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Protecting and Restoring the Rivers and Fish of Idaho

Date: 4/4/2025

Mr. Jonathan Leblanc
North Fork District Ranger
Salmon-Challis National Forest
1206 S. Challis St,
Salmon, ID 83467

re: Freeman Gold Exploration Project Scoping Comments

Dear Jonathan Leblanc,

We are pleased for the opportunity to comment on the proposed Garnet Creek Exploration Drilling project in the Payette National Forest in the Council Ranger District. While we understand there are limitations to federal actions with the constraints of the Mining Law of 1872, comments representing the concerns of citizens are valuable and important. Mining projects, in particular, often lead to long-lasting, if not permanent, changes and impacts on our public lands and surrounding landscape.

Idaho Rivers United (IRU) is an environmental advocacy organization that is dedicated to protecting Idaho rivers and restoring our native fish populations. Since our inception in 1990, IRU has been working to defend rivers, advocate for endangered and threatened aquatic species, and promote enhanced water quality in all of Idaho's rivers. IRU represents over 10,000 members throughout Idaho and beyond. Our members and supporters expect the protection of rivers for their ecological, scenic, and recreational values; accordingly, our mission is to protect and restore the rivers and fisheries of Idaho.

IRU closely monitors any action or activity that may jeopardize water quality, fish habitat, river-based recreation, or riverside recreation in Idaho. Water quality can be compromised through a variety of means during exploration and mining operations. Therefore, we expect the Forest Service to monitor and manage any and all actions that have the potential to put surface and groundwater water quality at risk.

Based on careful analysis of the scoping documents, IRU strongly recommends changes to the Plan of Operations before any exploration can commence. Most concerning is the lack of

developed baseline conditions for water quality and potential impacts on the ESA-listed fish populations and their designated critical habitat.

Thank you for the opportunity to submit scoping comments on this project, and ask that you please keep us informed of any future developments regarding this proposal and consider including IRU in any future project discussions

Sincerely,

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General Comments

We appreciate the Forest Service acknowledging the need to conduct an Environmental Assessment (EA) for the Freeman Gold Exploration Project. We recommend that an EA be conducted at a minimum, and that an Environmental Impact Statement (EIS) be considered for this project. The site is located within the tributaries of the North Fork of the Salmon River, which is eligible for designation under the Wild and Scenic Rivers Act, and upstream of the Salmon River, which is fully designated under the Act. Most of the rivers that are within the project boundary, or have the potential to be affected by operations, are designated as critical habitat for multiple ESA-listed species. The ecological importance of this area requires a thorough analysis and ample protections from degradation caused by exploration projects.

Water Quality

We are concerned about the potential for any drilling-affected water to run off the site directly into the adjacent rivers, which feed the North Fork of the Salmon River and then the Salmon River, in moderate to high precipitation events. The Plan of Operation should ensure that all water will be carefully managed. Spill clean up materials, firefighting gear, and a spill response plan need to be kept in all vehicles. In addition, an oil-absorbent boom should be available on site.

When the Forest Service receives a notice of intent to mine, reclamation and bonding may be necessary to mitigate for, or reclaim, the habitat loss of native fish. Standard MM-1 states:

> **MM-1.** Minimize adverse effects to inland native fish species from mineral operations. If the Notice of Intent indicates a mineral operation would be located in a RHCA, consider the effects of the activity on inland native fish in the determination of significant surface disturbance pursuant to 36 CFR 228.4. For operations in a RHCA ensure operators take all practicable measures to maintain, protect, and rehabilitate fish and wildlife habitat which may be affected by the operations. When bonding is required, consider (in the estimation of bond amount) the cost of stabilizing, rehabilitating, and reclaiming the area of operation.

The Forest Service must ensure that the operator has obtained a sufficient bond to cover all reclamation costs associated with this project.

