

September 21, 2018

USDA – Forest Service  
Attention: Director-MGM Staff  
1617 Cole Boulevard, Building 17  
Lakewood, Colorado 80401

Dear U.S. Forest Service,

Enclosed are my personal scoping comments about the U.S. Forest Service (FS) Advance Notice of Proposed Rulemaking for Locatable Minerals Regulations in the National Forest System (NFS). Please place me on your public notification list for all National Environmental Policy Act (NEPA) notices, other public notices, and other public information about this proposal.

**1) Page 46451, Summary**, the FS says that this proposal is based on “the need to clarify or to otherwise enhance its regulations that minimize adverse environmental impacts on National Forest System surface resources in connection with ... mining laws”. The FS then contradicts itself a few sentences later and provides the real reason for the proposal, “The goals of the regulatory revision are to expedite Forest Service review of certain proposed mineral operations ... to assist those who conduct these operations on lands managed by each agency”.

There is no enhancement of regulations that minimize environmental impacts. There is streamlining and a reduction of the burden for mineral companies that will be subsidized and that will exploit public natural resources on public lands. This private development is based upon exploitation of public natural resources on public lands for the profit and benefit of polluting companies who by their actions kill or injure citizens via conventional air pollution, greenhouse gas air pollution, degradation and destruction of lands, landscapes, water, wildlife, and ecosystems that are owned by the public.

The FS provides no documentation that there is a need to “expedite” and “assist those who conduct these operations”. What and where are the standards that are used by the FS to judge whether there is a need to “expedite” and “assist those who conduct these operations”?

The FS provides no documentation to back-up its assertions. This is a bogus proposed regulatory change. The minerals industry needs to be watched, needs oversight, needs compliance and enforcement attention because it has repeatedly destroyed and damaged the surface and subsurface rights of the public on public lands. The minerals industry is one of the most politically and financially powerful industries on Earth. The minerals industry creates large amounts of air, water, and land pollution in the World. It must be

regulated closely, strictly, and comprehensively to ensure it does not further damage public natural resources on public lands.

The development of minerals ensures more climate change, more greenhouse gas air pollution via direct release of carbon dioxide, release of toxic particulates in the air, release of toxic materials like cyanide, heavy metals, and acids into ground and surface waters, and volatile organic compound air pollution which helps form ozone and smog, there is no way that this proposal will “enhance ... regulations that minimize adverse environmental impacts on National Forest System surface resources”. “Environmental impacts” will increase due to this proposal. I object!

**2) Page 46452, Background and Page 46458, Need for Rulemaking,** the FS states that locatable minerals are “base and precious metal ores, ferrous metal ores, and certain classes of industrial minerals that include, but are not limited to gold, silver, platinum, copper, lead, zinc, magnesium, nickel, tungsten, bentonite, barite, fluorspar, uranium, and uncommon varieties of sand, gravel, and dimension stone.” The FS fails to state all minerals that are included in this proposal and uses the phrase “but are not limited to”. For the public to understand the full implications of this proposal and its potential environmental impacts all possible minerals that the FS may allow to be mined on the entire 191-million-acre National Forest System (NFS) should be named.

The problem with “common” versus “uncommon” varieties of sand, stone, gravel, pumice, pumicite, cinders, and clay is the way these two terms are defined. The FS should define these two terms strictly so that persons cannot take advantage and mine in the NFS when that should not be allowed.

I am opposed to this broad discretion to mine anything that the minerals industry says is of value on public lands. I have seen the devastation of mining on public lands in Sam Houston National Forest (SHNF). I am not in favor of hard rock or other mining on the NFS including lignite, ceramic clays, non-ceramic clays (bentonite) iron ore gravel, iron-manganese concretions, asphaltic sand, glauconite, industrial and specialty sands, and sources of crushed stone. The environmental damage that is done to other natural resources (vegetation, streams, wildlife, etc.) and the damage to other multiple uses in the NFS is too great. These minerals are found in abundance on private lands and can be more easily mined on those lands.

The FS used to allow counties to mine sand and gravel on SHNF. I have seen and walked areas where this has occurred. The surface is pitted with depressions and consists of a hard, impermeable, clay where trees and other vegetation grow slowly if at all. Many of these areas were never reclaimed and although they have not been used in decades, the impacts are still obvious. Sand mining also destroys the riparian zone of the East Fork of the San Jacinto River, just outside SHNF. This same type of destructive mining could occur in SHNF under the guise of “fracking sand” and would degrade and destroy wildlife,



bottomland hardwood forested wetlands, and other significant habitats and landscapes. This mining results in devastated ecosystems that rarely if ever recover their full, productive, capacity.

