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Casey Johnson
Forest Supervisor
Sawtooth National Forest
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**RE: Forest Service Employees for Environmental Ethics Scoping Comments
Regarding the Black Pine Gold Project — Sawtooth National Forest, Minidoka
Ranger District — Cassia and Oneida Counties, Idaho — Suite of Significant
Impacts that Must be Addressed in the Environmental Impact Statement**

Dear Forest Supervisor Johnson:

I. INTRODUCTION AND ORGANIZATIONAL INTEREST

Forest Service Employees for Environmental Ethics (FSEEE) submits these scoping comments in strong opposition to the proposed Black Pine Open Pit Gold Mine Plan of Operations submitted by Liberty Gold USA Inc. (Liberty Gold) to the Sawtooth National Forest, Minidoka Ranger District, and the Bureau of Land Management, Pocatello Field Office. FSEEE is a national nonprofit organization with thousands of members, including current and former Forest Service employees, scientists, and citizens who are dedicated to ensuring that the Forest Service fulfills its legal mandate to protect and sustain the ecological integrity of the National Forests for present and future generations.

Liberty Gold's January 2026 Mine Plan of Operations proposes to reopen and dramatically expand the former Pegasus Gold black pine mine, establishing a large-scale open pit gold mine on approximately 6,000 acres of the Sawtooth National Forest and adjacent BLM lands in the Black Pine Mountain Range of Cassia and Oneida Counties, Idaho. The project would involve open pit excavation, a heap leach facility (HLF) utilizing sodium cyanide, a rock storage facility (RSF), process plant, stormwater management infrastructure, and associated roads and facilities — all within one of Idaho's most ecologically sensitive mountain ranges.

FSEEE welcomes the Forest Service's decision to prepare a full Environmental Impact Statement (EIS) for this proposed action, and submits these comments to ensure that the EIS fully addresses the significant environmental concerns raised by the project. These comments detail our substantial concerns regarding impacts to

fish and wildlife, watershed health and water quality, air quality, threatened and endangered species, forest ecological integrity, and recreation — and identify direct conflicts between the proposed project and the Sawtooth National Forest Land and Resource Management Plan (Forest Plan), the Clean Water Act, the Endangered Species Act, the National Forest Management Act, the Multiple Use-Sustained Yield Act, and other applicable legal standards. As discussed below, the Supreme Court's decision in *Seven County Infrastructure Coalition v. Eagle County*, 145 S. Ct. 1497 (2025), makes clear that the EIS must rigorously analyze the proximate effects of this project — both the direct effects 'reasonably close' to the mine's operations and the indirect effects that 'predictably pollute' or otherwise foreseeably harm the environment. Every impact identified in these comments satisfies that standard.

II. PROJECT DESCRIPTION AND BACKGROUND

The Black Pine Mountain Range lies at the eastern end of Cassia County, Idaho, administered by the Minidoka Ranger District of the Sawtooth National Forest. The range encompasses approximately 76,800 acres, 88 percent of which is non-forested sagebrush, grassland, and shrubland. Elevations range from 5,023 feet at Point Springs to 9,386 feet at Black Pine Peak. The range is predominantly designated as Management Area 19 under the 2012 Amended Sawtooth National Forest Land and Resource Management Plan.

The range provides critical habitat for Yellowstone cutthroat trout in Sixmile and Eightmile Creeks — the latter harboring what the Forest Plan itself characterizes as a genetically pure strain of cutthroat trout native to the upper Snake River and Yellowstone River drainages. The West Dry-Eightmile-Fisher subwatershed has been formally identified in the Forest Plan as a high-priority restoration area for Yellowstone cutthroat trout. The range also supports wolverine, Canada lynx, northern goshawk, greater sage-grouse, and numerous other species of conservation concern.

Liberty Gold's Mine Plan of Operations is described as a reactivation and expansion of the former Pegasus Gold Black Pine Mine operation. The Plan involves, among other elements: (1) open pit excavation for gold extraction; (2) a heap leach facility employing sodium cyanide solution; (3) a rock storage facility; (4) a process plant and associated facilities; (5) stormwater management infrastructure; (6) an acid rock drainage (ARD) management system; and (7) extensive road construction and use. The applicant's own Phase 1 Rock Characterization Report acknowledges that spent ore leached aluminum, arsenic, antimony, iron, thallium, chromium, and mercury at concentrations above secondary or primary water quality standards.

