405 S. 8th Street #201
Boise, ID USA 83702
info@midasgoldidaho.com

MAX.TSX
MDRPF.OTCQX

www.midasgoldidaho.com

April 28, 2020

Mr. Christopher W. Hladick
Regional Administrator
U.S. Environmental Protection Agency, Region X
1200 Sixth Avenue, Suite 155
Seattle, WA 98101

Via: USPS and Email: Hladick.Christopher@epamail.epa.gov

RE: Stibnite Gold Project

Dear Mr. Hladick:

I am writing to follow up on our January visit in Seattle and review the progress of our CERCLA negotiations with respect to the Stibnite Gold Project (SGP). Given the devastating economic conditions in Idaho and across the United States, I know you will find the discussion that follows timely.

Our CERCLA discussions with EPA – both Headquarters and Region X – is now entering its third year. As you know, the SGP is both an environmental cleanup and job creation project and envisions the revival of a contaminated mining legacy site that, unfortunately, has been effectively abandoned by the Federal government and those that previously mined the area. As the enclosed document attests, Midas Gold Idaho, Inc. (MGII or Company) is proposing to invest approximately $1 billion to create more than 1,000 direct and indirect jobs in rural Idaho over an estimated 15 to 20-year period of mine redevelopment and land restoration.

However, MGII's job creation and site restoration discussions with EPA have, to this point, been frustrated by a painfully slow and inconsistent approach by EPA. I briefly recount our path below.

We began meeting with EPA Headquarters on a conceptual approach for the SGP under CERCLA in January 2018. At that time, we were advised the Administrator was undertaking a review of the functionality of CERCLA and that input from the regulated community such as MGII as to potential innovations and approaches to cleanup, particularly cleanup of abandoned mine sites, was greatly appreciated. Later that spring, the Deputy Assistant Administrator, Steven Cook, invited the Company to come forward with a plan on potential reconciliation of the Company's vision for mining the Stibnite Gold Project and addressing the many legacy issues left behind by years of mining by others now long gone from the Site, some of whom are also completely insolvent or no longer in existence. In June, I spoke directly to the Administrator while he was in Idaho about our plan to environmentally restore the site through our plan of operations, and he expressed his interest in ensuring that we receive continued timely engagement throughout the Agency to continue these discussions.

In July 2018, we presented to Elizabeth McKenna of your staff a conceptual AOC based on a successful framework approved by Region VII for the Gilt Edge National Priorities List site in South Dakota. In response, however, she advised us that, in EPA's opinion, MGII was a potentially responsible party and not, as is our position, a bona fide prospective purchaser under CERCLA. Further, we were never afforded a response to our AOC proposal, but later learned from judicial filings by the Nez Perce Tribe that EPA had "rejected" this proposal.

By the spring of 2019, the Company began working closely with the Idaho Department of Environment Quality (IDEQ) and, in March of 2019, presented to EPA Region X a draft Voluntary Order on Consent/Administrative Order on Consent regarding site investigation on one area of the Stibnite Site where particularly high elevated groundwater levels of arsenic were indicated, in one case as high as 7,520 µg/L from a sample gathered in 2017. However, we were advised by Ms. McKenna in a letter dated June 13, 2019, that our proposal to investigate these areas of concern was unacceptable based on EPA's endorsement of soil sampling methods utilized over twenty years earlier and not the methods used to determine the most recent (and most elevated) values in groundwater.

We were startled by EPA's lack of interest in determining the source of these critically elevated arsenic groundwater levels. But more importantly, it marked the second time in a calendar year our effort at developing an AOC for the Stibnite Site was outright rejected without a counterproposal by your staff.

Shortly thereafter, the Company was sued by the Nez Perce Tribe alleging that MGII was responsible for unpermitted point source discharges under the Clean Water Act in areas of the Site that the Company had just proposed for further investigation (and in one instance, an area owned by the United States Forest Service, the DMEA Dump area). In the litigation, the plaintiff filed the June 13, 2019 letter from EPA to the Company, using this letter to alert the United States District Court for the District of Idaho that the EPA does not support MGII's assertion that it qualifies for BFPP status under CERCLA. EPA's June 13, 2019 letter from Ms. McKenna stated that "Midas has not yet substantiated its claim that it is a bona fide prospective purchaser."

