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**CERTIFIED MAIL – RETURN
RECEIPT REQUEST
NUMBER: 7018 1130 0000 9295 0066**

Mr. Chris Garrison
Claimant/ Operator
8852 Oberon Road
Arvada, CO 80004

Dear Mr. Garrison,

I received six (6) emails from you on February 12, 2019. In those emails you outlined several ongoing issues and I am taking this opportunity to address them here.

ISSUES

- 1) *I need proof from your department that all park county miners have to follow invasive species protocol.*
- 2) *I need to know what other county state fed agencies that you want me to contact for continuing 2014 approved and revised but continuing POO to move forward just like before in 2012 thank you.*
- 3) *Also you have never gave us your supervisors numbers that we have requested numerous times for 2 years now and you said Amy Joshua is my boss and Joshua is his boss which is BS.*
- 4) *I have been advised that my 1872 mining rights have been violated by You and Amy do to kicking me off the bench prospect in the riparian high stage in this upland habitat for two years from 2016.*

You and Amy had no authorization to do so.

- 5) *Also were advised that the environmental effects analysis that was completed in 2012 for all surrounding areas of this bench prospect including beaver creek and beavers was not necessary do to the studies that were done and foremost approved by the people of Colorado in the flume and all county state and government agencies*
- 6) *including all my 7 reviseespecially when the enviromental effects analysis was completed and old approval and numerous revised poos would follow under under Nepa do to less than 5 acres and do to this type of small impact activity to the enviroment there's not another comment period for this 50, X 400' plan*



- 7) *Would not allow me to breach a beaver dam or put beaver relievers in to drop ground water on bench to continue prospecting for placers and making us revised poo do to beavers and*
- 8) *I have been advised per your past letters and now this hand delivered letter and the poo and decision memo you signed and approved by the state, county and the people of Colorado submitted 2012 poo was signifient and not appealable from anyone and do to the enviromental effects analysis that was completed on this 40 acre mining claim found no extraordinary circumstances exists and that is no irreversible or irretreivevable commitment of resources in the surrounding area on a 50' x400' approved bench prospect area and do to the small bench prospecting area under 5 acres the proposed action falls within catagory 36CFR 220.6(e)(3) including all my 7 revised plans do to not allowing me to continue with approved plan nothing has changed only the beaver rising water and now ground water and I was authorized to work in the riparian high serial stage and this upland habitat where my handdug prospect is underwater to the beavers.*
- 9) *Reading your hand delivered letter that I picked up this week states the same mitigation measures I must follow in all my 7 revised poos within the last 3 years and I was advised to not submit any of the mitigation measures into last revised poo this month because potential bench deposit has always been approved per the environmental effects analysts and was allowed to delineate widths,lengths and depths anywhere on the bench and your department said no we needed to follow map which is BS and I have been advised to speak to your boss because this is not moving forward as it should a long time ago.*
- 10) *That is why I'm requesting your supervisors name and phone # within 48 hrs to get some answers to my approved 2014 poo and if he or she can't answer my questions to my revised poo I have been advised to wcontact the secretary of the department of interior regarding this congress not appealable law do to the past and new small prospect that clearly states follows under catag*
- 11) *Therefore were closing down the mine do to your incompetence and let Drms know about the laws that you broke too, and editing our revised mpos to your liking and we have answered the same questions over and over on these revised plans and never accepted our answers to your questions + numerous maps were submitted and never accepted too and giving us the same run around for years*

In my response, I have chosen to group your issues into categories reflecting common elements of the arguments you raised in your emails.

Invasive Species Protocol (Issue 1)

It is a State requirement to follow aquatic nuisance species (invasive species) protocols. The State of Colorado signed the Aquatic Nuisance Species (ANS) Act into law May 2008. The Act defines ANS as exotic or nonnative aquatic wildlife or any plant species that have been determined to pose a significant threat to the aquatic resources or water infrastructure of the

state. It makes it illegal to possess, import, export, ship, transport, release, plant, place, or cause an ANS to be released.

The attached handout provides additional details on the decontamination process for waders and gear. You are required by the State of Colorado to follow these protocols to remain in compliance with the ANS Act.

Contact information for Supervisors and State, Federal, and Local agencies (Issues 2, 3, 10)

Geologist Amy Titterington provided you with the contact information for my direct supervisors in her email on February 21, 2019. This information is also readily available on the PSICC website, but I am providing it again here:

PSICC Deputy Forest Supervisor
Dave Condit
719-553-1400
dcondit@usda.gov

PSICC Forest Supervisor
Diana Trujillo
719-553-1400
dmtrujillo@usda.gov

I remain Amy Titterington's supervisor. You can always contact me at 719-836-2031 or jvoorhis@fs.fed.us

According to email correspondence on November 14, 2018 from Garver Brown, Water Commissioner for the Colorado Department of Water Resources (DWR), any groundwater exposure will require a well permit (C.R.S. 37-90-137 (11)(a)(1)). You were informed in an email from Geologist Amy Titterington that my office would not be able to continue processing your Plan of Operations until you obtained a well permit from the State. Regardless of cost (and whether you want it or not), you are still required to obtain this permit. I recommend you contact Garver Brown at 719-836-2557 if you have additional questions about the State permitting process.

