

APPENDIX D
CONSULTATION AND COORDINATION
(this appendix represents a revised version of
Draft EIS Volume II Appendix K)



United States Department of the Interior

FISH AND WILDLIFE SERVICE

*Upper Columbia Fish and Wildlife Office
11103 East Montgomery Drive
Spokane, Washington 99206*



July 20, 2004

Ms. Barbara Bengé
Department of the Army
Walla Walla District, Corps Of Engineers
201 North Third Avenue
Walla Walla, Washington 99362

Subject: COE, Walla Walla District, Section 7 Consultation, Emerald Creek Garnet Mine,
St. Maries River, Benewah and Shoshone Counties, ID.
FWS Reference: 1-9-04-I-049 (File #352.2500)

Dear Ms. Bengé:

We have reviewed the Corps of Engineers' (Corps) May 28, 2004, Amendment to the Biological Assessment (BA), which includes determinations of effect to the federally listed threatened bald eagle (*Haliaeetus leucocephalus*) associated with the proposed "Emerald Creek Garnet Mine project." In addition, Dan Trochta of my staff conducted a site inspection of the project area on March 3, 2004. The project is located in wetlands adjacent to the St. Maries River, in Sections 5, 8, 9, 15, and, 16, T.43N., R.1E., B.M., Benewah and Shoshone Counties, Idaho.

The proposed action involves the dredging of approximately 327.5 acres of alluvial deposits in and near the floodplain of the St. Maries River. The Corps has determined that 133 acres of the alluvial deposits are wetlands and the remaining 194.5 acres are uplands. The operation would be conducted incrementally over a twenty-five year period, dredging annual units of up to fifteen acres in size. Various dredging techniques and equipment would be used to remove vegetation and overburden so that gravels can be excavated and garnets separated from the excavated materials. Trees, shrubs, and all herbaceous vegetation would be removed from the work area and topsoil stockpiled so that it can be utilized onsite during subsequent wetland restoration activities. Restoration would begin during the autumn of the year or the following spring after dredging is completed in a unit. Topsoil would be redistributed and the site would be replanted with native woody and herbaceous vegetation. In-kind wetland functions will be restored on all of the 133 mined acres affected by the activity. An additional 29.4 acres of degraded wetlands will be restored as out-of-kind mitigation. All of the restored wetlands will be monitored and protected over time to ensure they are functioning properly. Oxbows excavated during the operation will be recreated and revegetated with native plants. Special habitat features including snags, downed logs, and forested pockets will be provided on restored mined

areas. Areas important to riverbank integrity and sensitive to erosion will not be dredged. These areas include a 30-foot buffer along the St. Maries River and corridors encompassing permanent streams in the project area. A buffer of existing vegetation will be retained along State Highway 3 to serve as a visual screen for the dredged area. Existing snags and live trees for snag replacements would be retained where possible.

In our letter dated April 14, 2004, we concurred with your determination that the proposed action may affect, but is not likely to adversely affect the gray wolf (*Canis lupus*), Canada lynx (*Lynx canadensis*), bull trout (*Salvelinus confluentus*), and water howellia (*Howellia aquatilis*)

However, we did not agree with your determination that the project would have “no effect” on the federally listed threatened bald eagle and recommended that the Corps reconsider the determination and amend the BA. We also recommended that the Corps include the following conservation measures in the amended BA:

- Exclude mature cottonwood stands from mining. Mature cottonwood trees are extremely valuable to various wildlife species, including the bald eagle. This habitat type is estimated to be only five acres in the proposed project area and occurs mainly along top of banks and oxbows of the St. Maries River. Cottonwood stands in the watershed are limited and on the decline, and recruitment is virtually non-existent.
- Protect restored sites from livestock grazing to ensure establishment and rapid growth of vegetation, particularly cottonwoods. We recommend fencing the project area to exclude cattle use until vegetation is established on the site and developed enough to withstand grazing.
- Retain either existing snags or live trees as snag replacements, where possible, within the project area for snag-dependant wildlife habitat, *e.g.*, bald eagles. We recommend retaining snags/trees that are at least 12 inches dbh, with an emphasis on retaining the largest snags or trees in the project area.
- Ensure that mining units are restored to pre-project habitat conditions, *i.e.*, equal area, function, and value. We would like to provide technical assistance in selecting alternate plant species prior to restoration activities. Some of the plant species suggested for use in restoration in the Wildlife Habitat Restoration Plan (Section 4.3.1 Consolidated Biological Assessment, September 2003) may not be the most beneficial for wildlife.
- To minimize adverse effects to aquatic biota, design and locate sediment control structures (*i.e.*, siltation berms, sediment basins, and wash plant settling ponds) to prevent the delivery of sediment into the St. Maries River.

- The applicant should be prepared to implement additional restoration activities to maintain productive habitat in perpetuity if monitoring identifies deficiencies in the restoration effort. We request that the Corps provide results of monitoring to the Service when available.

We concur with your determination that the proposed action may affect, but is not likely to adversely affect the threatened bald eagle. Our concurrence is based on our knowledge of bald eagle use in the project area, the additional information provided in the amended BA, and Service-recommended mitigation measures included in the amended BA to reduce effects on the bald eagle. Bald eagles may forage along this reach of the St. Maries River and typically perch in large trees during their foraging activities. Large trees are also potential nest sites for bald eagles. The removal of large conifer and cottonwood trees would eliminate potential sites for bald eagle nesting and perching on 327.5 acres of land adjacent to the St. Maries River. Bald eagles may be displaced from the project area due to project-related noise and human presence.

This concludes informal consultation on this project. The project should be re-analyzed if new information reveals that effects of the action may affect listed species or critical habitat in a manner, or to the extent, not considered in this consultation; if the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this consultation; and/or if a new species is listed or critical habitat is designated that may be affected by this project.

We appreciate your efforts in preparing an amended BA and for your interest in protecting federally listed species. If you have any questions, please contact Dan Trochta of my staff at (509)-893-8021 or by e-mail at dan_trochta@fws.gov.

