursday, September 22, 2016 3:09:29 PM
Attachments: [Hermosa-Taylor Signed Scoping Letter 07 SEP 2016.pdf](#)
[Taylor Deposit Drilling Project of Operations 7.27.16 - Figure 1.pdf](#)
[Taylor Deposit Drilling Project of Operations 7.27.16 - Figure 2.pdf](#)
[Taylor Deposit Drilling Project of Operations 7.27.16 - Figure 3.pdf](#)
[Taylor Deposit Drilling Project of Operations 7.27.16 - Figure 4.pdf](#)
[Taylor Deposit Drilling Project of Operations 7.27.16 - Figure 5.pdf](#)
[Federal Register Notice Newspapers of Record 21 JUL 2016.pdf](#)

Hello Joe,

Thank you for your email on Arizona Minerals' Inc. proposed Hermosa-Taylor Deposit Drilling Project. Attached, please find an electronic copy of the scoping letter with figures.

Regarding your request to extend the scoping comment period, there is not a mandated timeframe associated with scoping. Scoping comments can be submitted anytime during the NEPA process, and the Forest Service can receive scoping comments up and until a decision is made on a proposal. This is consistent with Forest Service Handbook 1909.15, National Environmental Policy Handbook, and our NEPA regulations found at 36 CFR 220.

The Hermosa-Taylor Deposit Drilling Project was uploaded to the Schedule of Proposed Actions (SOPA) on September 14, 2016. If you are unable to download, please let me know and I can send you an electronic copy on CD.

Anyone can request to be added to the mailing list at any time. If you are able to act on behalf of individuals who did not receive the scoping letter and figures, please send me their contact information and they will be added to the mailing list. Please be advised that once on the mailing list, names and addresses will be considered part of the public record for this proposal and will be available for public inspection and potentially released if requested under the Freedom of Information Act.

The newspaper of record for publishing notices which occur east of Highway 83 is the Sierra Vista Herald. The newspaper of record for publishing notices which occur west of Highway 83 is the Nogales International (see attached Federal Register Notice dated July 21, 2016). The legal notice for this proposal was published in the Sierra Vista Herald on August 31, 2016. Though not required, the legal notice was also published in the Nogales International on September 9, 2016. If you have any suggestions for other papers in which future notices could be published please let me know. As you've noted, there was an error in the notice, identifying the Eastern Arizona Courier as the newspaper of record. We are aware of the error and sincerely apologize for any confusion this may have caused. Additionally, as stated previously, scoping comments can be submitted at any time during the NEPA process.

Information and documents associated with the NEPA process for the Hermosa-Taylor Deposit Drilling Project can be accessed from the following Forest Service web site:

[http://www.fs.usda.gov/project/?project=50097&exp=overview&utm_source=PARA+Newsletter+subscribers&utm_campaign=8f18dca0df-scoping_comment_meeting9_15_2016&utm_medium=email&utm_term=0_84217e1dc1-8f18dca0df-105378801&ct=t\(scoping_comment_meeting9_15_2016\)&mc_cid=8f18dca0df&mc_eid=4b1f52237a](http://www.fs.usda.gov/project/?project=50097&exp=overview&utm_source=PARA+Newsletter+subscribers&utm_campaign=8f18dca0df-scoping_comment_meeting9_15_2016&utm_medium=email&utm_term=0_84217e1dc1-8f18dca0df-105378801&ct=t(scoping_comment_meeting9_15_2016)&mc_cid=8f18dca0df&mc_eid=4b1f52237a)

If you have further questions, please don't hesitate to contact either me or Rick Goshen, Geologist, Coronado National Forest (rgoshen@fs.fed.us).