My legal team counsels that EPA's decision to publicly assert its position in the June 13, 2019 letter (which now has been placed in the judicial record by the plaintiff) that MGII is <u>not</u> a BFPP directly conflicts with Assistant Administrator Bodine's *Common Elements Guidance* making it clear that it is the courts, not the EPA, who are the final arbiter of whether a party meets CERLCA's landowner liability protection requirements. Additionally, I am also advised that EPA *Guidance on Superfund Comfort/Status Letters* provides, again, that a court - rather than the EPA - ultimately determines whether a landowner has met the criteria for BFPP status. MGII rejects any position taken by Region X that is not authorized by CERCLA itself or policy guidance as developed by EPA Headquarters.

Nevertheless, for purposes of these negotiations, MGII has continued to pursue an AOC that would lead to early CERCLA response actions on the Site before the Stibnite Gold Project Plan of Restoration and Operations is approved by the United States Forest Service. We are interested in such a path forward, even though as discussed in the accompanying summary of a legal analysis MGII requested from Crowell & Moring, the Federal government shares significant responsibility under CERLCA for the environmental condition of the Stibnite Site, a responsibility that, as meticulously documented in our investigation, the United States has not stepped forward to meet.

We believe the path we have chosen is all the more noteworthy because MGII is a start-up junior mining company that attracts capital through advancement and delivery of project milestones. As a result, we are not awash in money, as the summary document showing our current balance sheet attests. Notwithstanding that, we remain willing to invest, to the extent our balance sheet permits, in Stibnite's environmental future *before we have even been permitted to operate by the Federal government* and, ultimately, to take on the legacy issues across the Site funded by mining operations. With solid project economics and a strong gold price, we are confident that we will continue to be able to attract capital investment required to reach our goals as we obtain the necessary approvals for redevelopment and restoration of the site.

We are not seeking a government handout. Rather, we are seeking fair, reasoned and timely government decisions. After years of working with EPA on this AOC approach, we are closing in on the details of our best good faith offer to begin Stibnite Site restoration, undertaking projects that are within our means and yet will have meaningful impact. Once mine construction begins, larger scale restoration efforts funded through operations will also be available. We hope you and your team will reasonably consider our AOC proposal, and we greatly appreciate the leadership of Helen Bottcher on the technical side of these discussions who has brought the interested parties closer together. In the end, our opportunity to ensure this Project becomes a reality requires that we quickly move to resolution.

I close by noting that each passing day is one more day removed from an economic renaissance and environmental revival of the Stibnite Mining District in Idaho. Our stalemate with EPA will further delay significant capital investment, employment, Federal, state and local taxes offered by the Project, and all of this in an economy that, as this is written, is severely depressed by a COVID-19 pandemic with no certain end in sight.

Thank you again for your attention to the Stibnite Gold Project, and we look forward to following up to this correspondence shortly.

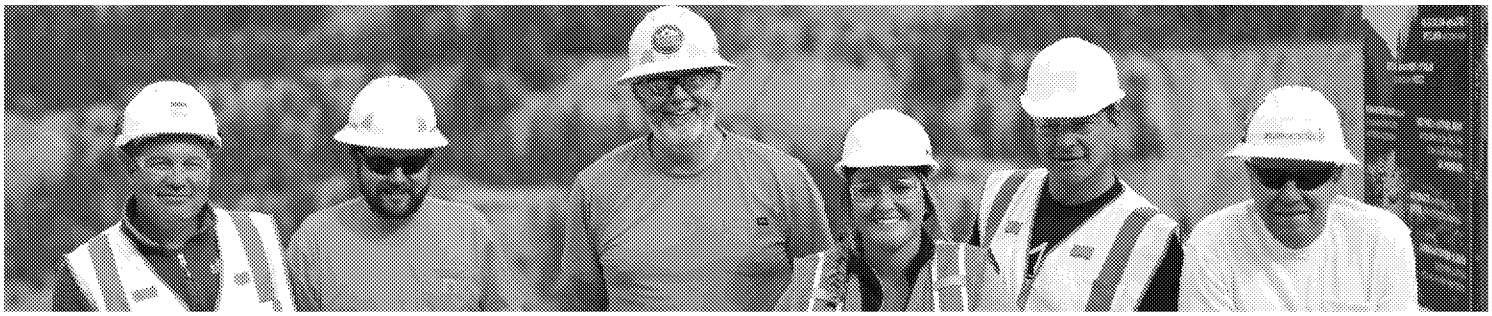
Sincerely,
MIDAS GOLD IDAHO, INC.