III. SIGNIFICANT IMPACTS THE EIS MUST FULLY ADDRESS

FSEEE commends the Forest Service's recognition that this project warrants the full scrutiny of an Environmental Impact Statement. The scope, scale, duration, and potential irreversibility of the proposed project's impacts are substantial, and the EIS must rigorously analyze each of the following significant impact areas —

detailed further in the sections below — to ensure that any decision is fully informed and legally defensible:

- Irreversible impacts to soils, surface waters, groundwater, and wildlife habitat over the projected mine life and reclamation period spanning decades, including from the heap leach facility and rock storage area;
- Impacts to Yellowstone cutthroat trout, wolverine, Canada lynx, and greater sage-grouse — all species of conservation concern or listed/candidate status that occupy the project area;
- Toxic constituent leaching risks acknowledged in the applicant's own geochemical characterization, including arsenic, antimony, thallium, mercury, and chromium above primary and secondary water quality standards;
- Threats to the West Dry-Eightmile-Fisher subwatershed, designated under the Forest Plan as a high-priority restoration area for a genetically pure strain of Yellowstone cutthroat trout;
- The scientific controversy surrounding large-scale open pit cyanide heap leach mining in ecologically sensitive mountain terrain, and the significant uncertainty regarding long-term groundwater and surface water impacts;
- The precedent set by the predecessor Pegasus Gold operation, whose legacy of contaminated waste rock and heap leach effluent — still leaching metals above water quality standards — demonstrates that the risks of the proposed project are not speculative but proven; and
- Significant impacts to recreation, including hunting, fishing, hiking, backpacking, and wildlife observation, in a management area the Forest Plan designates for restoration and maintenance of shrubland, grassland, and aquatic resources; and
- Direct conflicts with the 2008 Idaho Roadless Rule and Forest Plan direction for the Black Pine Inventoried Roadless Area, which comprises approximately 57 percent of Management Area 19 and overlaps significantly with the proposed project footprint, including the need for new road construction that is prohibited or severely restricted within the IRA.

FSEEE urges the Forest Service to structure the EIS to provide a thorough, evidence-based analysis of each of these impact categories, with enforceable mitigation measures and clear adaptive management triggers. The sections below elaborate on each concern in detail.

IV. WATERSHED HEALTH AND WATER QUALITY CONCERNS

A. Direct Threats to Sixmile and Eightmile Creek Watersheds

The Forest Plan explicitly identifies Management Area 19, which encompasses the Black Pine project area, as supporting aquatic habitat that is 'functioning at risk in some areas due to localized sedimentation impacts.' The Forest Plan further identifies the West Dry-Eightmile-Fisher subwatershed as a 'high-priority area for restoration' for Yellowstone cutthroat trout. Introducing a large-scale open pit mine

with a heap leach facility, rock storage areas, and extensive road networks into this already-stressed watershed would directly conflict with the Forest Plan's Aquatic Conservation Strategy (ACS) and the Forest-wide standard SWRA 1, which requires that management actions 'be designed in a manner that maintains or restores water quality to fully support beneficial uses and native and desired non-native fish species and their habitat.'

Liberty Gold's own Stormwater Management Plan acknowledges the presence of acid rock drainage (ARD) risks, the need for sediment ponds and diversion channels, and reliance on multi-sector general permits for stormwater discharges. Yet the Plan provides no credible analysis of cumulative sediment loading into Sixmile and Eightmile Creek watersheds, no assessment of low-flow hydrological impacts from dewatering operations, and no baseline fish population surveys that would allow detection of impacts over time.

B. Cyanide Heap Leach Contamination Risk

The proposed heap leach facility would use sodium cyanide solution to extract gold from ore. Cyanide leaching poses catastrophic risk to surface and groundwater in the event of liner failure, storm event overflow, or seismic activity. The Monitoring Plan submitted by Liberty Gold acknowledges that post-closure water resource monitoring will include groundwater, surface water, and springs — implicitly acknowledging that contamination to these resources is a recognized risk.

Liberty Gold's own Phase 1 Rock Characterization Report found that spent ore — the material that would reside in the heap leach facility — leached arsenic, antimony, thallium, mercury, chromium, aluminum, and iron at concentrations above primary and secondary drinking water quality standards. The report noted that records of effluent water quality from the legacy heap leach facility at the project site 'indicate these same constituents.' This is a critical finding: the predecessor operation left behind contaminated material that continues to pose water quality risks, and the proposed new operation would dramatically expand this legacy footprint.

The Clean Water Act, 33 U.S.C. § 1251 et seq., prohibits the discharge of pollutants into waters of the United States without an appropriate permit and requires that discharges not exceed applicable water quality standards. The Idaho Pollutant Discharge Elimination System (IPDES) permit process cannot substitute for the rigorous impact analysis required under NEPA. The EIS must fully analyze worst-case scenarios for liner failure, storm events, and long-term seepage.

C. Forest Plan Aquatic Conservation Strategy Conflicts

Appendix B of the Sawtooth Forest Plan — the Soil, Water, Riparian and Aquatic (SWRA) Resources appendix — establishes the Southwest Idaho Ecogroup Matrix of Pathways and Watershed Condition Indicators as a required analytical framework for assessing impacts to aquatic resources. This Matrix incorporates components of Pacfish/Infish, the 1995 and 1998 Biological Opinions for listed fish species, the

Endangered Species Act, and the Clean Water Act. Forest-wide Standard SWRA 1 requires that management actions be designed to maintain or restore water quality. Standard SWRA 4 provides additional protections for aquatic and riparian functions.