Daisy Kinsey, CMA I
District Ranger

Forest Service
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Caring for the land and serving people

-----Original Message-----

From: joseph nitsche [<mailto:joseph.nitsche@gmail.com>]
Sent: Wednesday, September 21, 2016 4:17 PM
To: Kinsey, Celeste -FS <ckinsey@fs.fed.us>; Goshen, Richard - FS <rgoshen@fs.fed.us>
Cc: Dewberry, Kerwin -FS <kdewberry@fs.fed.us>; Joyner, Calvin -FS <cjoyner@fs.fed.us>;
jtutchton@defenders.org
Subject: Re: Hermosa-Taylor scoping notice

September 29 will be here soon! Are you going to extend the comment period?

Joe Nitsche

> On Sep 14, 2016, at 9:47 AM, Joe Nitsche <joseph.nitsche@gmail.com> wrote:

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> I am writing regarding your letter dated September 7, 2016 inviting comments on the proposed Plan of Operations (PoO) for the Hermosa-Taylor Deposit Drilling Project submitted by Arizona Mining Inc. (AMI). The September 7 letter states that the project if approved would drill eight holes on three drill sites on National Forest Service land. Drilling operations are proposed to run up to 24 hours per day, seven days a week for an expected five month period. My inquiry is sent as a member of the board of directors of the Patagonia Area Resource Alliance (PARA).

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> PARA is requesting that the comment period on the proposed PoO be extended for an additional 30 days based upon the following considerations:

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> o The proposed PoO has not been published on the Forest Service internet project page for the Hermosa-Taylor Drilling Project. A prospective commenter has nothing to comment on at this time because there is no PoO available for review.

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> o Many individuals who commented on proposed actions for previous iterations of the Hermosa project, including myself, did not receive a copy of the September 7, 2016 letter inviting comment on the proposed PoO for the Hermosa-Taylor Drilling Project;

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> o Legal notice of the opportunity to comment was published in the Sierra Vista Herald. Sierra Vista is 46 miles from Patagonia and is not even located in the same county as the Town of Patagonia. The likelihood that any interested party reading the notice in the Sierra Vista newspaper is remote, reducing the effectiveness of the notice.

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> o The September 7, 2016 letter does not state any deadline for the submission of comments. A prospective commenter would not learn of any deadline for comment (it's September 29, 2016) from the letter but only by looking at one Forest Service internet page that is not the main project page for the Hermosa-Taylor Drilling Project or the published notice in the Sierra Vista Herald. A purported notice (the September 7, 2016 letter) that does not state the deadline for comments is not legally sufficient.

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> o The September 29, 2016 deadline for comments was determined by calculating 30 days from the August 31,

2016 publication date in the Sierra Vista Herald. In addition to the proximity issue with Sierra Vista, the trigger date of August 31 is seven days before the date of the Forest Service letter of September 7, 2016. This letter was sent through the U.S. Postal Service, so that receipt could be on or about September 13, 2016, providing only 16 days notice, not 30 days.

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> o The Affidavit of Publication on August 31, 2016 is signed by the publisher of the Sierra Vista Herald and Bisbee Daily Review. However, the Public Notice states that "Specific written comments (218.2) on the proposed project will be accepted for 30 calendar days following publication of this notice in the Eastern Arizona Courier." This discrepancy between the Eastern Arizona Courier of Safford and the Sierra Vista Herald renders the entire Public Notice of August 31, 2016 invalid.

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> 40 CFR 1501.7 provides that scoping is "an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action". An open process cannot occur if interested parties are not given notice of a proposed action or are given insufficient time to submit comments. The process works best when the public is adequately informed of the comment period for this proposed action and is provided sufficient time to formulate possible issues related to this complex and interconnected subject. There also are several noted legal deficiencies with the notice process for this proposal that severely limit the opportunity for public comment and could require the Forest Service to start the process again if reviewed by an impartial arbiter.

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> PARA therefore requests that the comment period for the proposed Plan of Operations for the Hermosa-Taylor Deposit Drilling Project be extended for an additional 30 days.

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> Thank you for your consideration of this request. Please contact me if you would like to discuss this matter further.

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> Joseph Nitsche

> 518-441-6299

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> Sent from my iPad