Laurel Sayer
President and CEO

Enclosure (AOC Briefing Documents)

cc: Idaho Congressional Delegation
Idaho Governor's Office
The Honorable Susan Bodine
The Honorable Steven Wright

ED_004715A_00030892-00003



THE STIBNITE GOLD PROJECT

VALLEY COUNTY, ID

$1 BILLION INVESTMENT

- **$1 billion** total construction and investment
- **37 miles of road:** new and upgraded roads including 5 bridges
- **72 miles of transmission line:** new and upgraded 138 kV power line and 5 new substations
- **57,000 cubic yards concrete + 5,580 tons of rebar + 7,730 sq ft of masonry**
- **9,555 tons structural steel:** 106,000 sq ft steel decking, 3,200 linear ft ladders and stairs, 26,500 linear ft handrail, 768,000 sq ft roofing and siding

500 DIRECT RURAL JOBS

- **1,000 temporary jobs:** construction
- **>500 direct jobs:** operations
- **>500 indirect jobs:** operations
- **>$50 million in annual payroll**
- **$506 million federal tax:** life-of-mine direct, indirect and induced taxes
- **$218 million state and local taxe**s: life-of-mine
- **3 years of construction**
- **12-15 years of operations**
- **3+ years of closure**

REVITALIZE U.S. RESOURCES

The **gold** and **antimony** produced by the Stibnite Gold Project are important to the Nation's defense, supply chain and economic independance.

Antimony: Formally designated a critical mineral in 2018, deemed vital to national security and economic well-being, but that are in short supply and dominated by foreign sources. ***75% the percent of the world's supply of mined antimony produced by China.*** **Used for:** Flame retardant clothing, binoculars, survey equipment, density testing equipment, military camouflage, night vision goggles, nuclear reactors, submarines

Medical uses served by the resources produced by the Stibnite Gold Project: Cancer treatments, dental crowns, pacemakers, stents, rheumatoid arthritis treatment

crowell moring

Memorandum

To: Midas Gold Idaho, Inc.

From: R. Timothy McCrum and Elizabeth B. Dawson

Date: April 22, 2020

Re: Restoration of the Stibnite/Yellow Pine Mine Site, Idaho

INTRODUCTION & SUMMARY

You have asked us to evaluate and summarize past mining and waste disposal operations in the Stibnite/Yellow Pine Area of Valley County, Idaho ("Stibnite" or "Site") on lands owned by the United States. As part of this analysis, we assess below the extent of the Federal government's involvement at Stibnite, from mineral exploration through mining and early cleanup efforts.

First, the Federal government made beneficial use of the land it owned by facilitating and assisting in mineral exploration and mining, which as a matter of necessity resulted in mine waste disposal, also often on Federal land. Second, the United States' longstanding, multi-faceted involvement with the Site means it bears legal responsibility for the current state of Site.[1] The Stibnite Site has been the subject of several cleanup initiatives over the preceding decades, none of which have been sufficient to restore the Site. Simply put, the United States owned the now-contaminated land at the time of disposal, the *sine qua non* of owner liability under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA").[2]

Moreover, the United States' pervasive involvement in mining at the Site, from funding and conducting strategic mineral exploration, to providing major infrastructure assistance, to directly authorizing tailings disposal and the breach of a tailings impoundment on National Forest lands in the 1940s and 1950s, cements the United States as the party that bears the dominant equitable responsibility for the current Site conditions. As explained below, 20 years ago, a Federal judge declared after summary judgment briefing and a hearing that he would find the United States liable under CERCLA at the Stibnite Site. More recent 2017 Federal appellate precedent confirms the CERCLA liability of the United States in the factual circumstances similar to those present at Stibnite.