FSEEE contends that the proposed mine cannot meet these standards. The EIS must conduct a rigorous Watershed Condition Indicator analysis using the Appendix B Matrix, assess whether the project would trend Watershed Condition Indicators from 'Functioning at Risk' toward 'Functioning at Unacceptable Risk,' and evaluate whether approval of the Mine Plan would violate Forest Plan standards — which would constitute a violation of the National Forest Management Act, 16 U.S.C. § 1604.

The Ninth Circuit's decision in *Idaho Rivers United v. U.S. Forest Service*, 2022, reinforces that the Forest Service cannot approve actions that violate its Forest Plan standards. Similarly, in *Alliance for the Wild Rockies v. Savage*, 897 F.3d 1025 (9th Cir. 2018), the court held that agencies must take a hard look at cumulative watershed impacts, not merely rely on best management practices.

V. FISH AND WILDLIFE IMPACTS

A. Yellowstone Cutthroat Trout

The Forest Plan explicitly states that the Eightmile Creek cutthroat trout population is 'believed to be a genetically pure strain of cutthroat that was native to the upper Snake River and Yellowstone River drainages' and that native cutthroat trout populations in Sixmile Creek 'are at risk due to introduced rainbow trout.' The 2012 Amended Forest Plan added the Yellowstone cutthroat trout as a Management Indicator Species (MIS) to monitor management effectiveness.

The proposed mine would introduce construction-phase and operational-phase sedimentation, chemical contamination risks, dewatering of springs and seeps that sustain stream baseflows, and road-associated erosion into the headwaters of the most critical remaining habitat for this genetically significant trout population. The EIS must include a complete fish habitat and population baseline, detailed analysis of construction and operational sedimentation loading, hydrological modeling of dewatering effects, and cumulative impact analysis incorporating existing watershed stressors.

B. Wolverine

The 2012 Wildlife Conservation Strategy (WCS) Environmental Assessment for the Sawtooth National Forest identified wolverine as a species of greatest conservation concern and made significant management amendments to protect wolverine denning habitat. The WCS EA noted that wolverines will not use areas with excessive human disturbance and that unroaded areas serve as important wolverine refugia.

The Black Pine Mountain Range provides documented wolverine habitat on the Sawtooth National Forest, as confirmed by the WCS analysis. The Forest Plan includes direction to provide denning habitat security for wolverine and to restrict or modify activities where conflicts exist. A large-scale open pit mine, with its associated noise, dust, vehicle traffic, blasting, and permanent infrastructure, is incompatible with wolverine habitat security. The wolverine is listed as a threatened species under the Endangered Species Act (88 Fed. Reg. 10,314, Feb. 17, 2023), triggering mandatory ESA Section 7 consultation requirements.

C. Canada Lynx

The WCS EA for the Sawtooth National Forest confirmed that Canada lynx (*Lynx canadensis*), listed as threatened under the Endangered Species Act, has habitat on the Forest. The Black Pine Mountain Range's higher-elevation forested areas, particularly the Cool Dry Douglas-fir and subalpine fir communities that constitute approximately 9 percent of the management area, provide potential lynx habitat. The EIS must include a full ESA Section 7 consultation with the U.S. Fish and Wildlife Service regarding impacts to Canada lynx and its critical habitat, and the agency cannot rely on cursory or programmatic consultations.

D. Greater Sage-Grouse and Sagebrush Obligate Species

Management Area 19 is comprised of approximately 88 percent non-forested sagebrush, grassland, and shrubland — prime greater sage-grouse habitat. The Sawtooth Forest Plan's 2012 WCS amendment included direction for sage-grouse habitat. Mountain Big Sagebrush and Basin Big Sage, which together constitute a major proportion of the project area, are obligate breeding and nesting habitat for greater sage-grouse. The Forest Plan designates portions of the management area as General Habitat Management Area (GHMA) and Preliminary Priority Habitat (PHMA) for sage-grouse under the 2015 sage-grouse conservation planning framework.

The Biennial Monitoring and Evaluation Report (2020-2021) tracks acres restored in GHMA, IHMA, and PHMA habitat as a key monitoring metric. Introduction of a large-scale mine into this landscape would directly remove and fragment sagebrush habitat, increase predator perch sites (infrastructure), generate dust and chemical contamination, and create human disturbance incompatible with sage-grouse lekking and nesting behavior. In *Western Watersheds Project v. Zinke*, 913 F.3d 1105 (9th Cir. 2019), the Ninth Circuit affirmed that agencies must meaningfully analyze sage-grouse habitat impacts and cannot rely on vague mitigation commitments.

