14 October 2018

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USDA-Forest Service.
Attn: Director—MGM Staff,
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I am the owner of eight non-patented mining claims that cover 440 acres on the El Dorado National Forest in California. I conduct placer deposit prospecting and mining operations using one of four suction dredges, until it was outlawed by California in 2008.

The USFS either does not understand the objectives of Executive Order 13817 or is purposely obstructing the implementation of that Executive Order through these proposed rule making changes that generally adopt and apply BLM mining regulations to the national forest, without expanding the rights and assurances that miners need to develop these resources with the national forest, and without any attempt to remove and reduce regulatory, physical, financial, and environmental obstructions to the development of the mineral resources of the United States for the people of the United States.

These proposed regulations would in general would increase regulation, risk, cost, and time to develop mineral resources of USFS managed lands; thereby discouraging mineral resource development. Our modern USFS staff and leadership are programmed to preserve, protect, and obstruct development of our public resources; and these proposed rules advance that agenda, in defiance of Executive Order 13817 and the will of the people. Throw these regulations away, go back to the 1955 regulatory basis, and implement those 1955 provisions for the good of the United States.

I find this notice of proposed rule making to be confusing and impossible to constructively comment upon because you did not provide a copy of the original rule that includes markup of changes to, deletion to, addition to, and modification of the specific rules of 36 CFR part 228. I do not trust your general comments on the subjects as being representative of the actual changes to these regulations based on my direct experiences with USFS personnel regarding rule making and enforcement in the past. These individuals have a propensity to enhance and pervert their regulatory authority outside the letter of the written regulations, causing delays, cost increases, and unnecessary litigation. It is impossible to comment on the provisions of the cited GAO and NRC without knowing the specific sections of these reports you are referring to.

It is on that basis that I submit the following comments on 36 CFR 228, public comment cut off date of 15 October 2018.

Part (1) Classification of locatable Minerals - Alignment of USFS regulations with BLM regulations is impossible to comment upon without knowing the specific regulations and associated subparts will be adopted by the USFS. These two agencies manage different types of resources, the merge of which

would result in expanded regulations that result in added costs to the operator while failing to protect the targeted resources. What we need are clear, fair, reasonable, common sense rules that are necessary, effective, and economically viable for both the operator and the miner. Shorting cutting the adoption of the BLM regulations to the USFS is lazy and bound to produce outcomes unfavorable to the USFS and the miner. I do not support that approach.

Part (2) Submitting and Approving Plans – I do not agree that USFS regulations should be aligned with BLM regulations for the sole purpose of consistency. USFS regulations should be clear enough that a plain language reading of them results in the preparation of a high quality plan of operations that includes all necessary information by the operator. The problem of inadequate regulations cannot be cured by a subjective meeting with a USFS official who must work with the same inadequate regulations. It is for that reason that I do not support this mandatory meeting regulation that adds another layer of subjectivity and cost, with not improvement to the actual plan quality. My experience is that these USFS representative often demand plan content that exceeds their regulatory authority, and those representatives extort compliance by the miner through withhold of approval of that mining plan.

The USFS proposal to require an approved operations plan prior to beginning NEPA review in essence would require the miner to prepare, submit, and finance two plans. The NEPA review and operations plan preparation go hand in hand, not separately. My experience is that these USFS representative often demand plan content that exceeds their regulatory authority, and those representatives extort compliance by the miner through withhold of approval of that mining plan. This proposal doubles the cost and time necessary to prepare and obtain approval of an operations plan, opposite and in direct defiance of the Executive Order requiring you to expedite the process and minimize impacts and costs on the miner.

My experience with USFS review and approval of operations plans are that they are subjective, overly broad, cost prohibitive, offer no rights for the miner, require no time line for USFS review or comment or approval, and require elements that could not have any significant impact on the actual plan and operation of the mining activity.

