

- Why is it taking so long for the Forest Service to process my Notice of Intent (NOI)?

There may be several reasons for delay in the processing of your NOI but the most relevant causes at this time are mentioned below:

- The U.S. Court of Appeals for the 9th Circuit in June, 2012 ruled that the Forest Service processing of a Notice of Intent for proposed mining operations are federal actions for purposes of the consultation requirements of Section 7 of the Endangered Species Act (ESA) {*Karuk Tribe of California v. U.S. Forest Service*, 681 F.3d 1006 (9th Cir. 2012); 16 U.S.C § 1536(a)(2)}.
- The ranger is required to evaluate proposed activities to determine what, if any, effect your proposed mining activities will likely have on a threatened or endangered species or its critical habitat. This involves consultation with the U.S Fish and Wildlife Service (USFWS) under Section 7 of the ESA. Per the ESA, operations may not commence while consultation with USFWS is ongoing.
- When consultation is completed and the ranger has considered any other factors of potential disturbance to surface resources, the ranger will be able to make a determination of whether your proposed mining operations might cause significant disturbance of surface resources, and will require authorization through an approved Plan of Operations.
- In addition to the above requirements, April 4, 2013, the Environmental Protection Agency issued its final National Pollutant Discharge Elimination System (NPDES) permit for suction dredging within streams in Idaho. In order for this permit to cover suction dredging in streams with designated critical habitat or areas occupied by listed threatened or endangered species, the Forest Service must complete consultation with the U.S Fish and Wildlife Service (USFWS) as required by the Endangered Species Act (ESA).

- Where can I dredge?

- Streams which are open to recreational mining must be listed as open under **both** the Idaho Department of Water Resources (IDWR) Stream Channel Alteration by Recreational Mining Letter Permit and the Environmental Protection Agency (EPA) National Pollution Discharge Elimination System (NPDES) Idaho Small Suction Dredge Mining General Permit.

Information on the IDWR Letter Permit can be found at their website:

<http://www.idwr.idaho.gov/WaterManagement/StreamsDams/Streams/DredgingPermit/DredgingPermit.htm>

Information on the EPA NPDES General Permit can be found at their website:

<http://yosemite.epa.gov/r10/water.nsf/NPDES+Permits/idsuction-gp>

- Some streams may require a Plan of Operations through the Forest Service so you should at the very least submit a Notice of Intent if suction dredging within a National Forest. Both Moose Creek (North Fork District) and Lolo Creek (Lochsa District) require a Plan of Operations with the Forest Service to operate a suction dredge in the stream.
- You cannot dredge in areas that are closed to mineral entry such as administrative sites, campgrounds, Wild and Scenic Rivers, and Wilderness.
- **Can I dig in the stream bed?**
 - Maybe. If you are not creating a significant disturbance, using any mechanized equipment, and are not operating in a stream that has species covered by the Endangered Species Act you may be authorized to dig in the stream bed. This should not be confused with digging in the stream bank, which would very likely cause a significant disturbance and need a Plan of Operations.
 - If the stream bed is below the mean high water mark but not in the active channel (where the water is currently flowing) then it would likely depend on the vegetation present as to if it would cause a significant disturbance.
- **Can I dig in the stream bank?**
 - Not under the IDWR Letter Permit or the EPA NPDES General Permit.
 - It is possible but the process is difficult, you would need to have an approved Plan of Operations, a bond, and it would need to go through the NEPA process. Additionally, you would need the appropriate permits from other agencies such as a Joint Application Permit to Alter a Stream Channel from the Corps of Engineers and IDWR, and a NPDES General Permit from the EPA.
- **Can I setup a sluice box? Are sluice boxes okay anywhere?**
 - Non-motorized hand sluicing does not usually require a Notice of Intent if you are not causing a significant disturbance but it may if it is in a stream or in an area that has animal species covered under the Endangered Species Act. Sluicing is typically allowed on any National Forest land that is open for mineral entry (Areas that may be excluded include: Wild and Scenic River corridors, historical or archeological sites, campgrounds, wilderness areas, administrative sites, environmentally sensitive areas, and areas “withdrawn” from mineral use.) It is best to submit a notice of intent (NOI) before sluicing or prospecting.

- **Can I go out and recreationally pan for gold? If so, where can I go to do this activity?**
 - Panning for gold is allowed on any National Forest land that is open for mineral entry. Some areas that may be excluded include: Wild and Scenic River corridors, historical or archeological sites, campgrounds, wilderness areas, administrative sites, environmentally sensitive areas, and areas “withdrawn” from mineral use.
 - You should not pan on a mining claim without first getting permission from the claimant.
 - It is best to contact the land owner prior to panning or prospecting in any area.