E. Northern Goshawk

The 2012 WCS EA identified northern goshawk (*Accipiter gentilis*) as a Management Indicator Species on the Sawtooth National Forest and included significant analysis of goshawk source habitat trends. The Douglas-fir and subalpine fir forests of the Black Pine Range provide foraging and nesting habitat for goshawk. The 2020-2021 Biennial Monitoring Report tracks goshawk survey results as a key wildlife

monitoring indicator. The EIS must assess impacts to goshawk nesting habitat and breeding success from noise, disturbance, and habitat degradation.

F. Gray Wolf — Habitat Connectivity and Future Recolonization Potential

Gray wolves (*Canis lupus*) are not currently known to occupy the Black Pine Mountain Range. The Forest Plan's Management Area 19 description notes that while the area falls within the Central Idaho Wolf Recovery Area, wolves are 'not currently known to occur here.' Nevertheless, the broader Black Pine landscape — with its rugged, roadless terrain, elk and mule deer populations, and connectivity to larger wildland blocks — represents potential future wolf recolonization habitat as the Central Idaho population continues to expand its range southward. The Idaho Department of Fish and Game's own wolf management plan calls for reducing Idaho's population by more than 60 percent over six years, a trajectory that conservation scientists have warned could suppress the population's ability to naturally expand into historically occupied habitat such as the Black Pine Range.

The proposed mine would significantly degrade the ecological conditions that support wolf recolonization potential. Open pit excavation, round-the-clock industrial operations, heavy vehicle traffic, blasting, and extensive new road construction within the Black Pine IRA would increase human presence and disturbance across the core of the range, fragment wildlife movement corridors, and reduce prey base habitat — all factors that wolves avoid and that are incompatible with pack establishment. The EIS must evaluate impacts to wolf habitat connectivity and recolonization potential, and assess whether the permanent habitat fragmentation resulting from the mine's infrastructure would foreclose natural wolf recovery in the Black Pine Range for the duration of the mine's operational and reclamation life.

G. Wildlife Conservation Strategy Conflicts

The Forest Plan's Wildlife Conservation Strategy (WCS), codified in Chapter III and Appendix E, establishes conservation principles for habitat suites and associated species and requires that management actions maintain ecological sustainability. The WCS framework identifies threats, risks, and required restoration priorities at multiple spatial scales. A major open pit gold mine in Management Area 19 would directly contradict WCS objectives by fragmenting habitat, increasing disturbance, degrading landscape connectivity, and introducing toxic substances into a landscape identified as a conservation priority.

The National Forest Management Act (NFMA), 16 U.S.C. § 1604, requires that Forest Plans provide for diversity of plant and animal communities. The Supreme Court in *Ohio Forestry Association v. Sierra Club*, 523 U.S. 726 (1998), and the Ninth Circuit in *Ecology Center v. Castaneda*, 574 F.3d 652 (9th Cir. 2009), have affirmed that agency actions inconsistent with NFMA's diversity requirements are unlawful.

VI. AIR QUALITY CONCERNS

The Forest Plan states that Management Area 19 lies within Montana/Idaho Airshed ID-25 and that 'particulate matter is the primary pollutant of concern related to Forest management.' Cassia County's primary existing sources of particulate matter include fugitive dust from unpaved roads and agricultural activities. The Forest Plan notes that between 1995 and 1999, PM10 emissions in Cassia County improved, while PM2.5 remained constant.

A large-scale open pit gold mine would generate substantial quantities of PM10 and PM2.5 particulate matter from blasting, crushing, ore processing, heavy vehicle traffic on unpaved haul roads, and wind erosion from disturbed surfaces. Liberty Gold's own Monitoring Plan lists ambient air quality and meteorological data monitoring as a required operational monitoring component, acknowledging that air quality impacts are a recognized concern. The EIS must include air quality dispersion modeling, health impact analysis, and a demonstration that the project will not cause or contribute to violations of National Ambient Air Quality Standards (NAAQS) or Idaho ambient air quality standards.

Additionally, cyanide volatilization from heap leach operations can generate hydrogen cyanide gas, posing risks to both human health and wildlife — including raptors, corvids, and other birds that are attracted to gleaming water surfaces in arid environments and to prey attracted to mine water sources. The EIS must assess avian mortality risk from cyanide exposure.

VII. FOREST HEALTH AND ECOLOGICAL INTEGRITY

Management Area 19 under the Sawtooth Forest Plan encompasses three management prescription categories: Management Prescription Category (MPC) 2.2 — Research Natural Areas (trace acreage), MPC 3.2 — Active Restoration and Maintenance of Aquatic, Terrestrial and Hydrologic Resources (59 acres), and MPC 6.1 — Restoration and Maintenance Emphasis within Shrubland and Grassland Landscapes (41 acres). The dominant management prescription emphasizes restoration of shrubland and grassland landscapes — a management direction fundamentally incompatible with an industrial open pit mine.