Sincerely,



for Supervisor

c: IDFG, Cd'A (Liter)
IDEQ, Cd'A (Bergquist)

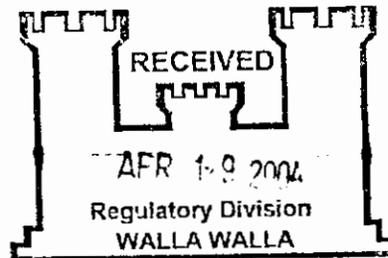


United States Department of the Interior

FISH AND WILDLIFE SERVICE



*Upper Columbia Fish and Wildlife Office
11103 East Montgomery Drive
Spokane, Washington 99206*



April 14, 2004

Ms. Barbara Bengé
Department of the Army
Walla Walla District, Corps Of Engineers
201 North Third Avenue
Walla Walla, Washington 99362-9265

Subject: COE, Walla Walla District, Section 7 Consultation, Emerald Creek Garnet Mine, St. Maries River, Benewah and Shoshone Counties, ID. FWS Reference: 1-9-04-1-049 (File #352.2500)

Dear Ms. Bengé:

We have reviewed the Corps of Engineers (Corps) Biological Assessment (BA), dated September 2003, which includes determinations of effect to the federally listed threatened gray wolf (*Canis lupus*), Canada lynx (*Lynx canadensis*), bull trout (*Salvelinus confluentus*), and water howellia (*Howellia aquatilis*) associated with the proposed "Emerald Creek Garnet Mine project." In addition, Dan Trochta of my staff conducted a site inspection of the project area on March 3, 2004. The project is located in wetlands adjacent to the St. Maries River, in Sections 5, 8, 9, 15, and, 16, T.43N., R.1E., B.M., Benewah and Shoshone Counties, Idaho.

The proposed action involves the dredging of approximately 327.5 acres of alluvial deposits in and near the floodplain of the St. Maries River. The Corps has determined that 133 acres of the alluvial deposits are wetlands and the remaining 194.5 acres are uplands. The operation would be conducted incrementally over a twenty five year period, dredging annual units of up to fifteen acres in size. Various dredging techniques and equipment would be used to remove vegetation and overburden so that gravels can be excavated and garnets separated from the excavated materials. Trees, shrubs, and all herbaceous vegetation would be removed from the area to be dredged and topsoil stockpiled so that it can be utilized on site during subsequent wetland restoration activities. Restoration would begin during the autumn of the year or the following spring after dredging is completed in a unit. Topsoil would be redistributed and the site would be replanted with native woody and herbaceous vegetation. In-kind wetland functions will be restored on all of the 133 mined acres affected by the activity. An additional 29.4 acres of wetlands will be restored as out-of-kind mitigation. All of the restored wetlands will be monitored and protected over time to ensure they are functioning properly. Oxbows excavated

during the operation will be recreated and revegetated with native plants. Special habitat features including snags, downed logs, and forested pockets will be provided on restored mined areas. Areas important to riverbank integrity and sensitive to erosion will not be dredged. These areas include a 30-foot buffer along the St. Maries River and corridors encompassing permanent streams in the project area. A buffer of existing vegetation will be retained along State Highway 3 to serve as a visual screen for the dredged area. Existing snags and live trees for snag replacements would be retained where possible.

We concur with your determination that the proposed action may affect, but is not likely to adversely affect the threatened gray wolf, lynx, bull trout, and water howellia. Our concurrence is based on the information provided in the BA and on our knowledge of gray wolf, lynx and bull trout use in the project area. The gray wolf and Canada lynx have not been observed in the project area and it is unlikely they would use the area because of the highway that bisects the project area and the high amount of other human activity in the area. If a wolf or lynx were to visit the area during project activities, it probably would be displaced. Conservation measures, including the retention of a 30-foot buffer along the St. Maries River, other BMP's identified in the Draft EIS, and proposed restoration activities, would minimize impacts to bull trout habitat. Surveys were conducted for water howellia but no plants were observed in the project area.

We do not agree with the determination that the project would have "no effect" on the federally listed threatened bald eagle (*Haliaeetus leucocephalus*). Bald eagles have been observed and may forage along this reach of the St. Maries River. Although there are no bald eagle nest territories in the project area at the present time, bald eagles typically use large trees for nesting and also for perching during their foraging activities. The removal of large conifer and cottonwood trees would eliminate potential sites for bald eagle nesting and perching on 327.5 acres of land adjacent to the St. Maries River. Bald eagles may be displaced from the project area due to project related noise and human presence. Based on our knowledge of bald eagle use in the project area, the loss of key habitat components associated with the project, and the potential for displacement in the project area the Service believes that the proposed action would reach a "may affect" threshold. Therefore, we recommend that the Corps reconsider the determination and amend the BA.

To further protect bald eagle and bull trout habitat the Service provides the following conservation measures that should be included in an amended BA and as stipulated in the Corps permit.

- Exclude mature cottonwood stands from mining. Mature cottonwood trees are extremely valuable to various wildlife species including the bald eagle. This habitat type is estimated to be only 5 acres in the proposed project area and occurs mainly along top of banks and oxbows of the St. Maries River. Cottonwoods stands in the watershed are limited and on the decline, and recruitment is virtually non-existent.
- Protect restored sites from livestock grazing to ensure establishment and rapid growth of vegetation, particularly cottonwood. We recommend fencing the project area to exclude cattle use until vegetation is established on the site and developed enough to withstand grazing.

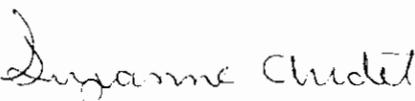
- Retain either existing snags or live trees as snag replacements, where possible, within the project area for snag dependant wildlife habitat, e.g. bald eagle. We recommend retaining snags/trees that are at least 12 inches dbh, with an emphasis on retaining the largest snags or trees in the project area.
- Ensure that mining units are restored to pre-project habitat conditions i.e. equal area, function and value. We would like to provide technical assistance in selecting alternate plant species prior to restoration activities. Some of the plant species suggested for use in restoration in the Wildlife Habitat Restoration Plan (Section 4.3.1 Consolidated Biological Assessment, September 2003) may not be the most beneficial for wildlife.
- To minimize adverse effects to aquatic biota, design and locate sediment control structures (i.e. siltation berms, sediment basins, and wash plant settling ponds) to prevent the delivery of sediment into the St. Maries River.
- The applicant should be prepared to implement additional restoration activities to maintain productive habitat in perpetuity if monitoring identifies deficiencies in the restoration effort. Provide results of monitoring to the Service when available.