Part (3) Modifying Approved Plans - After a plan of operation has been approved it should not be revised, revoked, or otherwise modified by "changed" circumstances. By approving the plan, both parties agree to abide by it. A significant change to the mining operation or expansion of the disturbed area are reasonable cause to update a plan. Under no circumstances should a plan be modified because the USFS wants to change its regulations to pedal its political influence. This is a business risk that few miners would be willing to take, and giving the USFS authority to change the regulations that impact multimillion dollar mining operations on a whim is reckless.

Part (4) Noncompliance and Enforcement – The existing enforcement tools available to the USFS are adequate to ensure miner compliance. I do not support the expansion of addition administrative enforcement tools, BLM derived or otherwise. These proposed enforcement orders create confusion, add cost, and provide enforcement power that would be misused by USFS personnel either through personal vendetta or basic disagreement with the mining activity itself. There is no provision under the proposed rule to provide the miner with any due process rights or recourse against the official taking action against the miner. A provision should be added to the regulations that allows the mining operator to recover all costs associated with an enforcement action that is not affirmed by the forest supervisor or the courts.

Part (5) Reasonably Incident Use and Occupancy – The USFS should adopt the pre 1955 standards for use and occupancy by the miner. There have been many documented abuses by USFS officials that are not friendly to and opposed to mining, and this is an area of abuse by those officials. General referral to "abuse" without definition of the term or the circumstance basis for the regulation is itself offensive and inappropriate. Locating a mineral, filing a mining claim, and paying for the maintenance of that claim should be provide the miner with some rights of occupancy to develop and mine that mineral deposit should entitle the miner to occupancy of the land under the pre 1955 standards, rather than the current approach that limits and handicaps mining to 14 day intervals. I do not support alignment of USFS regulations with BLM regulations for the sake of consistency alone. These two agencies manage different types of resources, the merge of which would result in expanded regulations that result in added costs to the operator while failing to protect the targeted resources. What we need are clear, fair, reasonable, common sense rules that are necessary, effective, and economically viable for both the operator and the miner. Shorting cutting the adoption of the BLM regulations to the USFS is lazy and bound to produce outcomes unfavorable to the USFS and the miner. I do not support that approach.

Part (6) Financial Guarantees – The USFS should not have authority to subsequently review the cost estimate and the financial guarantee of an approved operations plan for which mining activities are performed and conducted in accordance with. These considerations are accounted for under the original plan and that is sufficient. Adoption of these expanded regulatory powers adds risk and costs that are unforeseeable and unmanageable by the miner. The finances and operational costs of a miner are trade secrets that form a basis of competitive advantage. Financial review of project should be based solely on the impacts that project will have on the resource and the work necessary to restore the site to reasonable post mining condition that allows the USFS to utilize the property for its intended purpose at the time of the operations plan approval. There are no circumstances when the USFS should stick its nose into the finances or operations of a private company, and should refrain from any activity that would make it a financial partner or stakeholder of a private mining company or operation.

Part (7) Operations on Withdrawn or Segregated Lands — I do not agree that USFS regulations should be aligned with BLM regulations for the sole purpose of consistency. USFS regulations should be clear enough that a plain language reading of them results in the preparation of a high quality plan of operations that includes all necessary information by the operator. If a mining operation or operations plan is in place prior to withdraw or segregation of lands, the area of that mining operation including access ways should be forever preserved and exempted from withdraw regardless of the status or validity of current mining claim paperwork. Under the current system, the government regulator discriminates, hinders, and obstructs mining operations on these withdrawn or segregated lands with the intent of running the miners out. This practice needs to stop, and the miner's rights need to be protected under these regulations.

Part (8) Unsalable or unlocatable Mineral Resources - The USFS should adopt and restore the pre 1955 standards for Unsalable or unlocatable Mineral Resources. The establishment of escrow account prior to preparation of a mineral examination report is a financial barrier of entry for miners to develop these important resources. I do not support alignment of USFS regulations with BLM regulations for the sake of consistency alone. These two agencies manage different types of resources, the merge of which would result in expanded regulations that result in added costs to the operator while failing to protect the targeted resources. What we need are clear, fair, reasonable, common sense rules that are necessary, effective, and economically viable for both the operator and the miner. Shorting cutting the

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