The Multiple Use-Sustained Yield Act (MUSYA), 16 U.S.C. § 531, requires the Forest Service to manage National Forests for outdoor recreation, range, timber, watershed, and wildlife — with sustained yield. While mining is governed by the General Mining Law of 1872, that law does not override MUSYA or NFMA's requirement that actions not unnecessarily or unduly degrade public lands. The Forest Service retains authority and obligation under its regulations at 36 C.F.R. Part 228 to require reasonable measures to minimize adverse environmental impacts and to deny a Mine Plan of Operations that would violate federal law.

The Tenth Circuit's decision in *New Mexico Cattle Growers Association v. U.S. Fish and Wildlife Service*, 248 F.3d 1277 (10th Cir. 2001), and the Ninth Circuit's decision in *Mineral Policy Center v. Norton*, 292 F. Supp. 2d 30 (D.D.C. 2003), confirm that agencies must not interpret the General Mining Law to override their environmental

protection obligations. More recently, in *Center for Biological Diversity v. U.S. Forest Service*, 80 F.4th 943 (9th Cir. 2023), the Ninth Circuit reaffirmed the Forest Service's authority to condition or deny mine plans that would result in violations of federal law.

The noxious weed introduction pathway is also of grave concern. The Monitoring Plan acknowledges noxious weed monitoring as an operational requirement, recognizing that mine operations — with associated vehicle traffic, soil disturbance, and importation of fill materials — are a primary vector for invasive plant establishment. Management Area 19's sagebrush and grassland communities are particularly vulnerable to cheatgrass and other invasive annual grass invasion following disturbance, which can permanently foreclose restoration to native plant communities and eliminate sage-grouse habitat.

VIII. IMPACTS TO RECREATION AND RECREATION OPPORTUNITY SPECTRUM

The Black Pine Mountain Range provides important recreation opportunities for hikers, backpackers, hunters, anglers, wildlife observers, equestrians, and other non-motorized and motorized recreationists. The Forest Plan's Recreation Opportunity Spectrum (ROS) designations in Management Area 19 include Semi-Primitive Non-Motorized, Semi-Primitive Motorized, and Roaded Natural settings — all of which depend on the area's sense of naturalness and freedom from industrial-scale development.

The 2020-2021 Biennial Monitoring and Evaluation Report tracks ROS class acres and visitor satisfaction as key recreation monitoring metrics. An open pit gold mine spanning thousands of acres — with its associated noise, dust, heavy truck traffic, visual impacts, restricted access zones, and introduction of industrial hazards — would fundamentally alter the character of the recreation environment in this management area. Hunters and wildlife observers would lose access to significant portions of the range. Anglers targeting Yellowstone cutthroat trout in Eightmile and Sixmile Creeks could see degraded water quality and fish populations. Hikers and backpackers would encounter industrial rather than natural landscapes.

The Forest Plan's Multiple Use Sustained Yield mandate requires the Forest Service to provide for outdoor recreation as a co-equal use alongside other resources. MUSYA, 16 U.S.C. § 529. NFMA requires that Forest Plans provide for multiple use management, including recreation. Approving a mine plan that would effectively eliminate quality recreation opportunity in Management Area 19 for a generation or more — without thorough analysis and mitigation — would violate both statutes.

The EIS must include a full Recreation Impact Analysis, including: visitor use data and existing recreation demand in the project area; analysis of access restriction zones and their impacts on hunting, fishing, hiking, and wildlife observation; visual impact analysis from all major viewsheds; noise impact modeling and its effects on primitive recreation experience; and cumulative recreation impacts considering other land uses in the region.

IX. INVENTORIED ROADLESS AREAS, THE IDAHO ROADLESS RULE, AND THE POLE CANYON RESEARCH NATURAL AREA

A. The Black Pine Inventoried Roadless Area: Extent and Significance

One of the most critically important — and thus far largely unaddressed — dimensions of the proposed Black Pine Mine is its direct conflict with the Black Pine Inventoried Roadless Area (IRA). The Sawtooth National Forest Land and Resource Management Plan explicitly states that the Black Pine IRA 'comprises an estimated 57 percent of the management area' — that is, approximately 43,776 acres of the roughly 76,800-acre Management Area 19. The Management Area 19 location map in the Forest Plan, reproduced in the project record, shows the IRA boundary as a hatched overlay covering the western, central, and southern portions of the management area — precisely the portions where Liberty Gold's proposed mine pits, rock storage facilities, haul roads, and associated infrastructure are concentrated.

Review of Liberty Gold's Stormwater Management Plan project layout (Figure 2-1) and the Mine Plan legal description confirms that multiple mine components — including the Discovery RSF, Rangefront pits and RSF, E Pits, F Pit, CD Pit, haul road corridors, and the sediment pond on the western side of the project — fall within or immediately adjacent to the Black Pine IRA boundary. The proposed haul roads connecting these facilities necessarily cross and penetrate IRA lands. This is not a peripheral or incidental overlap: the IRA boundary encompasses the core of the proposed project's most intensive disturbance footprint.

