

May 16, 2023

*Via Email SM.FS.LNFRevision@usda.gov
and electronically by CARA System*

Lolo National Forest Supervisor's Office
c/o Amanda Milburn, Plan Revision
24 Fort Missoula Rd.
Missoula, MT 59804

RE: Comments re Lolo National Forest Land Management Plan Revision #62960

Dear Ms. Milburn,

Notice published by the Forest Service invited comments on several documents related to the plan revision process referenced above. Specifically, commentors are invited to address,

Wild and Scenic Rivers Draft Preliminary Evaluation and Outstandingly Remarkable Values (ORVs) Framework
Wild and Scenic Rivers Draft Inventory
Wild and Scenic Rivers Preliminary Inventory Maps

Wilderness Recommendation Process-Step 1: Inventory of lands that may be suitable
Wilderness Recommendation Process-Step 1: Draft Inventory Map

This firm represents WRH Nevada Properties, LLC ("WRH"), which owns more than 820,000 acres of private mineral rights in Montana. WRH's mineral holdings include significant tracts of outstanding mineral rights underlying areas identified in the documents listed above. Included as an attachment to this comment letter is a map depicting the approximate location for some of the deeded mineral interests owned by WRH. It should be noted that WRH representatives have repeatedly requested shape files to allow for proper geocoding which have so far not been provided. While the map is not exhaustive, it serves to identify the scope of WRH's private property rights implicated in this plan revision process.

Beginning with the Wild and Scenic River ("WSR") evaluation and inventory documents, WRH's private ownership overlaps large areas in many if not most of the drainages identified in the Forest Service's WSR eligibility study. Detailed mapping is needed to accurately determine the extent of WRH's private ownership in each of the WSR drainages being evaluated. Performance of that work is specifically called for in the Forest Service Land Management Planning "Handbook" for evaluating WSR.

The Handbook, which is referenced in the WSR framework document, specifies preparation of a summary document that is described as “an essential element” in determining eligibility, classification and suitability of a specific river being evaluated. FSH 1909.12, 84.11b, Ex 01. The cited section of the Handbook calls for an evaluation of the potential for locatable and leasable mineral and energy resources. The Handbook is conspicuously silent regarding the potential for private mineral and energy development. However, it directs that the summary document should include the “number of acres in the corridor by ownership.” As shown on the included maps, tens of thousands of acres of outstanding mineral rights are held in private ownership across the areas being evaluated. Despite the fact that locating acres in private ownership is considered “essential” for determining WSR eligibility, the Forest Service has yet to engage in any process for identifying private ownership of deeded mineral acres.

Turning to the Wilderness evaluation process, WRH has similar concerns regarding the Forest Service’s persistent failure to consider private ownership rights in many of the listed Inventory Polygons depicted on the Draft Inventory Map. Of particular concern to WRH is the lack of apparent consideration for deeded access rights over and across the severed surface estates using established roads that are now controlled by the Forest Service. Of equal concern is apparent disregard for WRH’s deeded right to repurchase surface rights for mining and mining related purposes, to say nothing of state laws protecting access and other surface uses appurtenant to WRH’s dominant mineral estate.

In summary, WRH requests that the Forest Service follow its own guidance. The Forest Service’s should include and fully consider private property rights in the process for evaluating the suitability of areas identified for WSR and Wilderness evaluation.

Thank you for accepting these comments and WRH is willing to meet at any mutually convenient time to address these issues.

Regards,

PETER G. SCOTT, LAW OFFICES, PLLC


Peter G. Scott

Att: *As stated.*