---

[1] Midas strongly maintains that it is a bona-fide purchaser within the meaning of CERCLA section 107(r), 42 U.S.C. § 9607(r), and EPA's guidance setting forth the criteria landowners must meet to qualify for such status. Midas's activities on site to date have been entirely consistent with this guidance, and Midas has impeded no response actions on the property. Moreover, Midas has undertaken all appropriate inquiry to understand the condition of the property, and has been providing notices regarding the property's status. For example, Midas transmitted to the Forest Service and EPA on February 28, 2019 correspondence regarding groundwater testing at the site indicating the heightened presence of contaminants.

[2] 42 U.S.C. § 9607(a).

I. The United States Government Was the Critical Driver of the Exploration and Development of the Stibnite/Yellow Pine Site, and Resulting Waste Disposal.

A. Exploration and Development of the Mineral Deposits at Stibnite. Deep within the Boise/Payette National Forest resides a resource-rich and remote mining area that saw its heyday during WWII through the time of the Korean War. In 1939, large-scale mining for strategic minerals came to the area, on both patented and unpatented mining claims, to aid the anticipated war effort.

Strategic minerals require substantial high-risk investments to identify their subsurface occurrence. When the U.S. Bureau of Mines and the U.S. Geological Survey conducted mineral exploration drilling work from 1939-1941 pursuant to the Strategic and Critical Materials Stock Piling Act of 1939[3]—antimony and tungsten both being identified as strategic minerals[4]—the United States became a major contributing cause (along with the now-defunct Bradley Mining Co.) to the subsequent development of the Yellow Pine Mine. Indeed, the U.S. Bureau of Mines proudly took full credit for the success of its efforts. "*As a direct result of Bureau of Mines explorations*, the Bradley Mining Co. will be able to produce approximately 900,000 units of [tungsten]. This is nearly three-fourths of 1 year's wartime tungsten consumption for the entire United States."[5] Even after the war, the government continued to play a significant role in ensuring the continued production in the area through at least two exploration loan contracts from the Defense Minerals Exploration Administration ("DMEA"). The DMEA was a program within the Interior Department established in 1951 that facilitated exploration for critical and strategic minerals through loans. DMEA was fully supportive of continued production at the Stibnite/Yellow Pine area. In sum, the United States was heavily invested in the success of exploration and mining on lands owned by the United States at Stibnite/Yellow Pine.

B. Disposal of Waste Rock and Other Materials. The U.S. Bureau of Mines knew by at least 1942 that the ore body being worked at the time—and therefore the ore body that would generate waste rock and tailings—contained arsenic and was "primarily pyrite and arsenopyrite"[6] (the latter being the "most common ore of arsenic"[7]). The Federal government also well understood, for example, how tailings were being disposed of: "Tailings run by gravity from the mill to the tailing pond where they are allowed to settle behind a large dike from which the water escapes .... The overflow into the sump box is cloudy, as the slimes are extremely slow in settling."[8] As would be expected to result from mining of such an ore body, elevated levels of naturally occurring arsenic are present in certain "hot spots" influenced by mine waste sources. Two such hot spots today are of particular note vis-à-vis the United States, since they are near two areas of intensive WWII-era mining-related activities, including: (1) the historical Bradley tailings areas, and (2) the Yellow Pine open pit waste rock disposal areas.

---

[3] Pub. L. No. 76-117, § 7, 53 Stat. 811, 812; *see id.* Declaration of Policy (declaring "*the policy of Congress . . . to provide for the acquisition of stocks of [strategic and critical] materials and to encourage the development of mines and deposits of these materials within the United States*") (emphasis added).

[4] Indeed, they still are. *See* Final List of Critical Minerals 2018, 83 Fed. Reg. 23,295 (May 18, 2018).

[5] U.S. Dept. of the Interior, Bureau of Mines, War Minerals Report No. 461 – Tungsten, Antimony, Gold 17 (Nov. 1945) (emphasis added). All government documents cited in this memo are available upon request.

