State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 2, 2017

Gay Richardson
PO Box 314
Elk City, ID 83525

Re: Joint Application for Permit No. S82-20066, Notice of Denial

Dear Mr. Richardson,

The Idaho Department of Water Resources ("Department") received your *Joint Application for Permit* ("Joint Application"), referenced above, on May 12, 2017. Your Joint Application proposes dredge mining within the Red River, a tributary of the South Fork Clearwater River ("SFCR"), using a 4 inch, 8 horsepower suction dredge from June 15, 2017 to October 30, 2017. The proposed project location is within Section 6, Township 28 North, Range 9 East, Boise Meridian, Idaho County, Idaho.

Based on the Department's review of your Joint Application and consideration of the items identified in Stream Channel Alteration Rule 35.01 (IDAPA 37.03.07.035.01), **the Department hereby rejects your Joint Application to dredge mine the Red River in 2017.** This determination is based on the protective status of the river reach which you propose to dredge, public comments received from interested parties and State and Federal fish and wildlife resource agencies regarding effects on both fish and fish habitat, and the lack of identified alternative solutions to minimize impacts to a protected river.

The Idaho Water Resource Board ("IWRB") is authorized to adopt and implement a comprehensive state water plan for conservation, development, management and optimum use of all unappropriated water resources and waterways of this state in the public interest. As part of the comprehensive state water plan, the IWRB may designate selected waterways as protected rivers. *Idaho Code § 42-1734A.* The IWRB adopted the *South Fork Clearwater River Basin Comprehensive State Water Plan* ("Water Plan") in 2004 and the Idaho Legislature approved the Water Plan in 2005. The Water Plan prohibits dredge or placer mining on the Red River, except where allowed through application for permit using IDWR Form 3804-B, also known as a Joint Application for Permit for a Stream Channel Alteration. An individual Joint Application for Permit creates an opportunity for the Department to consider suction dredge proposals on closed or protected waters and solicit comments from Federal and State agencies, interested parties and nearby landowners. The Joint Application is also an opportunity for the applicant to describe the project in detail and identify any measures or procedures to minimize or mitigate impacts the project may have on the protected water resource.

Upon receipt of your Joint Application, the Department solicited comments from Federal and State land management and fishery resource agencies, as well as other parties who have expressed interest in the management of water resources in the Red River and SFCR basins. The Department received comments regarding your proposed dredge mining project from the Idaho Department of Fish and Game, the Nez Perce Tribe, the Idaho Conservation League, Friends of the Clearwater, and the National Oceanic and Atmospheric Administration National Marine Fisheries Service ("NMFS"). Copies of comments from

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these organizations are attached. Three of the five entities recommended that we deny your application, and two expressed a number of concerns regarding your project. All five entities commented on a number of potential adverse impacts to aquatic habitat and specific fish species including Snake River Basin steelhead and bull trout which are listed under the Endangered Species Act ("ESA"), as well as Idaho state- listed species of concern Spring Chinook salmon, Westslope Cutthroat trout, and Pacific lamprey. The Federal government has designated the Red River as critical or essential habitat for three of the five species listed above, including the two ESA-listed species and Spring Chinook salmon. These designations include the section of river that you propose to dredge.

Most of the comments received by the Department reference cumulative impacts of dredging from your application and another pending application on the Red River along with the 15 suction dredge permit limit on the main SFCR established by both IDWR and Federal agencies. Most of the comments received suggest that your application lacks any proposed mitigation or alternative measures to minimize the effects of dredging on the water resource and fish/wildlife habitat. The Department finds that your application does not include any specific alternative measures or mitigation plans (questions 17 and 18 of the Joint Application) beyond statements that mitigation or alternative measures are not necessary because they are "already taken care of" or "spelled out" in the Department's suction dredge regulations.

As you know, both the Department and the IWRB has engaged with SFCR suction dredge permit holders and other interested parties this year regarding potential changes to the *SFCR Special Supplement Permit* conditions and permitting process. The Department and IWRB intend to continue discussions and meetings concerning the SFCR permitting process this fall. The Department recommends broadening the scope of these discussions and meetings to include how the Department and the IWRB may address Joint Applications for dredging on protected or closed SFCR tributary streams, including the Red River.

If you object to the Department's decision to reject your Joint Application, you have fifteen (15) days in which to notify this office, in writing, that you wish a hearing on this matter. If an objection has not been received within fifteen days, this decision will be final. Please note again that the Department and IWRB plans to discuss suction dredge mining on SFCR tributary streams this fall with miners and other stakeholders.

Respectfully,

Timothy J. Luke

Tim Luke
Water Compliance Bureau Chief

Enclosure: Comment Letters

cc: Aaron Golart, IDWR
Eric Davis, IDWR
Jerome Hansen, IDFG
Mary Jane Miles, Nez Perce Tribe
Ken Troyer, NMFS
Jonathan Oppenheimer,
Idaho Conservation League
Gary Macfarlane,
Friends of the Clearwater
Cheryl Probert, USFS
Richard White, BLM
Tracy Peak, EPA

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