UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

January 14, 2021

Shannon F. Wheeler, Chairman
Nez Perce
Tribal Executive Committee
P.O. Box 305
Lapwai, Idaho 83540

Dear Chairman Wheeler:

Thank you for the conversation on January 12, 2021, regarding the Draft Administrative Settlement and Order on Consent (ASAOC) and Statement of Work (SOW) for the Stibnite Mining District removal action. During our call, you asked me to respond to two questions in writing.

First, you asked me to respond to the concerns of the Nez Perce about the Tribe's treaty rights. Second you asked me to explain how the ASAOC and SOW uphold the United States' trust responsibility.

The U.S. Environmental Protection Agency is aware of the Nez Perce Tribe's claims regarding treaty reserved fishing rights in the area of the Stibnite Mine. EPA's goal is to ensure that the ASAOC in no way affects those claims. For example, EPA revised the December 11 draft in paragraphs 60 and 61 to ensure that the ASAOC in no way purports to address tribal access to usual and accustomed areas.

With respect to the United States' trust responsibility, the actions taken under the ASAOC pursuant to EPA's statutory responsibilities under CERCLA will improve water quality and fish habitat. The actions are consistent with the federal government's trust responsibility.

Thank you for your questions and EPA looks forward to continuing engagement with the Nez Perce Tribe as this project moves forward.

Sincerely,

Susan Parker Bodine

Susan Parker Bodine

cc: Peter C. Wright, Assistant Administrator, Office of Land and Emergency Management
W.C. McIntosh, Assistant Administrator, Office of International and Tribal Affairs
Chris Hladick, Regional Administrator, Region 10
Michael Lopez, Senior Staff Attorney, Nez Perce Tribe Office of Legal Counsel