This concludes informal consultation on this project. The project should be re-analyzed if new information reveals that effects of the action may affect listed species or critical habitat in a manner, or to the extent, not considered in this consultation; if the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this consultation; and/or if a new species is listed or critical habitat is designated that may be affected by this project.

The project area also provides suitable nesting habitat for several species of migratory birds including waterfowl, shorebirds, raptors, osprey and songbirds. This group of avian species is protected under the Migratory Bird Treaty Act. The Service recommends that removal of vegetation from the mining units be conducted outside of nesting seasons for migratory birds to prevent harm, injury, or mortality to nesting birds. Birds generally nest from mid March through mid July every year

We appreciate your efforts in preparing a BA and for your interest in protecting federally listed species. If you have any questions, please contact Dan Trochta of my staff at (509)-893-8021 or by e-mail at dan_trochta@fws.gov.

Sincerely,


for Supervisor

c: IDFG, Cd'A (Liter)
IDEQ, Cd'A (Bergquist)

REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEERS
201 NORTH THIRD AVENUE
WALLA WALLA, WASHINGTON 99362-9205

November 7, 2003

Operations Division

SUBJECT: NWW No. 981101710

U.S. Fish and Wildlife Service
Northern Idaho Field Office
11103 East Montgomery Drive, Suite 2
Spokane, Washington 99206

Gentlemen:

Enclosed for your review and concurrence is a Biological Assessment evaluating the effect of an Emerald Creek Garnet International, Ltd. project on species listed or proposed for listing under the Endangered Species Act. The project involves the dredge mining of alluvial garnet deposits on 327.5 acres of current and historic floodplain of the St. Maries River in St. Maries River and was the subject of our Public Notice No. NWW No. 981101710, dated October 27, 1998. You now have a copy of the Draft Environmental Impact Statement (DEIS) for review which was sent to you on October 31, 2003. The DEIS contains a full description of the project.

The Consolidated Biological Assessment prepared by Science Applications International Corporation addresses impacts to the listed and proposed species. Based on our evaluation of the project, we believe the project may affect, but will not likely adversely affect; water howellia (*Howellia aquatilis*), gray wolf (*Canis lupus*), lynx (*Lynx canadensis*), and bull trout (*Salvelinus confluentus*).

Please let us know if you concur with these determinations by December 29, 2003, the close of comment deadline on the DEIS. If you have any questions, please contact me at 208-765-7237.

Sincerely,

A handwritten signature in black ink that reads "Michael T. Doherty".

Michael T. Doherty
Regulatory Project Manager

Enclosure



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEERS
COEUR d'ALENE REGULATORY OFFICE
U.S. FOREST SERVICE BLDG.
3815 SCHREIBER WAY
COEUR d'ALENE, IDAHO 83815-8363

June 3, 2002

Operations Division

SUBJECT: NWW No. 981101710

Emerald Creek Garnet International
1836 Northwest Boulevard Ste 200
Coeur D Alene, ID 83814-2616

Gentleman:

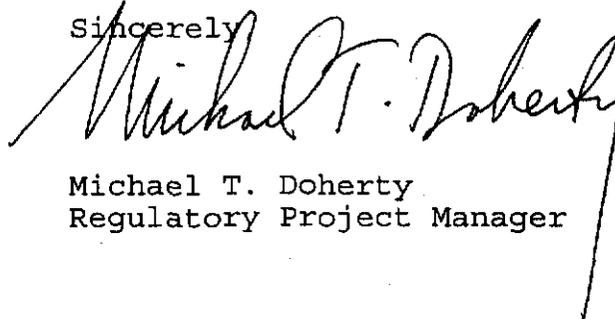
This is our approved jurisdictional determination for your proposed dredge mining of alluvial garnet deposits on 327.5 acres of current and historic floodplain of the St. Maries River located near Fernwood in Benewah County, Idaho. We reviewed the wetland delineation report entitled Wetland Delineation for St. Maries River Study Areas, dated September 7, 1999, prepared by Selkirk Environmental. We feel it accurately delineates the extent of waters of the United States, including wetlands. Please note this document includes areas that have been omitted from the proposed project area. The basis of this jurisdictional determination is enclosed. This jurisdictional determination is valid for a period of 5 years from the date of this letter unless new information warrants revision of the determination before the expiration date.

We are enclosing an appeals form that explains the options you have if you do not agree with this approved jurisdictional determination. If you decide to appeal this determination, you need to send the form to the Division Engineer, Northwestern Division, so that he receives it within 60 days of this letter. If you have new information you want us to consider, you may send it to the Regulatory Branch, Walla Walla District, at the letterhead address before you file the appeal.

As you know, discharging dredged or fill material into waters of the United States, including wetlands, before obtaining the required Department of the Army permit constitutes a violation of the provisions of the Clean Water Act.

A copy of this Jurisdictional Determination has been sent to Mr. John Everingham, Science Applications International Corporation, 405 S. 8th Street, Suite 301, Boise, Idaho 83702. If you have any questions, please contact me at (208) 765-7237.

Sincerely

A handwritten signature in black ink that reads "Michael T. Doherty". The signature is written in a cursive style with a long, sweeping underline that extends down the right side of the page.

Michael T. Doherty
Regulatory Project Manager

Enclosures

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers, Walla Walla District

APPLICANT: Emerald Creek Garnet

FILE NUMBER: 981101710

PROJECT LOCATION/WATERWAY: Fernwood, Idaho /St. Maries River, tributaries to St. Maries River, and Adjacent wetlands.

