



October 10, 2024

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Kootenai National Forest
Attn: Sam Martin
District Ranger
Three Rivers Ranger District
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District Ranger Martin,

OBJECTION: Why Not Stardust Minerals Exploration Draft Decision Notice and Finding of No Significant Impact

I am writing on behalf of the Yaak Valley Forest Council to file an objection to the USFS DRAFT Decision Notice and Finding of No Significant Impact for the Why Not, Stardust, and Devil Dog placer mining claim Plans of Operation outlined in the Why Not Stardust Minerals Exploration Environmental Assessment.

The Yaak Valley Forest Council, created in 1997, is a Northwest Montana-based 501(c)3 nonprofit that implements conservation and restoration programs focused on protecting and preserving critical wildlife habitat for the sensitive, threatened, and endangered species inhabiting the wild Yaak Valley. Our Mission is to maintain and restore the ecological integrity of the wild Yaak by conserving and improving habitat for native and sensitive species—particularly the grizzly bear—and to advocate for a return to the historical range of variability of old and mature forests in the valley, given their ability to safely store vast amounts of carbon over the centuries. We also aim to safeguard the valley's biological diversity, which is under threat due to climate change.

We incorporate by reference our comments dated June 30, 2024. In our June comment, we supported Alternative 1: No Action, noting the USFS is only authorized to regulate, but not prohibit, lawful locatable mineral operations conducted on NFS lands.¹ Prohibiting suction dredge mining does not prevent panning for gold or other non-motorized, less impactful mining activities.

The Draft Decision Notice and Finding of No Significant Impact outlines twenty-eight design features and restrictions² stated to align with the 2015 Kootenai National Forest Plan.³ Design features and restrictions are only impactful when enforced. The U.S. Forest Service (USFS) claims that it intends to monitor compliance with the required design features and restrictions. However, no plan or schedule for monitoring for compliance and ecological impacts is included in the Environmental Assessment or Draft Decision Notice and Finding of No Significant Impact.

The Environmental Assessment states:

“The KNF would conduct site inspections throughout the operating season to monitor the dredging operations. This would verify operators are complying with design feature[sic] including Occupancy and Use Restrictions, Food/Wildlife Attractant Storage Order R1-2023-02, and Camping Restrictions Order #R1- 2023-01. A Forest Service representative would also conduct an inspection at the end of each operating season to confirm the area is returned to pre-season conditions.”⁴

There is no plan for how and when these site inspections would occur. A USFS statement that it “would conduct site inspections,” is inadequate. We raised the following questions in our June 30, 2024, comment:

- Has this claimant complied with all requirements from past permits, including reclamation?
- Has monitoring of past claimant activities been completed?
- Have results of monitoring past exploration activities in this area shown unexpected impacts?

None of these questions have been answered. A failure to substantiate past monitoring foreshadows a lack of future monitoring.

A design feature is a contingency of the project; it is not optional. The USFS must monitor and assess the impacts of compliance or non-compliance with all design features and restrictions. The

¹ *Why Not Stardust Minerals Draft Environmental Assessment*. (2024). USDA Forest Service Northern Region/Kootenai National Forest. <https://usfs-public.app.box.com/v/PinyonPublic/file/1546995441165>

² USDA Forest Service. (2024). *DRAFT Decision Notice and Finding of No Significant Impact for the Why Not Stardust Minerals Exploration Project*. Three Rivers Ranger District, Kootenai National Forest.

³ *Land Management Plan, 2015 Revision, Kootenai National Forest*. (2015). <https://www.fs.usda.gov>. https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprd3826663.pdf

⁴ *Why Not Stardust Minerals Exploration Environmental Assessment*. (2024). USDA Forest Service Northern Region/Kootenai National Forest. <https://usfs-public.app.box.com/v/PinyonPublic/file/1633741220615>

USFS, responsible for ensuring no significant impacts, instead relies on the permittee's self-monitoring.