INFISH also contains important standards and guidelines aimed at reducing the effects to water quality and fish habitat associated with roads. With regard to mining operations (including roads), Standard MM-2 requires:

> **MM-2.** Locate structures, support facilities, and roads outside RHCAs. Where no alternative to siting facilities in RHCAs exists, locate and construct the facilities in ways that avoid impacts to RHCAs and streams adverse effects on listed anadromous fish and inland native fish. Where no alternative to road construction exists, keep roads to the minimum necessary for the approved mineral activity. Close, obliterate and revegetate roads no longer required for mineral or land management activities

The agency must comply with all INFISH and PACFISH standards and requirements. Federal courts have previously invalidated Forest Service approvals on numerous mining operations based on violations of INFISH standards and road density standards contained in forest plans. The Forest Service should consider the road density in the area and determine whether the existing access road needs to be partially or fully decommissioned and revegetated following exploration. No violation of road standards or road density standards can occur.

The scoping document states that the drilling fluids that will be used "will be environmentally friendly and specifically designed for the intended use (groundwater, etc.)," (p.7). We ask the Forest Service to please disclose what drilling fluids will be used and explain what constitutes them as environmentally friendly.

Water Quality Monitoring

Mineralized areas often contain naturally occurring contaminants of concern, such as arsenic. These contaminants may be securely bound within the surrounding rock matrix or may be leaching into groundwater. In previous mineral exploration projects, the Forest Service acknowledged that exploration drilling can affect groundwater resources. Aquifers can be vulnerable to degradation during and following exploration drilling in the following ways:

- Contamination through open boreholes by run-off water from the surface
- Separate aquifers could become interconnected through drill holes
- Cross-flow between aquifers may be induced by natural pressure differences or pressure differentials induced by pumping
- Contamination by certain types of drilling fluids (Golden Meadows EA at 3-31)

The pressure from a water column in deep drill holes may be sufficient pressure to cause hydraulic fracturing, especially with fractures already present in the rock. If water loss occurs in the lower part of the hole, it is unclear which aquifers it contaminates.

The Forest Service needs to assure that there will be no changes or impacts to groundwater as a result of drilling operations and, as a result, that there is a need for a groundwater baseline study. The Forest Service should require basic design features such as drill logs tracking the depth to bedrock, the water table, and any losses in drilling fluid from bedrock fractures because of the assumption that proper well closing would eliminate contamination issues. The Forest Service also needs to address the contamination that could occur during drilling operations and before the boreholes are sealed.

Over the last decade, federal courts have repeatedly held that the Forest Service violates NEPA when it approves a mine exploration project without first gathering sufficient baseline groundwater hydrology information to take a "hard look" at the potential impacts drilling may have on groundwater and surface water. Cascade Forest Conservancy v. Heppler, No. 3:19-cv-00424-HZ, 2021 WL 641614, *17–20 (D. Oregon Feb. 15, 2021); ICL v. U.S. Forest Serv., 429 F. Supp. 3d 719, 730–32 (D. Idaho 2019) (same when the Forest Service approved the 5-year Kilgore exploration project); Gifford Pinchot Task Force v. Perez, No. 03:13-cv-00810-HZ, 2014 WL 3019165, *25–33 (D. Or. July 3, 2014) ((Forest Service violated NEPA by failing to gather baseline groundwater data and by relying on monitoring during the project that only includes a portion of the exploration project site in approving Goat Mountain exploration)); ICL v. U.S. Forest Serv., No. 1:11-cv-00341-EJL, 2012 WL 3758161, *14–17 (D. Idaho

Aug. 29, 2012) (Forest Service violated NEPA by failing to gather baseline groundwater hydrology data necessary to understand potential impacts of drilling and improperly relied on post-approval monitoring in approving a 5-year CuMo exploration project).