PROJECT REVIEW COMPLETED: Office Field

Jurisdictional Determination (JD): (For sites regulated under 33 CFR 320-330)

- Preliminary JD - Based on available information, there appear to be or there appear to be no waters of the United States on the project site. A preliminary JD is not appealable.
- Approved JD - There are or there are no waters of the United States on the project site, as identified in the basis of jurisdictional determination indicated below. An approved JD is an appealable action (33 CFR 331).
(Note: JDs prepared by the Environmental Protection Agency or the Natural Resource Conservation Service are not appealable to the Corps of Engineers)

Basis of Jurisdictional Determination: (33 CFR 328.3)

- The presence of waters which are currently used, or were used in the past, or may be susceptible for use to transport interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide (i.e. navigable waters of the U.S.).
- The presence of interstate waters (including interstate wetlands¹).
- The presence of a tributary to an interstate water or other water of the US.
- Impoundments of interstate or other waters of the US or their tributaries.
- The presence of territorial seas.
- The presence of wetlands adjacent² to interstate or other waters of the US, except for those wetlands adjacent to other wetlands.
- The presence of an isolated water (e.g., intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds).
- The site is used by interstate or foreign travelers for recreational purposes.
- The site has fish or shellfish that are taken and sold in interstate or foreign commerce.
- The site is used for industrial purposes by industries in interstate commerce.
- Other: _____

Rationale for Basis of JD (required for all approved JDs):

St. Maries River and streams in the project area are tributaries to the Spokane River, an interstate water of the U.S. Wetlands are adjacent to this interstate tributary system.

Lateral Extent of Jurisdiction (33 CFR 328 and 329):

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
 - the presence of litter and debris
 - changes in the character of soil
 - destruction of terrestrial vegetation
 - shelving
 - other: Clearly established bed and banks.
- High Tide Line indicated by:
- oil or scum line along shore objects
 - fine shell or debris deposits (foreshore)
 - physical markings/characteristics
 - tidal gages
 - other: _____
- Mean High Water Mark indicated by
- survey to available datum; physical markings; vegetation lines/changes in veg types

In ocean or coastal area, site is in a zone three geographic (nautical) miles seaward of the baseline³

Wetland maps and jurisdictional report prepared by: Mike Carroll/Selkirk Environmental dated September 7, 1999.

Additional supporting information (attach when appropriate)

Preparer: Michael T. Doherty

Date: June 3, 2002

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual)(i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology). Processes for determining wetlands on agricultural lands may vary from methods described in the Corps Wetland Delineation Manual.

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

³Baseline is the line on the shore reached by the ordinary low tides from which the distance of three miles is measured.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Emerald Creek Garnet	File Number: 981101710	Date: June 3, 2002
Attached is:		See Section Below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations (JD) associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:
District Engineer
ATTN: A. Bradley Daly
Regulatory Branch Walla Walla District
201 North 3rd Avenue
Walla Walla, WA 99362-1876
(509) 527-7150

If you only have questions regarding the appeal process you may also contact:
U.S. Army Corps of Engineers
Northwestern Division
ATTN: Mores Bergman, Appeal Review Officer
12565 West Center Road
Omaha, Nebraska 68144-3869
Telephone (402) 697-3869

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.	Date:	Telephone number:
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United States Department of the Interior

FISH AND WILDLIFE SERVICE
Upper Columbia Fish and Wildlife Office
11103 East Montgomery Drive
Spokane, Washington 99206

March 15, 2002

Tom Duebendorfer
Professional Wetland Scientist, Botanist
P.O. Box 167
Elmira, Idaho 83865

Subject: Species List for the Proposed Emerald Creek Project in Benewah County, Idaho

Reference Number: 1-9-02-SP-0232

Dear Mr. Duebendorfer:

This responds to your February 15, 2002, request for a list of threatened and endangered species that may occur in the vicinity of the proposed Emerald Creek project in Benewah County, Idaho. We understand that the project involves field studies, EIS preparation, and permitting for the project. Please use the above reference number for all future correspondence regarding this project.

We have reviewed the information you provided. Our records indicate that the following listed species may occur in the vicinity of the project and could potentially be affected by it:

Listed Species

Experimental/Non-essential

Gray wolf (*Canis lupus*)

Threatened

Bull trout (*Salvelinus confluentus*)

Ute ladies'-tresses (*Spiranthes diluvialis*)

There are species regulations defining the protection and management of gray wolves designated as nonessential experimental, as outlined in the final rules published in the Federal Register, Vol. 59, No. 223 - November 22, 1994. These regulations include special provisions regarding "take" of gray wolves. For section 7 interagency coordination purposes, wolves designated as nonessential experimental that are not within units of the National Park System or National Wildlife Refuge System are treated as proposed species. As such, Federal agencies are only required to confer with the Service when they determine that an action they authorize, fund, or carry out "is likely to jeopardize the continued existence" of the species.

If there is federal agency involvement in this project (funding, authorization, or other action), the involved federal agency must meet its responsibilities under section 7 of the Endangered Species Act of 1973, as amended (Act), as outlined in Enclosure A. Enclosure A includes a discussion of the contents of a Biological Assessment (BA), which provides an analysis of the impacts of the project on listed and proposed species, and designated and proposed critical habitat. Preparation of a BA is required for all major construction projects. Even if a BA is not prepared, potential project effects on listed and proposed species should be addressed in the environmental review for this project. Federal agencies may designate, in writing, a non-federal representative to prepare a BA. However, the involved federal agency retains responsibility for the BA, its adequacy, and ultimate compliance with section 7 of the Act.

Preparation of a BA would be prudent when listed or proposed species, or designated or proposed critical habitat, occur within the project area. Should the BA determine that a listed species is likely to be affected by the project, the involved federal agency should request section 7 consultation with the U.S. Fish and Wildlife Service (Service). If a proposed species is likely to be jeopardized by the project, regulations require conferencing between the involved federal agency and the Service. If the BA concludes that the project will have no effect on any listed or proposed species, we would appreciate receiving a copy for our information.

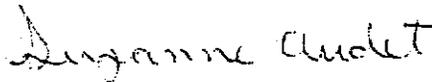
If there is no federal agency involvement in your project, and you determine that it may negatively impact a listed or proposed species, you may contact us regarding the potential need for permitting your actions under section 10 of the Act.

If you would like information concerning state listed species or species of concern, you may contact the Idaho Department of Fish and Game, at (208) 334-3402.

