Nez Perce

TRIBAL EXECUTIVE COMMITTEE
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October 14, 2019

Sent via email only to: McKenna.Elizabeth@epa.gov

Ms. Elizabeth McKenna, Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Ste. 155, M/S 11-C07
Seattle, WA 98101

Re: Stibnite Mine Site

Dear Ms. McKenna:

Thank you for your September 13, 2019, letter on behalf of the Environmental Protection Agency Region 10 (EPA) identifying options for the Nez Perce Tribe's (Tribe) participation in ongoing negotiations among EPA, the state of Idaho, the United States Forest Service, and Midas Gold Corporation concerning a potential comprehensive remedial investigation and feasibility study (RI/FS) at the Stibnite Mine site.

After reviewing the options in your letter, the Nez Perce Tribal Executive Committee, the governing body of the Tribe, has decided not to be signatory to any potential administrative settlement agreement. The Tribe instead will consult directly with EPA during the negotiations pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and other applicable federal law and policies, including "EPA's Policy on Consultation and Coordination with Indian Tribes" and "EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights." As part of this option, the Tribe would like EPA to provide funds through a cooperative agreement, and EPA would negotiate terms that would provide for reimbursement of those costs to EPA.

In addition, and as you are aware, the Tribe is also interested in proceeding with an integrated natural resource damages assessment as part of the agency's exploration of an RI/FS for the Stibnite Mine site. As a natural resource trustee under CERCLA, the Tribe believes moving forward with this process is critical not only to informing the RI/FS process but to timely and comprehensively assess injury to natural resources and restoring injured natural resources and services lost due to a release or discharge. The Tribe therefore looks forward to receiving formal

written notification from EPA as to how the agency will coordinate with the Tribe and other appropriate Trustees concerning assessments, investigations, and planning under CERCLA.

The Tribe appreciates EPA's ongoing commitment to uphold its trust responsibility to the Tribe and to continue to pursue an open dialogue with the Tribe as matters at the Stibnite Mite site progress. Please contact me with questions or to discuss next steps.

Sincerely,

Michael A. Lopez
Senior Staff Attorney

cc: Mr. Chris Hladick, Region 10 Administrator (Hladick.Christopher@epa.gov)