The FS should provide documentation to compare how the current system works and how the proposed changes will make that system work better. The FS should clearly show what standards are used to determine that there is a need to “expedite” and “assist those who conduct these operations”, how the present system addresses this, and how the proposed system will address this. The FS should state what “expedite” means in this proposal. The FS should state what “assist those who conduct these operations” means. What type of assistance is possible? What type of assistance do minerals companies currently receive? What benefits do minerals companies get with this assistance? What benefits does the public receive and what is the magnitude of those benefits per capita? Without some comparison, the public cannot judge the accuracy of FS claims that there is a problem, how well the current and proposed systems work and meet all standards that the FS currently uses to judge acceptable results.

3) **Page 46452, Background**, the FS states “the agency should adopt an expeditious process for reviewing proposed exploration operations affecting 5 acres or less of National Forest System lands”. I oppose this idea. Five acres is a large enough where groundwater can be polluted or landscapes, ecosystems, and wildlife habitat can be forever destroyed.

4) **Page 46452, Background**, I support that the FS must ensure that all proposed plans or operations are complete before required environmental analysis begins. The FS must ensure that the public can review, comment on, collaborate, cooperate, participate, and provide input into those plans in a timely fashion over a reasonable length of time.

5) **Page 46453 Background**, the FS states that “Increasing the consistency of ... procedures and rules would benefit person who conduct locatable minerals operations on the public lands ... a list of 35 mineral commodities vital to the economic and national security ... increase exploration for and mining of, critical minerals ... revise permitting processes to expedite exploration for, and production of, critical minerals ... should enhance operators’ interest in, and willingness to conduct exploratory operations ... Providing a more efficient process for approving exploration activities for the energy-producing locatable minerals uranium and thorium would reduce regulatory burdens that unnecessarily encumber energy production”.

I disagree with the ideas behind this statement. Because mining is such an environmentally destructive and damaging activity it must be looked at very closely to ensure that it is needed and that it can be done in such a way that full reclamation is done. The time, personnel, and experience needed must be dedicated to this effort. No streamlining. It is the public who pays, not the miner, when something goes wrong. It is

the public's land that is degraded. The miner can declare bankruptcy and get away with irresponsibility.

The FS and others have allowed, for instance, gold heap leaching as "state-of-the-art" technology on public lands for the last 20 years. These facilities have leaked toxic cyanide, heavy metals, and acids into public surface and groundwater. This is not acceptable. The public was told during the times when these facilities were permitted that there was no cause for concern and that they were "state-of-the art". Some of these release incidents occurred on BLM lands which proves just because the FS views BLM as having regulations it wants to mimic and be consistent with does not mean that this is a good idea.

The idea of making it easier to mine uranium and thorium is frightening. Radiation is virtually forever. Radiation can cause cancer. There is no safe limit for radiation. Even the smallest exposure to radiation creates an increased risk of illness. The FS provides no documentation that there are "regulatory burdens", what these "burdens" are, where they are located, how many there are, who they are a burden to, who or what the "burdens" currently benefit, etc. The same is true about "unnecessarily encumber energy production". What and where are the standards that are used by the FS to judge whether energy production is not acceptable or has been constrained, encumbered, and prevented? There is no "there" there.

**3) Pages 46453, 46454, and 46457, Need for Rulemaking,** under 228.4, I support that no mining operation (prospecting, sampling, mining, etc.) that is conducted on public land, no matter the class of operation, casual use, notice-level operations, plan-level or any other class under BLM or FS administration, should be allowed to begin without a permit and without notification of the FS. All should have a permit and must notify the FS before operation begins on public land.

Public and agency officials and staff must know what occurs on public lands before it occurs, so they can conduct appropriate pre, during, and post monitoring to ensure that damage is avoided, minimized, and mitigated. It is common sense to be informed and know what is occurring on your own property. The FS is the caretaker of my property and I want to know who is on my property and what they are doing. This is a common right of a landowner and the FS should not abdicate this responsibility.