This letter fulfills the requirements of the Service under section 7 of the Act. Should the project plans change significantly, or if the project is delayed more than 90 days, you should request an update to this response.

Thank you for your efforts to protect our nation's species and their habitats. If you have any questions concerning the above information, please contact Carrie Cordova at (509) 893-8022.

Sincerely,



For Supervisor

Enclosure

c: IDFG, Coeur d'Alene
SAIC, Rob Cavallaro

Responsibility of Federal Agencies under Section 7
of the Endangered Species Act

Section 7(a) - Consultation/Conferencing

- Requires: 1) Federal agencies to utilize their authorities to carry out programs to conserve endangered and threatened species;
- 2) Consultation with the U.S. Fish and Wildlife Service (Service) when a federal action may affect a listed species to ensure that any action authorized, funded, or carried out by a federal agency will not jeopardize the continued existence of listed species, or result in destruction or adverse modification of critical habitat. The process is initiated by the federal agency after determining that the action may affect a listed species; and
- 3) Conferencing with the Service when a federal action may jeopardize the continued existence of a proposed species, or result in destruction or adverse modification of proposed critical habitat.

Section 7(c) - Biological Assessment for Major Construction Activities

Requires federal agencies or their designees to prepare a Biological Assessment (BA) for major construction activities¹. The BA analyzes the effects of the action, including indirect effects and effects of interrelated or interdependent activities, on listed and proposed species, and designated and proposed critical habitat. The process begins with a request to the Service for a species list. If the BA is not initiated within 90 days of receipt of the species list, the accuracy of the list should be verified with the Service. The BA should be completed within 180 days after its initiation (or within such a time period as is mutually agreeable between the Service and the involved federal agency). No irreversible commitment of resources is to be made during the BA process that forecloses reasonable and prudent alternatives for the project that could protect listed and proposed species. Project planning, design, and administrative actions may proceed, however, no construction may begin.

We recommend the following for inclusion in a BA: an onsite inspection of the area to be affected by the proposal, which may include a detailed survey of the area to determine if listed or proposed species are present; a review of pertinent literature and scientific data to determine the species' distribution, habitat needs, and other biological requirements; interviews with experts, including those within the Service, state conservation departments, universities, and others who may have data not yet published in scientific literature; an analysis of the effects of the proposal on the species in terms of individuals and populations, including consideration of cumulative effects of the proposal on the species and its habitat; and an analysis of alternative actions considered. The BA should document the results of the impacts analysis, including a discussion

of study methods used, any problems encountered, and other relevant information. The BA should conclude whether or not any listed species may be affected, proposed species may be jeopardized, or critical habitat may be adversely modified by the project. Upon completion, the BA should be forwarded to the Service.

Major concerns that should be addressed in a BA for listed and proposed animal species include:

1. Level of use of the project area by the species, and amount or location of critical habitat;
2. Effect(s) of the project on the species' primary feeding, breeding, and sheltering areas;
3. Impacts from project construction and implementation (*e.g.*, increased noise levels, increased human activity and/or access, loss or degradation of habitat) that may result in disturbance to the species and/or their avoidance of the project area or critical habitat.

Major concerns that should be addressed in a BA for listed or proposed plant species include:

1. Distribution of the taxon in the project area;
2. Disturbance (*e.g.*, trampling, collecting) of individual plants or loss of habitat; and
3. Changes in hydrology where the taxon is found.

Section 7(d) - Irreversible or Irrecoverable Commitment of Resources

Requires that, after initiation or reinitiation of consultation required under section 7(a)(2), the Federal agency and any applicant shall make no irreversible or irretrievable commitment of resources with respect to the action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternatives which would avoid violating section 7(a)(2). This prohibition is in force during the consultation process and continues until the requirements of section 7(a)(2) are satisfied.

¹ A major construction activity is a construction project, or other undertaking having similar physical impacts, which is a major action significantly affecting the quality of the human environment as referred to in the National Environmental Policy Act [42 U.S.C. 4332 (2)(c)].



IDAHO CONSERVATION DATA CENTER



Idaho Department of Fish and Game • 600 South Walnut • P.O. Box 25, Boise, Idaho 83707 • (208) 334-3402 • FAX 334-2114

January 28, 1999

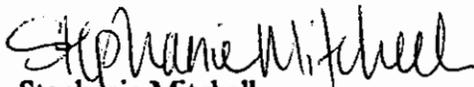
Kurt Dostal
Wildlife Habitat Institute
1025 E. Hatter Creek Road
Princeton, ID 83857

Dear Mr. Dostal:

I am responding to your request for any known Coeur d'Alene salamander occurrences near T43N R1E, Sections 5, 8, 9, 15, and 16. There is one known occurrence about 4 miles SW of the area indicated in your request. A copy of the record from our database is enclosed.

If you have any questions regarding this request, please feel free to contact me.

Sincerely,


Stephanie Mitchell
Information Management Technician

Idaho Conservation Data Center
Idaho Department of Fish and Game
January 28, 1999
For: Wildlife Habitat Institute

Coeur d'Alene Salamander

Record No. 064
Scientific Name: PLETHODON IDAHOENSIS
Common Name: COEUR D'ALENE SALAMANDER
Federal Status: W
Type of Occurrence: BREEDING POPULATION
First Observed (date): 1989
State Status: SC
Last Observed (date): 1989-04-28

Township Range Section(s) Comments on section(s)

043N.....001E...31.....SE4SE4

Latitude: 470122N Longitude: 1161456W

County: Shoshone

Quad Name: MERRY CREEK

Place Name: CLARKIA

Elevation (ft)

minimum: 2860

maximum:

Location:

Ca 1 mi due N of Clarkia on unnamed road.

Managed Area(s):

IDAHO PANHANDLE NATIONAL FORESTS

IDAHO PANHANDLE NATIONAL FORESTS, ST. MARIES RANGER DISTRICT

Land Ownership:

St. Joe NF, St. Maries RD, and/or private land.

Habitat:

Seepage of light, dripping flow on E side of road, ca 50 ft above creek to west. Discontinuous wet

area during visit. Scant overstory.