One example is design feature #17, which states, “*Any mercury recovered during the dredging process will be collected by the operator and will not be returned to the stream.*”

Suction dredges re-suspend and “flour” mercury.⁵ How will mercury be recovered and collected as part of this project? How will recovered mercury be stored, transported, and disposed of? How is the USFS monitoring recovery, disposal, and the disturbance and potential downstream effects of mercury? This is just one example of an inadequate monitoring plan. There is no USFS plan to ensure mercury is recovered, stored, and disposed of in an authorized manner.

As mentioned in our comment of June 30, 2024, the existing dredging site and the proposed dredging site on the Yaak River are both below the former gold mining town of Sylvanite. There is a high probability the mining operations will suspend and transport mercury downstream and into the Kootenai River, which has documented water quality issues including elevated selenium concentrations.

The FONSI finds, “A *no effect* determination was warranted for both White Sturgeon and Bull Trout Critical Habitat, due to not being present within the project area or its area of influence. A determination of *May Affect, Not Likely to Adversely Affect* determination was warranted for bull trout, grizzly bear, and Canada lynx due to the very unlikelihood of being present in the project area or its area of influence.”⁶ Here again, the USFS does not include a plan or schedule of frequency to monitor for effects on both critical habitat and all threatened and endangered species (TES), including wildlife, fish, and plant species, as well as management indicator species.

The Western Pearlshell Mussel (WEPE), *Margaritifera falcata*, a state species of concern, has experienced significant statewide range reductions in the last 100 years and is now known from approximately 85 populations, of which, only about 20 are expected to be viable 100 years from now. The Yaak River contains the largest A-viable population of Western Pearlshell Mussel in Montana.⁷

The FONSI states, “*Western Pearlshell Mussel are known to be present in the Yaak River within the Kilbrennan Creek-Yaak River 12th field subwatershed and are potentially present in both the Why Not and Devil Dog claims and their area of influence.*”

The USFS has failed to assess the presence and impact of these projects on the Western Pearlshell Mussel.

⁵ The Sierra Fund. (2010, October). *Mining's Toxic Legacy: An Initiative to Address Mining Toxins in the Sierra Nevada*. [www.sierrafund.org. https://www.sierrafund.org/wp-content/uploads/Mining-Executive-Summary-FINAL-4web-updated-9.30.13.pdf](https://www.sierrafund.org/wp-content/uploads/Mining-Executive-Summary-FINAL-4web-updated-9.30.13.pdf)

⁶ USDA Forest Service. (2024). *DRAFT Decision Notice and Finding of No Significant Impact for the Why Not Stardust Minerals Exploration Project*. Three Rivers Ranger District, Kootenai National Forest.

⁷ Stagliano, MNHP Aquatic Ecologist, D. M. (2015). *Re-evaluation and Trend Analysis of Western Pearlshell Mussel (SWG Tier 1) Populations across Watersheds of Western Montana*. Montana Natural Heritage Program.

In this project area, extensive mining has been taking place for many years. Additionally, there is extensive logging in the area, both historical and planned, widespread road building, and a subdivision development planned in the future. The USFS has a responsibility to monitor the individual and cumulative impacts of these projects due to its fiduciary duty to the Public Trust. Simply stating, *"I have considered the potential for cumulative effects and have determined that since individual effects from the proposed action are negligible, there will be no significant cumulative effects,"*⁸ is inadequate. The USFS must have an ongoing plan to monitor both individual and cumulative effects.

Respectfully,

A handwritten signature in black ink, appearing to read 'Chris Bachman', followed by a horizontal line.

Chris Bachman
Conservation Director
Yaak Valley Forest Council

⁸ USDA Forest Service. (2024). *DRAFT Decision Notice and Finding of No Significant Impact for the Why Not Stardust Minerals Exploration Project*. Three Rivers Ranger District, Kootenai National Forest.