B. The 2008 Idaho Roadless Rule: Applicable Standards and Prohibitions

In October 2008, the USDA adopted a state-specific final rule — the Idaho Roadless Rule — establishing management themes and direction for all IRAs on National Forest System lands in Idaho. 36 C.F.R. Part 294, Subpart C. The Idaho Roadless Rule is explicitly recognized in the Sawtooth National Forest Plan, which notes that 'most of the IRAs on the Forest were categorized in the 2008 Idaho Roadless Rule as "Primitive" or "Backcountry/Restoration," which allow only limited timber harvest and/or road construction.' The Forest Plan further confirms that management of these areas must 'retain the undeveloped character' and be achieved 'through passive management strategies.'

Under the Idaho Roadless Rule, road construction and reconstruction within IRAs is prohibited except in limited circumstances. While the Rule provides an exception allowing road construction associated with mineral activities where a valid existing right exists, that exception is narrow, requires demonstration of legal necessity, and does not exempt the agency from its NEPA, NFMA, and other legal obligations. The exception does not authorize roads that go beyond what is strictly necessary to exercise a valid right, and it does not authorize the wholesale industrial development of an IRA with open pit mines, heap leach facilities, and rock storage areas.

The EIS must include a detailed analysis of: (1) precisely which mine components, roads, and infrastructure are located within the Black Pine IRA; (2) whether any or all of those components are authorized by valid existing mining rights sufficient to invoke the Idaho Roadless Rule mineral exception; (3) whether proposed road construction and reconstruction within the IRA complies with the Rule's standards; and (4) whether the cumulative effect of the proposed mine's infrastructure within the IRA is consistent with the Rule's mandate to retain undeveloped character. The agency cannot assume that the existence of mining claims automatically authorizes industrial-scale road construction and facility development within the IRA.

The Ninth Circuit and other federal courts have consistently held that the Idaho Roadless Rule and its predecessor, the 2001 Roadless Area Conservation Rule, impose substantive constraints on agency discretion and cannot be circumvented through permissive interpretations of mining exceptions. In *Wyoming v. U.S. Department of Agriculture*, 661 F.3d 1209 (10th Cir. 2011), the court upheld the legal framework for state-specific roadless rules. The Forest Service must conduct a rigorous legal analysis of the scope of any valid existing rights claimed by Liberty Gold within the IRA and must not authorize road construction or reconstruction beyond what those rights legally require.

C. Forest Plan Direction for the IRA and Conflicts with the Mine Plan

Forest Plan Standard 1906 for MPC 3.2 (Active Restoration and Maintenance of Aquatic, Terrestrial, and Hydrologic Resources) — which governs 59 percent of Management Area 19 — allows road construction or reconstruction only where needed: (a) to provide access related to reserved or outstanding rights; (b) to respond to statute or treaty; (c) to support aquatic, terrestrial, and watershed restoration activities; or (d) to address immediate response situations. Mine haul roads and access roads serving open pit operations, rock storage facilities, and heap leach areas do not fall within subsections (b), (c), or (d). They can only be authorized under subsection (a) — reserved or outstanding mineral rights — and only to the extent that the specific right legally requires such access.

The Forest Plan WCS EA explicitly eliminated from detailed study a management alternative that would have assigned IRA lands to MPC 5.1 (Full Range of Development), finding that such an allocation would be 'inconsistent with Forest Plan objectives for retaining Inventoried Roadless Areas and Wilderness areas' and incompatible with the Idaho Roadless Rule's Primitive and Backcountry/Restoration management themes. This finding is directly relevant to the mine proposal: if assigning IRA lands to a timber-focused development MPC was rejected as inconsistent with IRA management direction, the authorization of large-scale industrial open pit mining across those same lands raises even graver concerns about consistency with the Idaho Roadless Rule and Forest Plan.

The EIS must analyze all of these IRA management conflicts in detail, including the cumulative effect of the mine on the IRA's undeveloped character, wilderness

character values, roadless area integrity, wildlife habitat connectivity, and the primitive recreation experience that IRA designation is intended to protect.

D. The Pole Canyon Research Natural Area

The Forest Plan identifies the Pole Canyon Research Natural Area (RNA), a 165-acre area established east of Black Pine Peak, as a special feature of Management Area 19. The Pole Canyon RNA was established to preserve a representative example of Douglas-fir, subalpine fir, and aspen forest communities, as well as big sagebrush and black sagebrush communities — plant communities of significant scientific and conservation value. Forest Plan Standard 1901 for MPC 2.2 (Research Natural Areas) limits vegetation treatment and road construction within the RNA to only those actions needed to maintain the values for which the RNA was established or to respond to statute or treaty. Standard 1902 similarly restricts road construction within the RNA.