Occurrence Data:

1989: salamanders found beneath Belt rock rubble.

Comments on protection:

Comments:

Site visited again in late June, 1989. No salamanders found; site was mostly dry.

Specimens:

Best Source or Contact:

Wilson, Al



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Upper Columbia River Basin Field Office
11103 E. Montgomery Drive, Suite 2
Spokane, WA 99206

November 10, 1998

Tom Duebendorfer
P.O. Box 167
Elmira, ID 83865

Subject: Threatened and Endangered Species List for Emerald Creek Garnet Company
Project (1-9-99-SP-5; 970.0500)

Dear Mr. Duebendorfer:

This responds to your October 15, 1998, request for the subject species list, received in this office on October 21, 1998. The Emerald Creek Garnet Company is proposing a mining project, located within Township 43 North, Range 1 East, Sections 4-6, 8, 9, 15, and 16, near Fernwood, Idaho. We have enclosed a list 1-9-99-SP-5 (Enclosure A) of endangered, threatened, proposed, and candidate species and species of concern that may be present in the proposed project area. The list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act of 1973 (Act), as amended. The requirements for Federal agency compliance under the Act are outlined in Enclosure B. Please reference the species list number on Enclosure A in all subsequent correspondence, reports, environmental assessments, environmental impact statements, biological assessments (evaluations), Coordination Act reports, etc.

If a listed species appears on Enclosure A, preparation of a biological assessment/evaluation (BA) would be prudent. Even if a BA is not prepared, potential project effects on listed species should be addressed in the environmental documentation for this project. If a BA is not commenced within 90 days of this response, verification of the accuracy of the species list request is required by regulations. Should the BA determine that a listed species is likely to be affected adversely by the project, the lead Federal agency (if any) involved in this project should request formal section 7 consultation through this office. If a proposed species is likely to be jeopardized by a Federal action, regulations require a conference between the Federal agency and the Service.

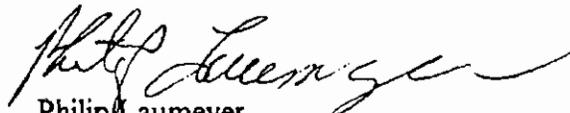
Candidate species and species of concern that appear on Enclosure A have no protection under the Act, but are included for early planning consideration. Proposed species could be formally listed and candidate species could be formally proposed and listed during project planning, thereby falling within the scope of section 7 of the Endangered Species Act. Therefore, if they appear on Enclosure A, we recommend that additional surveys be made for proposed and/or candidate species that are likely to be in the project area. If the project is likely to adversely impact a candidate species, informal consultation with this office is recommended.

The Service recently received a petition to list the westslope cutthroat trout as threatened. Petitioned species receive no protection under the Act. However, a petition is an early step in the

listing process. In its 90-day finding, published in the June 10, 1998 Federal Register (63 FR 31691), the Service found that the petition presented substantial information that listing this species may be warranted. The Service is now surveying the status of the species range-wide, preparatory to making a 12-month finding, due January 25, 1999. You may want to consider the potential effects of the subject project on this species, both to minimize any adverse effect to the species and to simplify consultation responsibilities should the species be proposed or listed before the project is completed.

If you have any questions regarding Federal consultation responsibilities under the Act, please contact Suzanne Audet of this office at (509) 891-6839. Thank you for your continued interest in the Endangered Species Program.

Sincerely,


Philip Laumeyer
Field Supervisor

Enclosures

cc: IDFG, Reg. 1, CdA

Refer to next page

Comments:

1. There are species regulations defining the protection and management of gray wolves designated as nonessential experimental, as outlined in the final rules published in the Federal Register, Vol. 59, No. 223 - November 22, 1994. These regulations include special provisions regarding "take" of gray wolves. For section 7 interagency coordination purposes, wolves designated as nonessential experimental that are not within units of the National Park System or National Wildlife Refuge System are treated as proposed species. As such, Federal agencies are only required to confer with the Service when they determine that an action they authorize, fund, or carry out "is likely to jeopardize the continued existence" of the species.
2. The U.S. Fish and Wildlife Service has been petitioned to list the westslope cutthroat trout as threatened. Petitioned species receive no protection under the Endangered Species Act. However, a petition is an early step in the listing process. The Service has made a positive 90-day finding, published June 10, 1998, in the Federal Register (63 FR 31691), that the petition presented substantial information that listing this species may be warranted. The Service is now surveying the status of the species range-wide, preparatory to making a 12-month finding, due January 25, 1999.

LISTED AND PROPOSED ENDANGERED AND THREATENED SPECIES
AND CANDIDATE SPECIES THAT MAY OCCUR WITHIN THE
AREA OF THE EMERALD CREEK GARNET COMPANY PROJECT
FWS-1-9-99-SP-5

LISTED SPECIES

COMMENTS

Gray Wolf (XN)
(Canis lupus)

See Comment 1.

Bull Trout (LT)
(Salvelinus confluentus)

Ute ladies'-tresses (LT)
(Spiranthes diluvialis)

PROPOSED SPECIES

None

CANDIDATE SPECIES

None

SPECIES OF CONCERN

Westslope cutthroat trout*
(Oncorhynchus clarki lewisi)

See Comment 2.

FEDERAL AGENCIES' RESPONSIBILITY UNDER SECTIONS 7(a) AND (c)
OF THE ENDANGERED SPECIES ACT

SECTION 7(a) - Consultation/Conference

- Requires: 1) Federal agencies to utilize their authorities to carry out programs to conserve endangered and threatened species;
- 3) Consultation with FWS when a Federal action may affect a listed endangered or threatened species to insure that any action authorized, funded or carried out by a Federal agency is not likely to jeopardize the continued existence of listed species; or result in destruction or adverse modification of critical habitat. The process is initiated by the Federal agency after determining the action may affect a listed species; and
- 3) Conference with FWS when a Federal action is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat.