[6] U.S. Dep't of the Interior, Bureau of Mines, Information Circular 7194: Mining and Milling Methods at Yellow Pine 2 (Jan. 1942).

[7] "Arsenopyrite," Encyclopedia Britannica, https://www.britannica.com/science/arsenopyrite (last visited Feb. 28, 2019).

[8] Mining and Milling Methods, *supra* n.6, at 10.

1. Bradley Dump Areas/Yellow Pine Pit. The mining of what came to be known as the Yellow Pine Pit at the north end of the Site began when the land was still in Federal ownership; U.S. Government land survey plats prior to patenting in the 1940s show the open pits already present and rapidly expanding. Mining methods at the time resulted in waste rock being removed and immediately placed onto land nearby—land also still in Federal ownership at the time. As contemporaneous accounts in 1939 Interior Department land records surveying the Federal lands subject to unpatented mining claims explain, "*[t]his mining claim is being mined and developed by the Bradley Mining Company by means of two open pits, known respectively as the East and West pits.*"[9] "*Vast fills made principally from the waste from the large pit on the Hennessy Group have been made.*"[10] The area being mapped in these Interior Department land records from 1939 and the early 1940s lies at the heart of the Yellow Pine Mine open pit and associated mine waste disposal areas.[11]

2. Bradley Tailings Dump/Spent Ore Disposal Area. The U.S. Forest Service granted Bradley a discretionary Special Use Permit for large-scale tailings disposal in the Meadow Creek area at the Site in 1947.[12] The fact that a Forest Service Special Use Permit was necessary makes clear that the tailings were placed on Federal land.[13] Over three million tons of tailings and ten million tons of subsequent spent ore, in all, were placed in an unlined valley that has come to be known as the Bradley Tailings Dump (now the "Spent Ore Disposal Area" or "SODA"). Tailings disposal at this area disturbed about 170 acres, and diverted Meadow Creek into a canal.[14] Unsurprisingly, the effects of this disposal area are still felt in downstream areas,[15] potentially reaching the Yellow Pine Pit at the far north of the site. Much of the land downstream of the Bradley Tailings Dump area remains under Federal ownership to this day; other parcels were only patented (*i.e.*, conveyed from Federal to private ownership) as recently as 1990.[16]

After Bradley's mining ceased, in 1959 the Forest Service "had the Bradley Mining Company breach the tailing pile in the form of a ditch to allow the stream to resume its natural course."[17] The Forest Service determined that this controlled breach and resulting flow of tailings into the nearby stream was the preferred management choice;[18] a contemporaneous map in the Forest Service's permit file indicates that the Forest Service considered the stream between the Bradley Tailings Dump and the

---

[9] U.S. Dep't of the Interior, General Land Office, Field Notes, Mineral Survey No. 3357 at 15 (1939) (emphasis added).

[10] U.S. Dep't of the Interior, General Land Office, Field Notes, Mineral Survey No. 3397 at 61 (1942) (emphasis added). The "Hennessy Group" is the name of a particular set of mining claims.

[11] U.S. Dep't of the Interior, General Land Office, Public Survey Office, Plat of Mineral Survey No. 3357, Idaho (1939); U.S. Dep't of the Interior, General Land Office, Public Survey Office, Plat of Mineral Survey No. 3397, Idaho (1943).

[12] U.S. Forest Serv., Special Use Permit, Bradley Mining Co. Tailings Storage (Oct. 13, 1947).

[13] *See* Letter from H.D. Bailey, Yellow Pine Mine, to I.W. Farrell, Supervisor, Boise National Forest, Re: U-Uses, Bradley Mining Co. Tailings Storage (Oct. 10, 1947) ("[i]t is to be understood that this area is on unpatented mining claims") .

[14] U.S. Dep't of Agric., Forest Serv., Report on Applications for Special-Use Permits and Rights of Way, Bradley Mining Co., Tailings Storage Area (1946) (explaining that "creek will be diverted around the settling area"); *see also* U.S. Dep't of Agric., Forest Serv., U-Uses, Bradley Mining Co., Tailings Storage Area Map (Nov. 15, 1946) (attached to Permit).