The Forest Service is required to "describe the environment of the areas to be affected or created by the alternatives under consideration." 40 C.F.R. § 1502.15. The establishment of the baseline conditions of the affected environment is a fundamental requirement of the NEPA process:

> NEPA clearly requires that consideration of environmental impacts of proposed projects take place before [a final decision] is made." LaFlamme v. FERC, 842 F.2d 1063, 1071 (9th Cir.1988) (emphasis in original). **Once a project begins, the "pre-project environment" becomes a thing of the past, thereby making evaluation of the project's effect on pre-project resources impossible. Id. Without establishing the baseline conditions which exist in the vicinity … before [the project] begins, there is simply no way to determine what effect the proposed [project] will have on the environment and, consequently, no way to comply with NEPA.**

Half Moon Bay Fisherman's Mark't Ass'n v. Carlucci, 857 F.2d 505, 510 (9th Cir. 1988) "In analyzing the affected environment, NEPA requires the agency to set forth the baseline conditions." Western Watersheds Project v. BLM, 552 F.Supp.2d 1113, 1126 (D. Nev. 2008). "The concept of a baseline against which to compare predictions of the effects of the proposed action and reasonable alternatives is critical to the NEPA process." Council of Environmental Quality, Considering Cumulative Effects under the National Environmental Policy Act (May 11, 1999).

We note that the Forest Service and Otis Gold were able to comply with these standards in the original Kilgore North Project. In that, Otis Gold agreed to create an annual report that includes an analysis of the surface water and groundwater quality data, noting any changes to water chemistry. The parameters would remain the same as baseline monitoring. The yearly report was going to be provided to the Forest minerals administrative staff administering the Plan of Operation. The results from these studies were to be included in the environmental analysis for this project.

In addition to an adequate baseline before any project approval, we recommend that the Forest Service require a robust monitoring and mitigation plan to detect and correct any changes in water quality or quantity caused by Freeman Gold Exploration drilling.

ICL and IRU raised a similar objection to Newcrest Resources' Jarbidge Exploration Project in northern Nevada when the Forest Service released a draft decision authorizing the project in 2020. ICL, IRU, and the Forest Service agreed to an objection resolution that included the following conditions regarding groundwater monitoring (Jarbidge Objection Resolution Letter):

> *Newcrest will be required to collect information on the background conditions of groundwater, including the presence and elevation of ground water in each drill hole. Background data collection methods could include the use of grouted piezometers, and groundwater sampling from within strategically located exploration drill holes where the water table is encountered. After the collection of background data in the first two operating seasons, Newcrest will develop a*

groundwater monitoring program outlining the location of groundwater monitor wells for installation during the third operating season. Monitoring, groundwater sampling, and reporting will be coordinated with NDEP-BMRR and the Forest Service. If routine, scheduled monitoring detects abnormal deviation from background and the Forest Service determines that the deviation may be the result of project exploration activities, Newcrest will consult with NDEP-BMRR and the Forest Service to determine if and where additional groundwater monitoring and investigation is needed.

The Kilgore North Project also incorporated a design feature that if water quality analysis indicates water quality has degraded based on the state and federal water quality standards for surface and groundwater, operations will cease until mitigation can be implemented to protect surface and groundwater. The Idaho Department of Environmental Quality will be notified and informed of the situation.

We request that the Forest Service require similar water quality monitoring requirements of Freeman Gold Corp as conditions of this project. The Forest Service should include the baseline water quality data and a plan for ongoing water quality monitoring in an EA or EIS.

ESA-Listed Fish Species

Chinook salmon,[1] steelhead,[2] and bull trout[3] are listed as threatened under the Endangered Species Act. The Forest Service is charged with protecting and managing the enhancement of threatened or endangered species. Therefore, any mining-related activities that would threaten the success of these species must not be permitted and additional consultation with appropriate state and federal agencies may be warranted.

Chinook salmon, steelhead, and bull trout are highly sensitive to changes in water quality. The introduction of contaminants and sedimentation resulting from drilling activities could adversely affect their health and survival. Ditch Creek, Hughes Creek, Twin Creek, the North Fork of the Salmon River, and the Main Salmon River contain designated critical habitat for the threatened ESA listed species bull trout[4] and steelhead.[5] Hughes Creek, Twin Creek, the North Fork of the Salmon River, and the Main Salmon River contain designated critical habitat for the threatened ESA listed Chinook salmon.[6]
The plan must include detailed measures to monitor and mitigate potential water quality degradation, with a specific focus on preserving the pristine conditions required by these fish populations in their designated critical habitat.