SECTION 7(c) - Biological Assessment for Major Construction Activities ^{1/}

Requires Federal agencies or their designees to prepare Biological Assessment (BA) for major construction activities. The BA analyzes the effects of the action^{2/} on listed and proposed species. The process begins with a Federal agency in requesting from FWS a list of proposed and listed threatened and endangered species (list attached). If the BA is not initiated within 90 days of receipt of the species list, the accuracy of the species list should be informally verified with our Service. The BA should be completed within 180 days after its initiation (or within such a time period as is mutually agreeable). No irreversible commitment of resources is to be made during the BA process which would foreclose reasonable and prudent alternatives to protect endangered species. Planning, design, and administrative actions may be taken; however, no construction may begin.

We recommend the following for inclusion in the BA; an onsite inspection of the area to be affected by the proposal which may include a detailed survey of the area to determine if the species are present; a review of literature and scientific data to determine species' distribution, habitat needs, and other biological requirements; interviews with experts, including those within FWS, State conservation departments, universities and others who may have data not yet published in scientific literature; an analysis of the effects of the proposal on the species in terms of individuals and populations, including consideration of cumulative effects of the proposal on the species and its habitat; an analysis of alternative actions considered. The BA should document the results, including a discussion of study methods used, any problems encountered, and other relevant information. The BA should conclude whether or not a listed or proposed species will be affected. Upon completion, the BA should be forwarded to our office.

^{1/} A major construction activity is a construction project (or other undertaking having similar physical impacts) which is a major action significantly affecting the quality of human environment as referred to in the NEPA (42 U.S.C. 4332 (2)(c)).

^{2/} "Effects of the action" refers to the direct and indirect effects on an action on the species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action.



IDAHO CONSERVATION DATA CENTER



Idaho Department of Fish and Game • 600 South Walnut • P.O. Box 25 Boise, Idaho 83707 • (208) 334-3402 • FAX 334-2114

28 September 1998

Kurt Dostal
Wildlife Habitat Institute
1025 East Hatter Creek Rd.
Princeton, ID 83857

Dear Mr. Dostal:

I am responding to your request for information on special status species associated with T43N R1E S5,8,9,15,16 along the St. Maries River. Following is a species list.

Animals

bull trout (LT) - St. Maries River.
westslope cutthroat trout (SC) - St. Maries River.

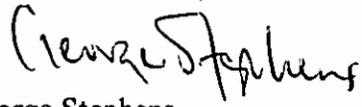
Plants

Tauschia tenuissima (Leiberg's *Tauschia*) - BLM Watch species; located in and adjacent to the project sections.
Carex hendersonii (Henderson's sedge) - BLM and USFS Sensitive species; located ca 3 miles SE of the project area.

LT = Listed Threatened SC = USFWS Species of Concern

If you have questions regarding this response, please contact me.

Sincerely,

A handwritten signature in black ink that reads "George Stephens". The signature is written in a cursive style with a large, prominent initial "G".

George Stephens
Fish and Game Data Coordinator

Please note: The quantity and quality of data collected by the Idaho Conservation Data Center (CDC) are dependent on the research and observations of many individuals and organizations. In most cases, these data are not the result of comprehensive or site-specific field surveys; many natural areas in Idaho have never been thoroughly surveyed. For these reasons, the CDC cannot provide a definitive statement on the presence, absence, or condition of biological elements in any part of Idaho. CDC reports summarize the existing information known to the CDC at the time of the request regarding the biological elements or locations in question. They should never be regarded as final statements on the elements or areas being considered, nor should they be substituted for on-site surveys required for environmental assessments.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEERS
201 NORTH THIRD AVENUE
WALLA WALLA WA 99362-1876

June 17, 2004

Operations Division

SUBJECT: NWW No. 981101710

Mr. Ernest L. Stensgar, Chairman
Coeur d'Alene Tribal Council
Route 1, Box 11 FA
Plummer, Idaho 83851-9704

Dear Mr. Stensgar:

This is to advise you that we plan to issue the final Environmental Impact Statement (EIS) for the Emerald Creek Garnet International, Limited project in the next couple of weeks. We received your comments on the draft EIS and have incorporated and addressed them in the final EIS. In your comment letter, you indicated that tribal consultation would need to occur to determine if cultural resource surveys will be necessary. We sent you a copy of the 1999 archaeological survey for this project on June 11, 2002 and delivered a copy to you on April 30, 2004 but did not receive any comments from you on the survey. Based on this, we have not required any additional surveys and have prepared the final EIS.

We look forward to working with you on future projects. If you have any questions or would like further information on this project, please call Ms. Barbara Bengel at 509-527-7153. A copy of this letter was sent to Mr. Jack Mozingo, Science Applications International Corporation, 18706 North Creek Parkway, Suite 110, Bothell WA 98011.

Sincerely,

A handwritten signature in cursive script that reads "A. Bradley Daly".

A. Bradley Daly
Chief, Regulatory Division

MEMORANDUM FOR RECORD

SUBJECT: NWW No. 981101710, Emerald Creek Garnet Mine – Documentation of coordination with Coeur d’Alene Tribe

1. The Coeur d’Alene Tribe commented on the DEIS (Comment No. 33) that efforts need to be coordinated with the Tribe if any impacted areas are culturally significant or may have the possibility of containing artifacts. They stated all of the lands surrounding the project area are within the aboriginal territory of the Coeur d’Alene Tribe and are historical hunting and gathering areas. They wrote that Tribal consultation needs to occur to determine if cultural resource surveys will be necessary in any locations.
2. We wrote to the Coeur d’Alene Tribe on June 11, 2002 asking if they would like to be a consulting party in the National Historic Preservation Act Section 106 process for the Department of the Army permit application for Emerald Creek Garnet International, Limited. We also enclosed a copy of the cultural resources report entitled “Final Archaeological Survey Technical Report, St. Maries River Project, Benewah and Shoshone County, ID, dated October 1999 and requested their comments by July 24, 2002. We did not receive any comments.
3. We sent the Coeur d’Alene Tribe a letter November 20, 2003 requesting Government-to-Government consultation on the Emerald Creek project. We did not receive any comments.
4. On April 30, 2004, Mr. Bill Mellick, Native American Coordinator for Walla Walla District, Corps of Engineers delivered a copy of the archaeological survey to the Coeur d’Alene Tribe. Mr. Alfred Nomee of the Tribe said their archaeologist would take a look at the survey and get back to us with any comments they have.
5. The Tribal archaeologist was not back in his office until May 17. Mr. Mellick called him on May 17 and left a message requesting that he review the survey and send us written comments for the FEIS. Mr. Mellick called the Tribe asking for comments approximately 8 times since April 30. Mr. Mellick planned to meet with Mr. Nomee on Saturday, June 12 and said he would remind him again that we would like any comments they may have.
6. On June 17, 2004, we sent a letter to the Coeur d’Alene Tribe to advise them we would be issuing the FEIS for the Emerald Creek Garnet project in the next couple weeks.