[15] Brown & Caldwell, Sitewide Water Quality Report, Stibnite Gold Project (2017-2018).

[16] *See, e.g.*, Patent No. 11-90-0098 (Sept. 27, 1990).

[17] Memo. from Don. D. Seaman to Reg'l Forester re: Special Use Permits (Bradley Mining Co., Tailings Storage, 8/12/46) (Sept. 14, 1959).

[18] Memo from J. R. Moorhead, to Forest Supervisor, Re: Uses, Bradley Mining Company (Tailings Storage (Sept. 5, 1958).

Yellow Pine Pit to have been "heavily polluted in the past," with the mine pit "catching much of the tailings being washed out by the stream."

II. The U.S. Government Bears CERCLA Liability and Moral Responsibility for Stibnite.

A. The United States Is a Liable "Owner" Under CERCLA. The United States authorized mining on Federal lands through the 1872 Mining Law,[19] and extended the authorization to National Forest lands in 1897.[20] In recent decades, the United States sometimes has characterized its ownership in lands subject to mining claims as "bare legal title," arguing that such a minimal ownership interest did not render the United States an "owner" for purposes of CERCLA liability. This is no longer a credible position. In *Chevron Mining, Inc. v. United States*, the Tenth Circuit soundly put that notion to rest when it ruled in 2017 that "[f]or purposes of CERCLA . . . an owner includes the legal title holder of contaminated land,"[21] even the United States, and even when the land is subject to private mining claims. Here, the United States bears liability both as an owner at the time of disposal of a hazardous substance, *and* as the *current* owner of the lands at Stibnite.

B. The United States Bears the Major Share of the CERLCA Liability. CERCLA requires any consideration of the extent of an owner's involvement in the in hazardous substance production and disposal at the allocation stage of a CERCLA inquiry. The U.S. Government not only owned these lands at the time of mine waste disposal, but U.S. officials at the highest levels, up to and including President Franklin D. Roosevelt personally, also directly prioritized and facilitated large-scale strategic mineral exploration and mining of tungsten and antimony at Stibnite before, during, and after WWII. Indeed, in 1941 President Roosevelt himself agreed with congressional leadership that Stibnite was one of the top three strategic mine sites in the Nation warranting active federal government support.[22] In addition to encouraging the mining, the United States also facilitated disposal of the mining waste. Still, the Forest Service had full authority as landowner to control Bradley's disposal, and to control Bradley's use of National Forest lands subject to unpatented mining claims under the Organic Act of 1897.[23] Instead, the Forest Service knew that Bradley had begun building the tailings storage facility *before the permit issued*—Bradley admitted as much on its application.[24] In *Chevron Mining* the Tenth Circuit in 2017 found that "the government repeatedly exercised its plenary regulatory authority over the lands when it approved several special use permits for [] tailings pipelines."[25] So too here.

---

[19] 30 U.S.C. § 22 et seq; 17 Stat. 91 (1872).

[20] 16 U.S.C. §§ 478, 551; 30 Stat. 35-36 (1897).

[21] 863 F.3d 1261, 1273 (10th Cir. 2017). The Arizona Federal district court within the Ninth Circuit is in accord. *See El Paso Natural Gas Co. v. United States*, No. 14-8165, 2017 WL 3492993, at *2 (D. Ariz. Aug. 15, 2017) ("Because the United States holds legal title to the Mine Sites, it is the owner of the Mine Sites under the ordinary meaning of 'owner.'").

[22] Letter from President Franklin D. Roosevelt to Hon. Charles I. Faddis, House of Representatives (Nov. 26, 1941); *see also* Letter from Charles I. Faddis, et al., House of Representatives, to the President at 1-2 (Oct. 27, 1941) (describing "high-grade deposit of tungsten ore in the Yellow Pine District" as being "of great military importance").

[23] 16 U.S.C. §§ 478, 551. *See United States v. Weiss*, 642 F.2d 296, 298-99 (9th Cir. 1981) (the "Act of 1897 . . . grants authority to the Secretary . . . to regulate [Forest Service lands'] occupancy and use and to preserve the forests thereon from destruction"); *accord, United States v. Goldfield Deep Mines Co. of Nev.*, 644 F.2d 1307, 1309 (9th Cir. 1981) (United States possessed the right "to protect Forest Service lands from waste," including on unpatented mining claims).