I support that the operator should not be able to begin operations until the FS approves the plan of operations and the operator has submitted a financial guarantee. I believe the FS must go beyond this and require that the financial guarantee be verified and approved by the FS before any operations begin. Operators in the past have submitted financial guarantees that were later demonstrated to be too little to cover damages that the operator caused. Operators have gone bankrupt and failed to clean-up their mess. Do



not trust operators. These are public lands that the FS is supposed to protect on behalf of the public. Use Ronald Reagan's adage, "Trust, but verify!"

4) **Page 46454, Need for Rulemaking**, suction dredging should not be allowed on the NFS because its' impacts cannot be successfully mitigated. I support that certain categories of land, like scenic areas, national recreation areas, etc. should be protected with "no surface use" stipulations. The FS must prepare a list, with public input, of all the categories of land and specific areas of land that will have a "no surface use" stipulation.

5) **Page 46454, Need for Rulemaking**, The FS should require that an operator meet with it so that the FS can tell the operator what information a proposed plan of operations must have. Make this a mandatory meeting. No voluntary meeting. This is serious, this is public land that must be protected. The FS must approve the plan as complete, with respect to information, before any environmental analysis begins.

6) **Pages 45455 and 45456, Need for Rulemaking**, I support the FS having a procedure for permit modification. This procedure must include public review and comment. I support the FS having more tools for compliance and enforcement so that violations, whether "significant" or "non-significant" are addressed as soon as possible.

I do not support allowing "non-significant" violations to linger. If after an appropriate time and via the proper procedure the FS does not get the operator to address a "non-significant" violation, the rule should require that the "non-significant violation" be upgraded to a "significant violation" because any operator who refuses to fix any violation has created a "significant" issue because the operator demonstrates that he/she is unable or unwilling to responsibly comply with the law.

7) **Pages 46456 and 46457, Need for Rulemaking**, I support a definitive definition of "occupancy" and strict and strong enforcement to remove those uses and persons who illegally use public lands for activities other than legal mining operations.

This proposal means less NEPA analysis, less time for public review and comment, and less time for public collaboration, participation, and input. I do not support this effort. There is no documentation that shows that "expedited" decisions" are needed. The FS fails to show how much reduced budgets, which have cut personnel, monies available, and experience, have affected minerals regulation, timeliness of implementation, and monitoring, auditing, and compliance with regulations.

The FS fails to show how the above affects the permitting process and has failed to compare the current process with the proposal. The FS has not analyzed whether the proposal will have a synergistic impact that reduces public participation and increases environmental degradation on public lands and natural resources. Public natural resources are not free and should not be discounted and given to greedy companies by

weak-willed regulators. It is the FS job to protect these natural resources and public lands and to ensure citizens (taxpayers) are given a fair return. This is not a fire sale! The FS should clearly show how this proposed rulemaking and the one for oil/gas intersect and what synergies there are between the two sets of rules and their effects on public participation.

8) **Page 46458, Need for Rulemaking**, the FS provides no documentation which compares the BLM regulations to FS regulations. The FS provides no documentation of what standards are used to show how both work and both effect the environment and public participation. The FS fails to show how each regulatory structure works and what the environmental impacts are of each.

How much does the FS want to “decrease permitting times by removing regulatory burdens that unnecessarily encumber energy production”? Where are the standards that the FS uses to judge whether a decrease in permitting times is needed? Where are the standards that the FS uses to determine if something “unnecessarily encumbers energy production”? Where are the standards that the FS uses to determine that its is allowing industry to begin production quickly enough? What are the “regulatory burdens” that the FS believes exist in the mineral regulations? The FS has provided little documentation that the system is broken.

**I do not support** waivers, exceptions, and modifications to permits or that allow less stringent environmental protection, less monitoring, reporting, inspections, and environmental compliance. All the above areas can only work via a rigorous public review, comment, participation, collaboration, cooperative, input program with procedures built-in so that people can have a say about what energy sources they want on public lands.

I do not support a FS environmental protection program that is supposed to protect the public and public lands and resources from the impacts of minerals exploitation but simply defaults to BLM regulations. The BLM is not known as a particularly aggressive protector of the environment. The FS has a different history, reputation, and experience with public lands that must be respected and protected. The BLM does not have all the answers.