Barbara Bengel
Regulatory Project Manager



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEERS
201 NORTH THIRD AVENUE
WALLA WALLA, WASHINGTON 99362-1876

Operations Division

Mr. Samuel N. Penny
Chairman
Nez Perce Tribal Executive Committee
P.O. Box 305
Lapwai, Idaho 83540-0305

Dear Mr. Penny:

The purpose of this letter is to initiate Government to Government consultation with your tribe on a proposal by Emerald Creek Garnet International, Ltd. to discharge dredged and fill material into approximately 133 acres of wetlands adjacent to the St. Maries River, in association with the mining of industrial grade garnet. This project is located north of Clarkia, in Sections 5, 8, 9, 15, and 16, Township 43 North, and Range 1 East, Boise Meridian, in Shoshone and Benewah Counties, Idaho.

Emerald Creek Garnet International, Ltd. has applied to us for a Department of the Army Permit for these discharges under the authority of Section 404 of the Clean Water Act. The proposed action is being evaluated in accordance with the procedural provisions of the National Environmental Policy Act (NEPA). A draft Environmental Impact Statement is currently under development for this project and we expect the draft to be completed around May 2002.

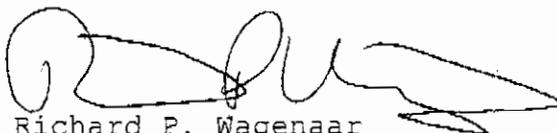
The proposed action would require excavation and filling of the wetlands over a 15 to 20 year period during construction of isolation berms, topsoil and overburden stockpiles, work pads, and other mining activities associated with this project. Areas mined each year would be immediately reclaimed and monitored for a period of 5 years to assure that the reclaimed property meets or exceeds pre-project environmental value. We anticipate the project will be implemented upon issuance of a Department of the Army permit.

The goal of Government to Government consultation is to ensure Tribal perspectives are identified and incorporated into the decision process during our evaluation of the permit

-2-

application and development of the EIS. If you wish to be consulted during development of this project, please notify Mr. Mike Doherty of our Coeur d'Alene Regulatory Office, at 208-765-7237 or our Native American Coordinator, Mr. William Mellick at 509-527-7107.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Wagenaar', with a long horizontal flourish extending to the right.

Richard P. Wagenaar
Lieutenant Colonel, Corps of Engineers
District Engineer



Our mission: to educate through the identification, preservation, and interpretation of Idaho's cultural heritage.

Dirk Kempthorne
Governor of Idaho

Steve Guerber
Director

Administration
1109 Main Street, Suite 250
Boise, Idaho 83702-5642
Office: (208) 334-2682
Fax: (208) 334-2774

Archaeological Survey
210 Main Street
Boise, Idaho 83702-7264
Office: (208) 334-3947
Fax: (208) 334-2775

Historical Museum and
Education Programs
610 North Julia Davis Drive
Boise, Idaho 83702-7695
Office: (208) 334-2120
Fax: (208) 334-4069

Historic Preservation Office
210 Main Street
Boise, Idaho 83702-7264
Office: (208) 334-3861
Fax: (208) 334-2775

Historic Sites Office
2445 Old Penitentiary Road
Boise, Idaho 83712-8251
Office: (208) 334-2844
Fax: (208) 334-3225

Library/Historical Collection
450 North Fourth Street
Boise, Idaho 83702-6027
Office: (208) 334-3356
Fax: (208) 334-3198

Library/Genealogical Collection
450 North Fourth Street
Boise, Idaho 83702-6027
Office: (208) 334-3357
Fax: (208) 334-3198

Oral History
450 North Fourth Street
Boise, Idaho 83702-6027
Office: (208) 334-3863
Fax: (208) 334-3198

Memberships and
Outreach and Development
1109 Main Street/Suite 250
Boise, Idaho 83702-5642
Office: (208) 334-3986
Fax: (208) 334-2774

Publications
450 North Fourth Street
Boise, Idaho 83702-6027
Office: (208) 334-1426
Fax: (208) 334-3198

October 15, 1999

Mr. Steve Osburn
Emerald Creek Garnet Company
Route 4 Highway 3
Fernwood, Idaho 83830

RE: Emerald Creek Garnet Company, St. Maries River Project

Dear Mr. Osburn:

In August, our office received a report documenting an archaeological survey of your company's St. Maries River Project, Benewah and Shoshone County, Idaho. We are not certain of the status of this project, and have postponed commenting on the report until we were contacted by the Corps of Engineers. As so much time has passed since we received the report, we have decided to proceed with our review.

The report states that one archaeological site and three isolated artifacts were identified during the survey. After reviewing the information, we agree that site 10BW150, railroad bridge pylons, is *not eligible* for the National Register of Historic Places due to a lack of historical integrity. We also agree that isolates 10BW147, 10BE148, and 10BW149, are *not eligible*.

While we accept these findings, we are concerned that deeply buried archaeological deposits may be present. We therefore support the recommendations provided in the report (page 16) to halt mining and contact our office immediately in the event archaeological remains are encountered. We also urge the company to contract with an archaeologist to conduct annual monitoring of the project. At the same time, the archaeologist should provide in-field training with the mining crews to heighten their awareness of cultural resources and ability to identify archaeological materials.

Finally, the Corps of Engineers should consult with the Coeur d'Alene Tribe to understand tribal concerns regarding cultural resources.

We appreciate your cooperation. If you have any questions, feel free to contact me at 208-334-3847.

Sincerely,

Susan Pengilly Neitzel
Deputy SHPO