[24] Special Use Application, Tailings Storage, Yellow Pine Mine, Bradley Mining Co. (Aug. 12, 1946).

[25] 863 F.3d at 1578.

C. The United States Has Been Recognized as a CERCLA-Liable Owner at Stibnite. But for a hasty settlement reached in 2000, the United States would have been declared a liable party under CERCLA at the Stibnite/Yellow Pine Site, according to Federal district court Judge Claude M. Hilton:

> *I have decided in this [CERCLA] case that the summary judgment ought to be granted against the Government, making them responsible as an owner involved in some of the mining that went on there.*
>
> *And they are responsible for this clean-up*. . . the metals were discovered there by the Bureau of Mines and . . . the mining increased substantially, which was part and parcel of what the Government wanted to do.
>
> . . .
>
> It is clear to me that once the Bureau of Mines found the materials they were interested in, started encouraging the production of them, that *the Government ought to be responsible*. . . .[26]

Soon after Judge Hilton's statements in federal court in 2000, the U.S. Government released Mobil Oil Co. (successor to Superior Mining, a former mining operator) from future CERCLA response costs and provided $1.55 million to Mobil as partial reimbursement for their response costs.[27] Additionally, Mobil Oil and the "Settling Federal Agencies"—the USDA, Interior, and U.S. Department of Commerce—received contribution protection under CERCLA for past and future response costs. Notably, the Settlement Agreement in 2000 referenced the Federal government's consideration at that time of a potential impermeable cap on the SODA, and the SODA has remained in place and is a source of total arsenic into the Site's drainage. *Midas Gold estimates that many tons of arsenic have leached from the SODA (including the underlying Bradley Mining tailings) in the past 20 years, and Midas Gold's proposed restoration plan would fully remediate that source.*

In 2004 and 2012, the United States entered into consent decrees with other potentially responsible parties regarding response costs at the site. In the litigation resulting in the 2012 consent decree, claims were once again made against the United States.[28] In the consent decree, again the United States and other potentially responsible parties exchanged covenants not to sue. Once again contribution protection was extended to "Settling Federal Agencies"— defined this time as USDA, U.S. Department of Defense, Interior, EPA, and the General Services Administration.

Notably, although these covenants and contribution protection statements appear to have the intent of resolving the CERCLA liability of Federal agencies at the Site, the United States acknowledged that, even as of 2012, only limited *response* actions had been completed at the Site. Full remediation was never accomplished, or apparently even planned. Although surface water quality was improved from the response actions, data collected after April 2012 (the date of approval of the *Bradley Mining Company* consent decree) shows that surface water quality continues to be degraded by legacy mining features that remain on Site. After the Site was effectively abandoned by the Federal government in 2012, metal loading and sediment continue to degrade water quality, and impacts to aquatic habitat from historical mining have not been addressed. The adverse impacts to aquatic habitat on the Site will also be addressed by Midas Gold's proposed plan through restoration of the watershed,

---

[26] Mot. Hrg. Tr., *Mobil Oil Corp. v. United States*, No. 99-1467-A (E.D. Va. Apr. 28, 2000) (Hilton, J.) (emphasis added).

[27] Settlement Agreement, *Mobil Oil* (filed June 26, 2000).

[28] *United States of America v. Bradley Mining Company*, Case No. 3:08-CV-03968 TEH and *United States of America v. Bradley Mining Company*, Case No. 3:08-CV-05501 TEH (N.D. Cal.) (Consent Decree filed April 19, 2012).

including the Yellow Pine Pit and stabilization of Blowout Creek to reduce sediment loading and degradation of salmon spawning habitat.

CONCLUSION

In sum, the United States has unquestioned CERCLA liability due to its role as owner at the time of disposal at the Stibnite/Yellow Pine mining sites. Midas Gold comes to the Site as an innocent landowner with no involvement in the legacy mining (and remains a bona fide prospective purchaser of the land, immune from CERCLA liability).[29] The past mining activity at Stibnite facilitated by the United States resulted in an environmental legacy that still requires a response. Federal and State regulators and stakeholders must recognize the situation at Stibnite/Yellow Pine is serious and take necessary action, without undue delay, in cooperation with Midas Gold, to restore the Site.

