



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Wyoming State Office

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IN REPLY REFER TO:

3809.31 (922Sokolosky) P

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EMS TRANSMISSION:7/8/2011

Instruction Memorandum No. WY-2011-036

Expires: 09/30/2012

To: District Managers

From: Associate State Director

Subject: Suction Dredging Operations

Program Areas: Mining Law Administration

Purpose: To provide guidance regarding the review of proposals to conduct suction dredging, pursuant to 43 CFR 3809.31(b) on stream bottoms within Wyoming administered by the Bureau of Land Management (BLM).

Policy/Action: Special situations that affect what submittals operators must make before conducting operations (43 CFR §3809.31(b)(2)): Recently the Wyoming Department of Environmental Quality (WDEQ) – Land Quality Division (LQD) eliminated their requirement for recreational or noncommercial miners to file a letter of intent to the agency. This means section D.3.h. of the 2003 Supplement to Memorandum of Understanding (MOU) WY 19 no longer applies. Instead, all parties who propose suction dredging operations on lands under the jurisdiction of the BLM Wyoming must contact the appropriate Field Office before beginning such operations. The Authorized Official (AO) for 3809 actions shall determine whether or not the operator needs to submit a notice, a plan of operation, or whether the activity constitutes casual use per the definition at 3809.5. Per 43 CFR §3809.31(b)(2), operators of proposed suction dredging activities on lands or in waters known to contain Federally proposed, listed, or threatened or endangered species or their proposed or designated critical habitat, must not begin operations until the BLM completes consultation with the U.S. Fish and Wildlife Service pursuant to the Endangered Species Act (ESA). This requirement exists regardless of the level of disturbance.

The regulations at 43 CFR § 3809.31(b) (2) are silent regarding the information the operator must submit to the BLM. This Instruction Memorandum (IM) establishes the minimum acceptable information to be filed with the BLM in advance of conducting suction dredging operations. This information includes, but is not limited to, who would be conducting the

operation, what commodity would be dredged, mining claims involved and equipment that would be used, when (time period), how operations would be conducted and lastly where the operation will occur (legal location), including a map or figure. The AO may consider whether or not the submission of information in WDEQ-LQD Guideline 19, Attachment A, would be adequate to meet these informational requirements. This guideline is posted at URL [http://deq.state.wy.us/lqd/guidelns/Guideline19_COMPLETE\(5_2006\).pdf](http://deq.state.wy.us/lqd/guidelns/Guideline19_COMPLETE(5_2006).pdf)

The AO is encouraged to promptly review submittals provided pursuant to 3809.31(b) (2) in order to determine if the operation would be casual use or require filing a notice or plan of operation. The operator shall be informed in writing of the AO's determination of the level of operation as well as whether or not consultation pursuant to section 106 of the ESA must be completed before operations can begin.

Pursuant to 3809.31(a), when the AO determines that the cumulative effects of casual use by individuals or groups have resulted in or are reasonably expected to result in, more than negligible disturbance, they may petition the State Director to establish areas through *Federal Register* notification where individuals or groups are required to contact the BLM 15 calendar days before conducting activities. This will provide the AO time to determine if a notice or plan of operations will be required.

The AO may request the organizer(s), sponsor(s), or club(s) hosting an organized recreational prospecting event to establish an on-site communication network and to provide a designated point of contact to facilitate rapid dispersal of information in the event of an emergency or in the event of an Agency ordered cessation of activities due to impacts beyond the acceptable range for casual use.

Time Frame: This IM is effective immediately and will be in effect unless formally modified.

Budget Impact: There will be minimal budget impact, but there is no estimate at this time.

Background: Section D.3.h. of the 2003 supplement to MOU WY 19 states "...LQD agrees to send BLM [Field Offices] copies of all recreational gold dredging forms authorized which involve Public lands within 15 days of receipt. . . The BLM will inform LQD whether Federally listed threatened or endangered species or their habitat may be affected by the proposed activities. . . BLM will inform LQD if any necessary *mitigating measures* may be required. . . Operations [by the recreationist] *must not begin until* BLM completes consultation or conferencing under the ESA." [*emphasis added*]

WDEQ-LQD has determined that letters of authorization, issued pursuant to Guideline 19, do not actually constitute an authorization. Rather, they simply remind the recreational miners about some of the limits (pipe size, etc) and inform them that they must obtain permission from land management agencies; consequently the LQD ceased requiring filings pursuant to Guideline 19 from recreationists conducting non-commercial gold dredging.

The provisions of 3809.31(b)(1) and 3809.201(b) are no longer applicable; therefore, suction dredging must be compliant with the provisions of 3809.31(b)(2).

Manual/Handbook Sections Impacted: No published manuals or handbooks would be affected.

Coordination: This IM was circulated among the staff of the Wyoming State Office (WYSO) Solid Minerals Branch (922) and the District Office Resource Advisors for Minerals and Lands.

Contacts: If you have any questions concerning the IM, please contact WYSO 922 Geologist, Pete Sokolosky at 307-775-6261.

Signed by:
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