- **Can I pan for gold and do I need a permit?**
 - A permit for gold panning is required with IDWR when more than five (5) people are working in the same area, or if the disturbed area exceeds thirty-three percent (33%) of the stream width at the mining location (IDAPA37.03.07 (Rule 64)). A plan of operations may be required with the Forest Service for any significant disturbance.

- **I found a bunch of neat rocks in the forest; can I fill my truck with them for landscaping my yard?**
 - Free-use permits may be issued for mineral materials to settlers, miners, residents, and prospectors for uses other than commercial purposes, resale, or barter (16 U.S.C. 477).
 - Districts have the discretion to dispose of a small amount of rock material using a Free Use Permit. This material is meant for the small user only (less than 1/2 ton, hand loaded only). The permittee must stop at the district for the permit. It is intended for non-profit purposes and is applicable to those areas where it is to the Forest's benefit to have the material removed, e.g., ditches and rock fall on roads.
 - Charge a minimum of \$10/permit to cover administrative cost

- **Can I take home any rocks from the Forest?**
 - Rockhounding, which involves the discovery and collection of small quantities of rocks, gems, or other geologic materials for personal use, is permitted on the National Forest. Rockhounding usually does not require a permit when there is little or no disturbance to the environment. However, a notice of intent (NOI) should be submitted to the District Ranger if there will be obvious disturbance to the environment. Rockhounds also need to carefully refill and revegetate any

excavation, no matter how small. Consideration should also be given to possible cumulative damage when you do the same thing year after year in the same place.

- **How do I check on a mining claim? How can I tell if there's a current claim filed on a piece of ground?**
 - Detailed Mining claim location information can be found in the County Courthouse Records and through the BLM State office.
 - Less detailed information can be found online at: www.blm.gov/lr2000. LR2000 will give the location to the nearest ¼ of a section. If the claim straddles two quarters of the same section it will include both sections and should not be interpreted as a smaller area within the quarter. Example: NESE does not mean the NE of the SE; it means the claim is in the NE¼ and the SE¼ of the section.
- **Can I pick up a packet in your district office for my mining claim to submit the work that I am going to do this year on my claim?**
 - If you want to justify the work you have done in support of your small miner's exemption as opposed to paying your yearly fee, you will need to contact the BLM for the required forms. BLM is the keeper of all mining claim related information.

BLM Idaho State Office | Directory

1387 S. Vinnell Way
Boise, Idaho 83709
Public Desk: 208-373-4000
Fax: 208-373-3899
E-mail: BLM_ID_StateOffice@blm.gov
Building hours: 7:45am - 4:15pm, M-F
Public Room hours: 9:00am -4:00pm, M-F

- If you want to work your claim and will be creating a significant disturbance you will need a Plan of Operation to work your mining claim within the boundaries of the Forest Service. If you are unsure of the significance of disturbance or if your interpretation of significant disturbance is different than the Forest Service's a Notice of Intent should be submitted. Information about Notice of Intent and Plan of Operations can be found at http://www.fs.fed.us/geology/locatable_minerals.html

- **Can I have a commercial rock permit issued to me to remove tons of material? If so, where can I get the permit?**

You would need to get with a Forest Service minerals person and submit an application to the District Ranger. Below is a list of the different ways the Forest Service can dispose of mineral materials.

§ 228.57 Types of disposal.

Except as provided in §228.41(b), disposal of mineral materials may be made by:

(a) *Competitive sale* to the highest qualified bidder after formal advertising and other appropriate public notice;

(b) *Sale by negotiated contract*. (1) For removal of materials to be used in connection with a public works improvement program on behalf of a Federal, State, or local government agency if the public exigency will not permit delays incident to advertising, or

(2) For the removal of mineral materials for which it is impracticable to obtain competition;

(c) *Preference right negotiated sale* to the holder of a Forest Service-issued prospecting permit under which a suitable mineral material deposit has been demonstrated on acquired National Forest lands;

(d) *Free use* when a permit is issued to any nonprofit association, corporation, individual, or others listed in §228.62(d), for other than commercial purposes, resale, or barter, or to any Federal, State, county, local unit, subdivision, municipality, or county road district for use in public projects; or

(e) *Forest Service force account or by contract* where the material is to be used to carry out various Forest Service programs involving construction and maintenance of physical improvements.

- **Is there a map that shows all the mining claims in the area?**
 - o Currently there is no map that shows mining claims in the area, but geographic data can be input into the BLM's LR2000 to determine active claims in the area and their general location. www.blm.gov/lr2000.
- **Is there a place that I can dig for garnets or other gemstones? What about fossils?**
 - o There is no place set aside for digging garnets or other gemstones on the Nez Perce-Clearwater National Forest although plant fossils can be found in the Oviatt Creek Fossil Beds near Elk River, Idaho. There are several books about gems and minerals in the State of Idaho that can be easily found online.