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12 July 2015

Peter Werner, USFS Project Leader
Lucky Minerals Exploration proposal
Custer Gallatin National Forest Supervisor's Office
10 East Babcock
Bozeman, MT 59715

Re: Scoping Comments on Lucky Minerals exploration proposal

Dear Peter:

Thanks for the opportunity to submit scoping comments regarding the proposed Lucky Minerals Emigrant Project. Montana Trout Unlimited represents more than 4,000 TU members in the state, many who have an abiding interest in fisheries and watershed protection in the upper Yellowstone watershed.

Though we recognize this is simply a proposal to engage in mineral exploration activities and not in mining, there are still several items in the plan of operations we believe require additional disclosure and analysis to ensure the public impacts to water and fisheries will be minimized. They include:

Water Rights

It appears to us that Lucky Minerals proposed use of water for this operation might not comport with their state-based water rights. The company (Plan of Operations, p. 6) says: "Water will be pumped from Emigrant Creek utilizing the existing water right on the creek that is attached to the St. Julian mine patent claims (which we now control)." Our examination of these water rights does not indicate that the legal place of use for these water rights is off the patented claims and on unpatented claims on Forest Service land. It appears the water rights the company is citing are associated with a place of use in T7S, R9E, S6. The water right for the East Fork of Emigrant Creek is for S. 5. These rights do not appear to overlap with most of the claim block legal descriptions as places of use. Certainly it appears Lucky Minerals can cite no water rights directly associated with its proposed place of use for the unpatented claim blocks on the western flank of Emigrant Peak. In fact, it is possible that proposed pumping sites B and C might not be associated with any water right.

Unless Montana DNRC disagrees and allows a broad interpretation of place of use, it appears in order to use the water rights associated with the patented St. Julian tracts the company will have to file for a change of place of use with DNRC. This will require notification of all downstream water right owners.

Roads

In the Plan of Operations, Lucky Minerals states it is “willing to work with the forest service personnel to put in water bars and culverts where needed” on the access roads. The company also says (p. 10) “...stream crossings might need to be improved,” but probably not. Before the activity is explored the Forest Service should clarify whether stream crossings will need improvement or not, and describe the specific management practices and where that will be required for road maintenance.

Stream protection

The Plan of Operation does not describe what improvements will be needed at stream pumping sites, except to say pumps will be located away from the streams. There is no description of pumping rates, and, there is no description of whether the pumps will need impoundments to create pools. Because the operation could occur during base-flow periods, it is important that any stream modifications to facilitate pumps not impede fish movement. The Plan of Operations includes a curious reference to potential impacts of debris that could end up in streams (p. 8): “In the event that Lucky Minerals or its contractors cause debris to enter streams and wetlands in amounts that may adversely affect natural flow of the stream, water quality or the fishery resource Lucky Minerals or its contractors will remove such debris as soon as practicable, but not to exceed 48 hours...” What does this mean? The Forest Service should flesh out this potential impact in its NEPA analysis and disclose what “debris” the company believes could end up in streams or wetlands.

Lucky Minerals need to be more specific about spill containment for fuel and other potentially toxic materials. It appears the company believes it might not have to report spills of 25 gallons or less of refined crude oil products (p. 13). That might be a DEQ rule, but the Forest Service should require reporting of all spills beyond those that are clearly negligible.

Reclamation Bonding

The company describes its requirements for release of the reclamation bond. It is unclear if the Forest Service and DEQ agree with the company’s recommendation. The agencies should clearly spell out the criteria the company must meet in order to release the bond.

Before the exploration activity is approved, the Forest Service and DEQ should allow the public to review and comment on the proposed bond. The bond should cover 100 percent of the costs of reclamation the agencies would incur in the event they have to reclaim the site. The bond should not be based on the company’s estimate of what reclamation would cost it.

Season of use

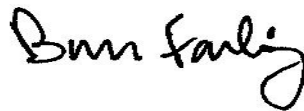
The season of use is a bit open-ended. The Plan of Operation refers to May to October, based on access and weather. However, other criteria must be considered, including runoff, wildlife use in the area, risk of wildfire, hunting season, etc. The Forest Service needs to evaluate and select the appropriate 45-day window that minimizes impacts to the environment and public.

Monitoring

Neither the scoping document nor plan of operation includes any description of the monitoring that the Forest Service and DEQ will dedicate to the project. This should be included in the NEPA analysis and disclosed to the public before there is a Record of Decision.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Bruce Farling". The signature is written in a cursive, slightly slanted style.

Bruce Farling
Executive Director

cc.
Madison-Gallatin Chapter TU
Joe Brooks Chapter TU
TU national