Nez Perce

TRIBAL EXECUTIVE COMMITTEE
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February 7, 2020

The Honorable Mike Crapo
United States Senate
239 Dirksen Senate Office Building
Washington D.C. 20510

The Honorable James E. Risch
United States Senate
483 Russell Senate Office Building
Washington D.C. 20510

The Honorable Russ Fulcher
United States House of Representatives
1520 Longworth House Office Bldg.
Washington, D.C. 20515

The Honorable Mike Simpson
United States House of Representatives
2084 Rayburn House Office Bldg.
Washington, D.C. 20515

Re: Proposed Stibnite Gold Project

Dear Senator Crapo, Senator Risch, Congressman Simpson, and Congressman Fulcher:

I write on behalf of the Nez Perce Tribe regarding Midas Gold's proposed Stibnite Gold Project (Project), which is within the Tribe's aboriginal territory and is currently under review by numerous federal agencies and the state of Idaho. As proposed by Midas Gold, the Project contemplates the construction and long-term operation of an immense open pit gold mine in the Stibnite Mining District in the headwaters of the East Fork South Fork Salmon River.

Contrary to Midas Gold's promises to "restore" the Stibnite Site, the Project will not leave the Site in anything approximating its pre-mining condition. Instead, it will create over one million tons of new tailings waste, leave two new tailings pits on the Site in perpetuity, and create a large new scar on the landscape. Only 40 percent of the more than three square miles Midas Gold plans to disturb, in order to extract 4 to 5 million ounces of gold, is previously disturbed ground. This means that 60 percent of the Project will cover currently undisturbed, wild land.

The Tribe adopted a resolution in 2018 opposing Midas Gold's Project because of the significant and irreversible impacts it will have on the Tribe's Treaty-reserved rights and resources. The Project, as proposed, threatens surface water quality and the fishery in, and downstream of, the mine Site through increased risk of oil and toxic chemical spills, metalloid leaching, and the creation of pit lakes. It will also, as noted above, disturb important upland wildlife habitat.

The Tribe, as a co-manager of its Treaty-reserved resources, plays a leading role in the restoration of the East Fork South Fork Salmon River and South Fork Salmon River fishery, expending approximately $2.5 million annually to restore Chinook salmon runs in both rivers through hatchery supplementation, fishery research, and watershed restoration. Further degradation of habitat in the Project area and any additional degradation of the East Fork South Fork Salmon River's and South Fork Salmon River's water quality and fishery is unacceptable to the Tribe as it would further harm the physical, cultural, spiritual, and economic health of the Tribe, its members, and surrounding communities.

In addition to the Tribe's resolution opposing the Project, you are likely aware of the Tribe's ongoing federal litigation against Midas Gold for its illegal pollutant discharges at the Site. You are also likely aware that six members of the U.S. House of Representatives, including the Chairman of the House Natural Resources Committee and Chair of the House Appropriations Subcommittee on Interior and Related Agencies, recently sent a letter to the U.S. Forest Service expressing concern regarding the Agency's decision to confer non-federal representative status on Midas Gold for preparation of the Project's Biological Assessment. The Tribe believes this Congressional effort to ensure that the Forest Service objectively and transparently evaluates the Project is vitally important in light of the potential impacts the Project could have, and the harm it could do, to Idaho's precious natural resources.

A similarly objective and transparent review by the U.S. Environmental Protection Agency (EPA) of Midas Gold's proposed Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) action at the Site is also critical. Given the history of contamination at the Site and the limited success and inadequacy of previous CERCLA removal actions at the Site, it is imperative that EPA develop, and Midas Gold agree to, an Administrative Order on Consent (AOC) that comprehensively addresses, at minimum, all of the pollutant discharges identified by the Tribe in its lawsuit against the company. EPA should not issue an AOC if it will not require actions by Midas Gold substantially above and beyond their current mining plan. Otherwise, an AOC may simply act as a liability shield for Midas Gold, allowing the company to do the bare minimum, or even avoid altogether, cleaning up the Site. If Midas Gold is to be held accountable for its declared intention to "restore the site," any AOC must thoroughly and thoughtfully proscribe both interim and long terms actions that will protect the Tribe's Treaty-reserved resources and the environment, now and into the future. Based on government-to-government interactions with EPA Region 10 to date, the Tribe believes that EPA Region 10 is fully committed to an AOC process that results in both the protection of the Tribe's Treaty-reserved resources and rights and the fulfillment of CERCLA's mandate to provide for interim measures, long-term monitoring, and adequate financial assurance.

In light of all of the current assessments being performed, and to be performed, by the United States for the Project, the Tribe trusts that the delegation will fully support the EPA, Forest Service, and other federal agencies in honoring their trust responsibilities to the Tribe through a thorough review of the Project—one that reflects a comprehensive, transparent, and deliberate attempt to fulfill their trust responsibilities to the Tribe and to adhere to the Tribe's Treaty and other applicable federal laws.

Sincerely,

Shannon F. Wheeler
Chairman