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Federal eRulemakingportal
<http://www.regulations.gov>

Re.: Advanced Notice of Federal Rulemaking-USFS
FS-2018-0052 - 36 CFR 228A

I have the following comments regarding the proposed Forest Service rulemaking for Locatable Minerals found at 36 CFR 228 A.

The regulatory modifications discussed generally make sense, and appear to be a common sense approach to conform more closely with BLM locatable mineral regulations, and to improve the FS regulations. Specific comments below address various proposed regulatory modifications.

- The regulatory proposal recognizes that locatable mineral operations are explicitly allowed under the FS's Organic Act and that the agency may not prohibit such operations nor regulate those operations in a manner that amounts to a prohibition. **I suggest that this statutory mandate should be explicitly recognized in § 228.2, Scope.**

1(c) Establishing 3 classes of operations that may or may not require a POO seems reasonable. All of the important terms must be clearly defined however.

2(b) Explicitly encouraging, but not requiring, operators to meet with appropriate FS officials prior to submitting a Plan of Operations, (Plan or POO), in order improve and clarify their understanding of the process and information requirements and to improve the quality of the incoming Plans of Operations makes good sense and I support it.

2(c) Ensuring that Plans are complete prior to starting the NEPA process should not be used as an excuse by the agency to delay the process and be obstructionist by requiring more information *ad nauseum*. Yes, the Plans should be reasonably complete, but the above-mentioned meetings with agency officials should develop a punch list of items that need to be addressed in the POO.

3(a)(c) Inserting a provision that explicitly allows an Operator to request a modification to an existing POO is a common sense idea that I fully support.

6) **Financial Guarantees - § 228.13 Bonds.** The FS should adopt a rule similar to the BLM that enables Alaskan placer mining operations to use the State of Alaska bonding pool, or a similar state bonding pool in other states, for their financial guarantee. Currently the FS does not accept the State of Alaska bonding pool for Placer Mining Operations, however the BLM does accept the State of Alaska Bonding Pool. This policy deviation makes no sense, and the FS should follow the BLM's practice of accepting State Bonding Pools.

8) **Procedures for Minerals or Materials that May Be Salable Mineral Materials...**

The FS regulations contain a provision that may eliminate the need for many validity contests in this situation if the regulatory provisions were better recognized by the agency and operators and claimants. Many times an operator needs security of tenure for their operations and they are willing to pay fair value in return for a Material Sale contract that contains provisions allowing long term operations and rights of renewal that provide security of tenure.

These provisions are contained in 36 CFR 228 Subpart C - Disposal of Mineral Materials. § 228.43 (f) provides an opportunity for a mining claimant to accept the mineral classification as a salable mineral and receive a "***sale by negotiated contract***" for that mineral material under § 228.57(b)(2) "***for the removal of mineral materials for which it is impracticable to obtain competition***".

Inserting a reference to these provisions in the Subpart A regulations that explains and clarifies this conflict resolving mechanism could go a long way toward eliminating these disputes between the agency and operators and claimants. I do not believe the BLM has a similar provision for a negotiated sale, and in that respect the BLM regulations are inferior the to the FS regulations.

Thank you for the opportunity to comment on this proposed rulemaking. Please keep me informed of further mineral rulemaking proposals.

Sincerely,

/s/ J. Dennis Stacey