Beyond DWR, you do not need to contact any other agencies. Once your Plan of Operations is deemed complete, the Forest Service will be responsible for initiating NEPA, posting the Legal Notice in the paper of record (Fairplay Flume), and contacting any other neighbors or interested parties during the public scoping portion of the NEPA process.

Violation of Mining Rights (Issue 4)

Congress granted statutory authorities for the Forest Service to manage mining operations within the bounds of the National Forests are described in FSM 2817.01 (a) and 2817.01 (b). These authorities come from the Organic Administration Act of June 4, 1897 (16 U.S.C. 473-475, 477-482, 551) and the Multiple Use Mining Act of 1955 (30 U.S.C. 611-615). Regulatory authority stems from Title 36, Code of Federal Regulations, Part 228, Subpart A.

The *Organic Administration Act* authorizes the Secretary of Agriculture to issue rules and regulations for the use and occupancy of the National Forests and to protect them from unnecessary environmental impacts. This Act also gives citizens of the United States (miners and prospectors) the right to conduct mining activities authorized under the General Mining Laws, as long as the claimant follows all rules and regulations.

The *Multiple Use Mining Act* amended the 1872 Mining Law and authorizes the Forest Service to restrict mining operations on National Forest System lands to only those uses reasonably incidental to mining and in a manner that minimizes adverse environmental impacts. This directly applies to all unpatented mining claims located on NF after the Act.

36 CFR 228, Subpart A regulations were promulgated to regulate locatable mineral activities conducted under authority of the Mining Laws on NFS lands.

Moreover, in 1996, the U.S. Court of Appeals (*Kunkes v. United States* 1996) stated that “an unpatented claim entitles a claim holder to “extract and sell minerals without paying royalties to the Government,” even though “[t]itle to the underlying fee simple estate in the land remains in the United States.” *Kunkes*, 78 F.3d at 1551. But these claims are conditional property interests in a highly regulated industry. *Id.* at 1553. This is because the *Government has “plenary authority over the administration of public lands, including mineral lands; and it has been given broad authority to issue regulations concerning them.” Best*, 371 U.S. at 336. Holders of unpatented mining claims “take their claims with the knowledge that the Government, as owner of the underlying fee title, maintains broad regulatory powers over the use of the public lands on which unpatented mining claims are located.” *Kunkes*, 78 F.3d at 1553.

Lastly, I have informed you on multiple occasions (most recently in my November 5, 2018 letter) that your 2014 MPO is still approved (until it expires in 2019), and that you have always had permission to continue those operations, if you follow your plan and stay within your designated map area.

NEPA Analysis (Issues 5, 6, 8, 9)

5 – I believe you are confusing the public scoping portion (public notification/ comment period) of the NEPA process with the final decision. The public scoping portion seeks comments from interested parties so that the deciding officer may make a more informed final decision.

6 – A new NEPA analysis is required if conditions change. Since your previous plan was approved in April 2014, you have submitted 9 plans of operation (4 of which my office has transcribed into Word) all with varying information. This includes, but is not limited to, changes to the size of your excavations, types of equipment used, number of people working, number of phases of the operation, number of pieces of equipment used, etc. Because each of your plans contains varying degrees of new information, a new NEPA analysis will be needed.

8, 9 – Federal regulations (36 CFR 228.4(c)(2)) require “a map or sketch showing information sufficient to locate the proposed area of operations on the ground, existing and/or proposed roads or access routes to be used in connection with the operations as set forth in § 228.12 and the approximate location and size of areas where surface resources will be disturbed.”

If you want to remain in compliance with your approved plan of operations, you need to continue to follow the map that was approved with your 2014 plan of operations. If you are proposing operations outside of this area, you will need to modify your plan and submit a new map.

Beaver Dam Removal (Issue 7)

The removal of beaver dams was never approved in your 2014 NEPA or plan of operations. Based on my experience, I reasonably expect that the removal of beaver dams would result in direct impacts to National Forest System lands (NFS) and resources and would need to be analyzed through the NEPA process before any removal decisions could be made.

Future Mining Plans (Issue 11)

Based on your statement (issue #11), it is now my understanding that you plan to close out your Golddigger Plan of Operations. As a reminder, within 1 year of the conclusion of operations, unless a longer time is allowed by the authorized officer, you shall, where practicable, reclaim the surface disturbed in operations by taking such measures as will prevent or control onsite and off-site damage to the environment and forest surface resources including:

- (1) Control of erosion and landslides;
- (2) Control of water runoff;
- (3) Isolation, removal or control of toxic materials;
- (4) Reshaping and revegetation of disturbed areas, where reasonably practicable; and
- (5) Rehabilitation of fisheries and wildlife habitat.

If you have any questions or need clarification regarding the above information, please contact Geologist Amy Titterington at the South Park Ranger District office, by phone at 719-836-3871, and/or by email at amyjtitterington@fs.fed.us.

Sincerely,



JOSHUA S. VOORHIS
District Ranger

cc: Carl Edwards; mbeltran@usda.gov;