



P.O. Box 1808, McCall, ID 83638
www.savethesouthforksalmon.com

September 21, 2020

BY ELECTRONIC MAIL - please confirm receipt

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Dear Ms. Rose, Ms. Jackson, Ms. Brown, Ms. Brummett, and Mr. Knesek:

I write on behalf of Save the South Fork Salmon, Inc (SSFS) to request that the Forest Service immediately provide documents related to the proposed Forest Plan amendments for the Stibnite Gold Project that SSFS requested under the Freedom of Information Act (FOIA), but the Forest Service failed to release in a timely manner. **Time is of the essence.** Continued failure to immediately release the requested documents has and will continue to prejudice SSFS's ability to adequately provide public comments during the environmental review under

the National Environmental Policy Act (NEPA), which are due on October 13, 2020, on this immensely controversial project.

Informed public participation in federal agency decision-making is essential to NEPA; the public commenting is the heart of that informed decision-making process. 40 C.F.R. § 1500.1(b); *Cal. v. Block*, 690 F.2d 753, 770 (9th Cir. 1982). In order to effectively participate, NEPA requires that the agency provide the public with documents underlying the project's NEPA analysis. 40 C.F.R. §§ 1502.21, 1506.6(f); *Idaho Sporting Cong. v. Thomas*, 137 F.3d 1146, 1150 (9th Cir. 1998).

On March 6, 2020, SSFS submitted a FOIA request to the Payette National Forest for records related to amendments to the Payette Forest Plan that may be necessary for the permitting and approval of Midas Gold's Stibnite Gold Project (2020-FS-R4-03343-F). SSFS received a confirmation of receipt of the FOIA request by e-mail on the same day. After SSFS responded to the Forest Service's request for more information, on May 12, 2020, the Payette National Forest Supervisor Linda Jackson notified SSFS that the documents were sent to the Intermountain Region Regional Forester's Office for further review and would be provided to SSFS within 20 working days. To date, SSFS has not received any documents related to this request.

On May 28, 2020, SSFS submitted a second FOIA request to both the Payette and Boise National Forests, the Regional Office, and the Washington Office of the Forest Service requesting documents pertaining to amendments to the both Forest Plans that may be required for permitting and approval of the Stibnite Gold Project (2020-FS-R4-04413-F). The Forest Service confirmed receipt the same day. The statutory deadline for fulfilling this request, including the Forest Service's request for a 10-day extension, was June 25, 2020. To date, SSFS has not received any documents related to this request.

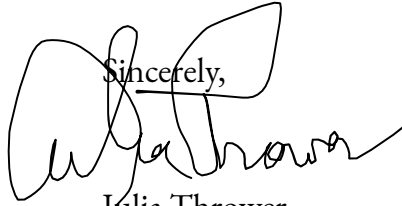
The Forest Service's refusal to release the requested documents is not only a dereliction of the Agency's statutory obligations under FOIA, but is compounded by the fact that the Agency is requiring SSFS to go through the public comment period without complete and highly relevant information to adequately comment on the four project-specific amendments proposed for the Payette and Boise National Forests. The Forest Plan standards and guidelines were developed with extensive public participation and using best available science. The Forest Plan describes the Forest Service and the public's goals to emphasize maintaining and restoring watershed conditions, species viability, and terrestrial and aquatic habitats; it sets forth how the Forest will reach these desired conditions for a healthy Forest ecosystem. These proposed Project-specific amendments have the potential to significantly deteriorate the protections

found in the standards and guidelines for aquatic and terrestrial species--including four fish species of special concern (three of those are listed under the Endangered Species Act), soils, and visual quality, and thus may result in vast and negative impacts on these resources.

Without the documents requested by SSFS in its March and May FOIA requests, SSFS's ability to prepare a comprehensive public comment is prejudiced. SSFS, therefore, requests that the Forest Service provide the requested documents immediately.

SSFS also requests that the comment period be extended beyond October 13, 2020. The Forest Service's May 12, 2020 letter stated that there are over 13,000 documents related to SSFS's March FOIA request for documents from the Payette National Forest. According to that letter, as of May 12, 2020, the Region 4 Office of the Forest Service has had over four months to review these documents and it has yet to produce a single page. It is unreasonable to think that a non-profit organization such as SSFS--with much less resources than a government agency--could have sufficient time to appropriately review this large number of documents in a 60-day comment period, of which over half of that time has already passed. **SSFS therefore renews its prior two requests that the comment period be extended to a total of 120 days, to December 12, 2020.**

If you have any questions, I can be reached at www.savethesouthforksalmon.com or by phone at (208) 271-6503.

Sincerely,

Julia Thrower
Attorney for SSFS

Cc: FS Region 4 FOIA Office (SM.FS.R4FOIA@usda.gov)