I do support the preparation by the FS of a minerals regulations environmental impact statement (MREIS). The MREIS is needed because potentially environmentally sensitive areas, organisms, and public lands and resource require more protection and analysis than an environmental assessment (EA) provides. NEPA requires an EIS and the FS must obey the law. This is a programmatic proposal that will affect all 191 million acres of the NFS.

I find it unacceptable that the FS ignores climate change in its discussion of minerals exploitation on public lands for this proposed MREIS. It is the extraction and exploitation



of public minerals that is one reason climate change occurs. The FS should require in the MREIS the implementation of a mitigation program to reduce climate change air pollution so both direct and indirect air pollution from minerals removed from the NFS is covered. Climate change affects all other natural resources, public lands, and uses of the NFS in a negative way and makes it harder for the FS to manage and protect these lands in the public interest and as a public trust. I support that the MREIS require aggressive mitigation of all climate change gas releases, due to direct and indirect releases.

I support that the MREIS require an analysis of private lands that are outside, but adjacent to, the NFS. The FS should analyze how it will address the affect that private and public lands have on each other. The FS must explain what are the solutions, strategies, and regulations that will minimize negative impacts on both.

I support that the MREIS require protection of Special Management Areas (Wilderness Areas, Scenic Areas, etc.), from current and future minerals exploitation, with maximum use of “no surface use” requirements.

I support that the MREIS require preparation of an inventory of sensitive areas and the protection of these areas, along or near minerals developments in the NFS. This includes, but is not limited to, streams, rivers, seeps, springs, lakes, ponds, and other water related elements. This includes wildlife habitats, mature, old-growth, and near old-growth forests, native prairies, endangered species like the Red-cockaded Woodpecker and other rare, threatened, endangered species, and species of concern and their habitats.

I support that the MREIS require reduction or elimination of fragmentation impacts on the NFS due to current and future minerals exploitation. Existing fragmentation impacts from minerals exploitation should be analyzed and presented so that a baseline of effects is created for present and future mitigation measure implementation.

I support that the MREIS require more stringent mitigation measures for current and future minerals exploitation.

I support that the MREIS require protection of recreational facilities and trails in the NFS. I support that the MREIS require a protective buffer between trails and any minerals exploitation activities. I support any other mitigation measures that protect trails' activities from visual and noise pollution caused by minerals exploitation.

I support that the MREIS require a “**Resilient Habitat Plan**” (RHP). The RHP is a form of mitigation to reduce or ameliorate climate change impacts on landscape habitats due to minerals exploitation. The RHP would assess the biological and ecological elements in the NF/NG that is exploited for minerals and the effects that climate change has had and will have due to this exploitation. The RHP would assist plants, animals, and

ecosystems in adapting to climate change, monitor those changes, and mitigation measure effectiveness. The RHP is based on:

1. Protection of existing functioning ecosystems.
2. Reduction of human stressors on the ecosystems.
3. Restoration of natural functioning ecological processes.
4. Use of natural recovery, in most instances.
5. Acquisition of buffers and corridors to expand and ensure connectivity of ecosystems.
6. Intervention to manipulate (manage) ecosystems where necessary.
7. Reduction of direct and indirect climate change pollution from the NF/NG and activities that result from the Forest Plan implementation.

I support preparation and implementation of a RHP for all minerals activities that occur on each unit in the NFS.


I support that the MREIS require the applicant pay for a climate vulnerability assessment (CVA). CVA's determine which species, habitats, and or ecosystems will be most affected by climate change due to minerals exploitation. CVA's include the interactions between existing human stressors (for example, invasive species, logging, roads, etc.) with climate change impacts. This assists the FS in its determination of which focal species, ecological processes, or other natural resources should be prioritized for monitoring and management to ensure their future health.



I support that the MREIS require the FS conduct an analysis which results in the protection of **core areas** (high quality lands with maximum size); **corridor areas** (linkages between core areas) with input from state wildlife agencies and non-governmental conservation organizations and land trusts; **buffer areas and other important lands and habitats** (lands contiguous to core and corridor areas and habitat identified as critical to selected species) which include riparian areas and for wetlands, at a minimum, National Wetlands Inventory wetlands, critical habitat adjacent to core and corridor areas that will buffer and protect these areas, and rare and sensitive species habitats; and **coordination across boundaries with other large landscape conservation plans, initiatives, and public and private protected lands** to protect natural resources from minerals exploitation.

I appreciate this opportunity to comment. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Brandt Mannchen".

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