53951334_4

[29] 42 U.S.C. § 9607(r).

MIDAS GOLD CORP.
Suite 890 - 999 West Hastings Street
Vancouver, BC CANADA V6C 2W2
Tel: 778-724-4700
www.midasgoldcorp.com

CONFIDENTIAL MEMORANDUM

To: Michael Bogert

From: Stephen Quin, Darren Morgans

Date: April 3, 2020

Subject: Midas Gold Corp.'s Balance Sheet

Background

Midas Gold Corp.'s (MGC) balance sheet is complex due to accounting standards required treatment of various assets and liabilities, particularly those related to the convertible notes issued by MGC in 2016 and 2020. The following memo attempts to distill this information to a simple, cash-based set of numbers by eliminating non-cash accounting for various assets and liabilities.

Balance Sheet

MGC's audited financial statements for the year ended Dec. 31, 2019 were recently published. These statements showed current assets of US$18.4 million, current liabilities of SU$4.7 million and non-current liabilities (the 2016 Notes) of US$40 million, for a net balance sheet of negative US$26.3 million. In March 2020, MGC completed the 2020 Notes financing for proceeds of US$34.5 million (after costs). A s a result, on a pro forma basis, of the March 2020 financing had been completed at Dec. 31, 2019, the balance sheet would be as follows:

Midas Gold Corp.
Adjusted Dec.31, 2019 Balance Sheet with Proforma 2020 Financing Transaction (US$)

	Audited Financial Statements Dec.31, 2019	March 2020 Financing (1)	Proforma Dec. 31, 2019
Current Assets			
Cash	18,004,622	34,500,000	52,504,622
Trade and other receivables	123,576		123,576
Prepaid Expenses	782,416		782,416
	18,910,614	**34,500,000**	**53,410,614**
Current liabilities			
Trade and other payables	4,228,719	-	4,228,719
	4,228,719	**-**	**4,228,719**
Working Capital	***14,681,895***	***34,500,000***	***49,181,895***
Non-current liabilities			
Convertible notes	40,000,000	34,500,000	75,000,000
Total liabilities	**44,228,719**	**34,500,000**	**79,228,719**
Net Balance Sheet (Assets - Liabilities)	**(25,318,105)**	**-**	**(25,818,105)**

(1) The corporation is estimating transaction costs of US$0.5 million.

ED_004715A_00030892-00011

Convertible Notes

In 2016 and again in 2020, MGC's wholly owned subsidiary, Idaho Gold Resources Company, LLC (IGR) issued convertible notes ("Notes") to fund its continued activities. These Notes fully guaranteed by MGC and are therefore a liability of MGC that are consolidated into MGC's balance sheet. The key aspects of the notes are as follow:

- The Notes are senior unsecured convertible notes – i.e. they are unsecured debt;
- The interest rate is 0.05%;
- The term of the notes is 7-years from the issue date, as a result the 2016 Notes are repayable in 2023 and the 2020 Notes repayable in 2027;
- There is a negative pledge which prevents any other debt that would rank above the Notes in security;
- The Notes are convertible into common shares at the Note holder's election.
- MGC can redeem (i.e. repay) the Notes at any time after 4 years if the MGC share price is twice the initial subscription price (i.e. twice C$0.3554 for the 2016 Notes and twice C$0.4655 for the 2020 Notes).

Project Expenditures

MGC has been investing in the Stibnite Gold Project since 2011, spending US$211.6 million through to the end of 2019. Expenditures are summarized below by year.

Midas Gold Corp.
Stibnite Gold Project Expenditures (US$)

Year	US$ Millions
2011	26.59
2012	54.72
2013	23.10
2014	12.61
2015	8.75
2016	9.61
2017	21.19
2018	26.76
2019	28.25
Total	**211.58**

2020 and 2021 expenses are expected to continue at a similar range to the previous three years.

ED_004715A_00030892-00012