Pursuant to Section 7 of the ESA, we ask the Forest Service to consult with the United States Fish and Wildlife Service (FWS) and/or NOAA Fisheries to ensure that any proposed action is not likely to jeopardize the continued existence of any threatened or endangered species, or result in the destruction or

[1] Snake River Spring/Summer-run Chinook Salmon
https://www.fisheries.noaa.gov/west-coast/endangered-species-conservation/snake-river-spring-summer-run-chinook-salmon
[2] Snake River Basin Steelhead
https://www.fisheries.noaa.gov/west-coast/endangered-species-conservation/snake-river-basin-steelhead
[3] https://www.govinfo.gov/content/pkg/FR-1999-11-01/pdf/99-28295.pdf#page=1
[4] https://fws.maps.arcgis.com/apps/mapviewer/index.html?webmap=9d8de5e265ad4fe09893cf75b8dbfb77
[5] https://maps.fisheries.noaa.gov/portal/apps/mapviewer/index.html?layers=2abcff6b1cf14dcda99cbd5492b1c404
[6] Ibid

adverse modification of the species' critical habitat. 16 U.S.C. § 1536(a)(2). During Section 7 consultation, the action agency, FWS, and NOAA Fisheries must use the best scientific data available. 16 U.S.C. § 1536(a)(2). If the proposed action "may affect" any listed species or critical habitat, the action agency must engage in "formal consultation" with FWS and/or NOAA Fisheries. 50 C.F.R. § 402.14(a).

Hazardous materials

Hazardous materials used for drilling, such as petroleum, will inevitably be transported to the site. The Forest Service must also manage potential environmental contamination from the transportation of hazardous materials.

A hazardous material plan needs to be in place in the event of a fuel or solvent leak on the way to the drilling site, and while on site. The Forest Service should require the use of a double liner underneath all pumps that are near surface water sources. A vetted and monitored containment system should be designed to protect soil from the full volume of diesel fuel or oil as well as high rainfall events in case there is a leak.

Hazardous wastes, including grease, lubricants, oil, and fuels, must be disposed of off-site in an environmentally appropriate manner, as often as needed—fuel containment equipment, including chemical absorbers and booms to intercept stream transport need to be on site. Regularly inspected fire extinguishers need to be placed in all vehicles.

Any disturbed soil and waste rock piles need to be reseeded with native plants and weeded to prevent the proliferation of noxious weeds. Any waste material not re-injected in the drill holes should be characterized for contaminants and stabilized and reseeded if appropriate.

Wild and Scenic Rivers

The project site is about 10 air miles from the confluence of the North Fork of the Salmon River and the Salmon River, which has 46 miles designated as recreational and 79 miles designated as wild under the Wild and Scenic Rivers Act.[7] The Salmon River is a well-deserving designated river possessing numerous outstanding and remarkable values (ORVs) - fish, ecology, geology, history, prehistory, Native American traditional use, recreation, scenery, wildlife, and water quality.

> "The Salmon River from the North Fork to Long Tom Bar hosts four federally listed fish species and provides designated critical habitat for Snake River sockeye and Snake River spring/summer chinook. It is a key area for the survival and recovery of federally listed salmon, steelhead, and bull trout. In terms of habitat, this reach is an important migratory route for salmon, as well as important rearing habitat for many species." (*National Wild and Scenic River System- See footnote 7*)

The Salmon River is highly used for fishing and boating throughout the year. Each year, an average of 7,000 people go down this stretch to experience the whitewater.[8] With regard to water quality, the river is

[7]National Wild and Scenic River System - Salmon River https://www.rivers.gov/rivers/river/salmon-idaho
[8] Ibid

exceptional compared to most of the river systems in the U.S. and supports a variety of beneficial uses.[9] We are concerned about the proposed project being within proximity to the Salmon River making it critical that mitigation measures are in place to protect and maintain the river's ORVs. The scoping report does not outline the risks that an exploration project could pose to the Salmon River. We recommend that the Forest Service analyze the potential impacts on the Salmon River before any exploration plans are approved.