Open pit mine operations, blasting, haul truck traffic, dust deposition, chemical contamination, and hydrological alterations have the potential to significantly affect the ecological integrity of the Pole Canyon RNA even if mine facilities are not located within its boundaries. The EIS must fully assess the proximity of mine components to the RNA boundary, model dust and chemical deposition within the RNA, analyze hydrological connectivity between the mine area and the RNA's plant communities, and demonstrate that the RNA's established ecological values can be maintained under the proposed mine scenario. Any failure to protect the RNA's established values would conflict with Forest Plan Standard 1901 and the scientific mission for which the RNA was established.

E. Wilderness Character and Proximity to the Sawtooth National Recreation Area

While there is no formally designated Wilderness within Management Area 19, the Black Pine IRA was inventoried specifically because it possesses the undeveloped character and naturalness that qualify lands for Wilderness study. The Wilderness Act of 1964, 16 U.S.C. § 1131 et seq., defines wilderness as land that 'generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable.' The Black Pine IRA's undeveloped character — its roadless terrain from mid-slope to the ridgelines, its rugged canyons, and its primitive recreation opportunities — represents exactly the type of landscape Congress intended to protect through the IRA inventory process.

The Sawtooth National Recreation Area (NRA), one of the crown jewels of the National Forest System, lies to the north of the Black Pine Mountain Range. The Sawtooth NRA encompasses over 180,000 acres and is specifically managed to preserve its outstanding natural, scenic, and recreational values. While the Black Pine project area is not within the NRA, the NRA is the landscape context within which the Sawtooth National Forest operates, and the Forest Service's management of the Black Pine Range is viewed by the public as a reflection of its commitment to those same values. Industrial-scale open pit gold mining in the Black Pine IRA —

directly visible from Interstate 84 in an area the Forest Plan identifies as 'visually sensitive' — would be fundamentally at odds with the Forest Service's stewardship mission on the Sawtooth National Forest.

The EIS must include a visual impact analysis assessing the project's effects on scenic integrity, including from I-84 viewsheds and from within the Sawtooth NRA, and must evaluate impacts to the wilderness character of the Black Pine IRA as part of a thorough alternatives analysis. A no-action alternative and alternatives that would limit mine development outside of IRA boundaries must be fully developed and analyzed.

X. ENDANGERED SPECIES ACT COMPLIANCE

Section 7 of the Endangered Species Act, 16 U.S.C. § 1536, requires all federal agencies to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or adversely modify their designated critical habitat. The project area and its surrounding landscape support multiple listed, proposed, or candidate species, including:

- Wolverine (*Gulo gulo*) — listed as Threatened under ESA (88 Fed. Reg. 10,314, Feb. 17, 2023);
- Canada lynx (*Lynx canadensis*) — listed as Threatened under ESA;
- Greater sage-grouse (*Centrocercus urophasianus*) — subject to ongoing listing petitions and a candidate for listing at the state level;
- Yellowstone cutthroat trout (*Oncorhynchus clarkii bouvieri*) — a Management Indicator Species under the Forest Plan with documented habitat on the project area;
- Various migratory birds protected under the Migratory Bird Treaty Act, including raptors and neotropical migrants, subject to mortality risk from cyanide solutions.

Gray wolves (*Canis lupus*) in Idaho are not currently listed under the ESA, having been removed from federal protection in Idaho by Congressional action in 2011 and managed by Idaho Fish and Game since that time. However, the ESA status of gray wolves in the western United States is actively in flux and must be addressed in the EIS. In August 2025, U.S. District Judge Donald Molloy vacated the U.S. Fish and Wildlife Service's 2024 determination that relisting gray wolves in the western United States was not warranted, finding that the agency had failed to use the best available science and had not adequately considered the impact of Idaho's and Montana's aggressive wolf reduction policies on long-term population viability. See *Conservation Plaintiffs v. U.S. Fish and Wildlife Service* (D. Mont. 2025). Judge Molloy remanded the issue to FWS for reconsideration, noting that the agency must assess whether aggressive state-level harvest in Idaho — which is working to reduce the state's wolf population by more than 60 percent — could drive the population to levels requiring renewed federal protection. That ruling is currently on appeal to the Ninth Circuit.

The Black Pine Mine's operational life is projected to span decades. Given the active litigation over gray wolf ESA status and the possibility that FWS could relist wolves in the western United States or the Northern Rockies during the mine's operational period, the EIS must analyze potential impacts to gray wolf habitat connectivity and recolonization potential in the Black Pine Range as part of its forward-looking ESA analysis. Failing to account for species whose listing status may change during the life of a long-duration project would be inconsistent with NEPA's requirement that agencies take a hard look at all reasonably foreseeable environmental consequences. The EIS should at minimum assess whether the mine's permanent infrastructure and habitat fragmentation would foreclose wolf recolonization of the Black Pine Range and identify mitigation measures that would preserve that option in the event wolves are relisted during the mine's operational life.

