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23 March 2011

Janet Krivacek  
District Ranger  
Butte Ranger District  
1820 Meadowlark Road  
Butte, MT 59701

Re: Highlands Ore Haul Route

Dear Janet:

Thank you for the opportunity to comment on the proposed plan of operations for the purpose of hauling ore through the forest to private land from the Butte Highlands mine. Please consider these comments as you analyze this proposal, which we believe requires an environmental analysis (EA). The potential effects are significant enough that they would not merit categorical exclusion under NEPA.

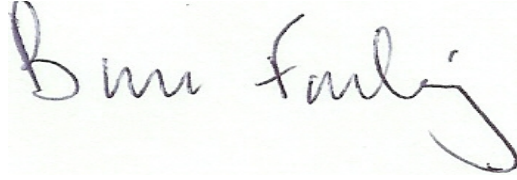
1. Under the "Purpose and Need" in the February 16, 2011, public notice the Forest Service says, "Congress has not given the Forest Service authority to unreasonably circumscribe or prohibit reasonably necessary activities under the 1872 General Mining Law that are otherwise lawful." It also says, "The applicable Forestwide goal (forest Plan, Page 27) is to ensure that locatable minerals are developed on all parts of the forest not withdrawn from locatable mineral entry in accordance with the 1872 Mining Law, regulations and national direction." These statements strongly imply that the agency believes it has limited discretion relative to approving, denying or modifying the hauling proposal. We disagree. The 1872 General Mining Law governs activities related to locatable minerals on federal land. The current activity under permit with the State of Montana for the Butte Highlands Mine is occurring on private land. The project will transport ore from private land to private land, through public land. Unless the ore is being produced from locatable claims on federal lands we don't believe the non-discretionary

nature of the General Mining Law is relevant. We do believe the hauling is covered under the agency's administrative authority using special use permits. However, we believe the Forest Service's decision should not be constrained by the General Mining Laws. The agency is under no obligation to accommodate the mining company, or at least the route and activities it has proposed.

2. The proposed route along the Fish Creek road is problematic for a number of reasons. It will require significant road improvements as well as incur risk along an important fishery. The risk for sediment delivery to Fish Creek resulting from road widening, maintenance and year-round transport is high. The frequency of hauling year-round, 47 round-trips a day poses significant risk of an accident occurring that could result in a spill of ore and diesel fuel into Fish Creek. According to the Montana Fishery Information System, upper Fish Creek in the vicinity of the road holds a population of genetically unaltered westslope cutthroat trout. Fish Creek also hosts important sportfish that include rainbow trout, brown trout and rainbow/cutthroat hybrids. TU has invested much in improving riparian and stream habitat conditions on the lower reaches of Fish Creek on private land. The goal of those efforts was to improve conditions for fish resident to Fish Creek as well as those that use Fish Creek seasonally. These fish are important recreational resources for members of the public that use Fish Creek and the Jefferson River. We are concerned that sediment delivery along the Fish Creek road resulting from this project as well as the potential for spills could reduce or eliminate the value of this investment.
3. The Fish Creek drainage does feature public recreation, including being a destination for hikers, horsemen, hunters and anglers. It also includes a public campground. The agency should evaluate the proposal's effects on these resources, as well as on wildlife resources. It is important to note that though the road is technically in the Pipestone Management Area of the Jefferson River Landscape, Fish Creek serves as the boundary with the Table Mountain Management Area. The forest plan objectives for the latter are not consistent with the disturbance associated with ore trucks hauling 47 round-trips a day, five days a week, year-round.
4. Because the agency is under no obligation to choose the route that is most economically advantageous to Highlands Mining, the agency should evaluate potential alternative routes that might have less impact on forest resources and reduced risk to water quality and fish. These include routes out to Continental Drive in Butte, to Pipestone Pass and west to I-15.
5. The Forest Service notice for this proposal does not disclose the duration of the need for a haul route. It should. And that should be included in any effects analysis.

Again, thank you for the opportunity to submit comments.

Sincerely,

A handwritten signature in black ink that reads "Bruce Farling". The signature is written in a cursive style with a large initial 'B' and a long, sweeping tail on the 'g'.

Bruce Farling  
Executive Director