The location site for the project is within close proximity of the North Fork of the Salmon River and sits within some of its tributaries. The North Fork of the Salmon River was found eligible for designation under the Wild and Scenic Rivers Act, with a preliminary classification as recreational and an ORV for fish.[10] The Forest Service Handbook describes interim management of eligible rivers in regard to mineral exploration as follows:

> "Locatable Minerals. Subject to valid existing rights, mining claims are prohibited within one-quarter mile of a legislatively mandated study river under section 9(b) of the Wild and Scenic Rivers Act. Existing mining activity on a legislatively mandated study river and existing or new mining activity on a Forest Service-identified eligible or suitable river are subject to regulations in 36 CFR part 228 and must be conducted in a manner that minimizes surface disturbance, sedimentation, pollution, and visual Impairment." (FSH Chapter 80, section 84.3.3.b(1))[11]

The scoping report does not outline the risks that an exploration project could pose to the North Fork of the Salmon River. The Forest Service must analyze the impacts of drilling operations and any associated activities on the North Fork of the Salmon River and its values that make it eligible for Wild and Scenic designation before any exploration plans are approved.

Sumps

Sumps constructed at drill sites should be placed outside of RCAs and constructed in a manner to collect and funnel contact water away from any aquatic resources. Sumps must be designed to accommodate the potential addition of groundwater if artesian conditions are discovered during the drilling process. This is especially important when the scoping document states that up to five holes may utilize one common sump.

The scoping document states that "Lined sumps may be used where appropriate to ensure containment of drilling fluids." (p. 4) We recommend that the Forest Service requires all sumps be lined with a geosynthetic membrane and allowed to fully dry prior to reclamation to prevent drill water or drill cuttings from contaminating surface water and groundwater resources.

Road construction

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[9] Ibid

[10] Salmon-Challis National Forest Wild and Scenic Rivers Eligibility Study and Report, 2017: https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd563540.pdf

[11] FSH 1909.12 – LAND MANAGEMENT PLANNING HANDBOOK CHAPTER 80 – WILD AND SCENIC RIVER EVALUATION https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd543613.pdf

Any new road construction to access the site, whether temporary or permanent, must be weighed with consideration for negative impacts to surface water. Road construction can be detrimental to riparian areas, as well as create excessive sediment, which in turn will load into rivers and streams. Sediment loading seriously affects fish life cycles by disturbing or destroying eggs, and killing macroinvertebrates, a necessary food source.

Seasonal Closure

The Forest Service should set a date or conditions such as snow depth or temperature which will signify the end of each field season. At or by this point, Freeman Gold Corporation needs to “winterize” operations by stabilizing roads with berms adequate for spring runoff, removing equipment, stabilizing topsoil and coarse woody debris stockpiles, among other tasks. The Forest Service needs to inspect the site before the operators leave to ensure that this work is completed.

Cumulative Impacts

This area of the Salmon-Challis National Forest has seen significant mining and the cumulative impacts of this industry must be addressed in forthcoming NEPA documents. "Cumulative impact" is defined in CEQ's NEPA regulations as the "impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions .. ." 40 CFR 1508.7.

Subsequent environmental analysis for this project should take a hard look at the cumulative impacts of the significant amount of exploration drilling and road construction in the area. The Forest Service must analyze and disclose the direct and indirect cumulative effects of this project in conjunction with all past, present and reasonably foreseeable future actions. This analysis should encompass other mineral exploration projects in the area, reclamation and restoration requirements, noxious weed management, travel management, and wildlife and fisheries protections.