The Forest Service must initiate formal ESA Section 7 consultation with the U.S. Fish and Wildlife Service before approving or further analyzing this project. The Biological Assessment required under 50 C.F.R. § 402.14 must analyze direct, indirect, and cumulative effects on all listed and proposed species and critical habitat. The Ninth Circuit has repeatedly held that federal agencies must conduct adequate ESA consultation and cannot approve projects based on inadequate biological analyses. See, e.g., *Cottonwood Environmental Law Center v. U.S. Forest Service*, 789 F.3d 1075 (9th Cir. 2015); *Greater Yellowstone Coalition v. Servheen*, 665 F.3d 1015 (9th Cir. 2011).

The failure to conduct formal ESA Section 7 consultation, or the conduct of inadequate consultation, would render any Forest Service approval of the Mine Plan of Operations unlawful and subject to judicial injunction.

XI. MONITORING PLAN DEFICIENCIES

Liberty Gold's submitted Monitoring Plan is wholly inadequate as the foundation for evaluating environmental compliance with the Forest Plan, ESA, and Clean Water Act. The Plan identifies monitoring of groundwater, surface water, springs, slope stability, revegetation success, and post-closure infrastructure — but provides no binding trigger thresholds that would require adaptive management or project shutdown in response to exceedances, no independent third-party verification protocols, no pre-mining baseline datasets against which to evaluate impacts, and no clear enforcement mechanism.

The 2020-2021 Biennial Monitoring and Evaluation Report for the Sawtooth National Forest reveals important context: Forest Plan monitoring has consistently tracked watershed condition indicators, WCS habitat priorities, and MIS species populations as required under 36 C.F.R. Part 219. The EIS must demonstrate how mine-related monitoring will integrate with — and not undermine — existing Forest-wide monitoring obligations. The monitoring program must be legally enforceable, funded for the full mine life plus post-closure period, and structured to detect impacts at ecologically meaningful spatial and temporal scales.

FSEEE notes that the Sawtooth Forest Plan's Aquatic Conservation Strategy, through the Appendix B Matrix of Watershed Condition Indicators, provides a legally binding framework for tracking watershed health. The EIS must demonstrate that mine-phase and post-closure watershed condition indicator trends will not violate Forest Plan standards — and must identify clear adaptive management responses if they do.

XII. FINANCIAL ASSURANCE AND RECLAMATION CONCERNS

The predecessor Pegasus Gold operation at the Black Pine site went bankrupt, leaving the public with reclamation liabilities and contaminated legacy waste rock and heap leach materials that continue to leach metals above water quality standards decades later. Liberty Gold's own Phase 1 Rock Characterization Report acknowledges the legacy contamination problem and identifies the need for ongoing management of spent ore from the existing heap leach facility.

Liberty Gold is a wholly owned subsidiary of Liberty Gold Corp., a junior gold mining company. The EIS must include a thorough assessment of financial assurance adequacy, corporate financial capacity, and reclamation bond sufficiency to ensure that taxpayers and the public are not again left holding the reclamation liability if Liberty Gold follows the path of its predecessor. Reclamation bond amounts must be based on realistic worst-case scenarios, not optimistic assumptions, and must be adjusted annually to reflect actual reclamation costs.

XIII. CUMULATIVE IMPACTS

NEPA requires federal agencies to analyze the cumulative environmental effects of a proposed action — the incremental impacts of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes them. 42 U.S.C. § 4332(C). The cumulative impact analysis in the EIS must consider: past, present, and reasonably foreseeable mining operations in the Black Pine Mountain Range and adjacent areas; existing water quality impairments in Sixmile and Eightmile Creek watersheds; existing watershed stressors including livestock grazing, road networks, and historic mining; climate change projections for reduced snowpack and altered precipitation patterns in the Black Pine Range, which will reduce streamflow and concentrate any mine-related pollutants; and cumulative impacts on wolverine, Canada lynx, and sage-grouse populations at the landscape scale.

Critically, the Supreme Court's recent decision in *Seven County Infrastructure Coalition v. Eagle County*, 145 S. Ct. 1497 (2025), establishes that agencies must analyze the 'proximate' environmental effects of a proposed action — those that are 'reasonably close' causally for direct effects, and those that 'predictably pollute' or otherwise foreseeably harm the environment for indirect effects. As applied here, every significant environmental consequence identified in these comments constitutes a proximate effect of the Black Pine Open Pit Mine within the meaning of *Seven County*. The effects described throughout this letter are not remote or speculative; they are the direct and predictable results of authorizing a large-scale

open pit gold mine with cyanide heap leach operations, multiple rock storage facilities, and extensive new road construction within a landscape already harboring impaired watersheds, genetically unique native fish populations, threatened species, and irreplaceable roadless and Research Natural Area values. The sedimentation of Eightmile and Sixmile Creeks is 'reasonably close' causally to the mine's earth-disturbing operations. The leaching of arsenic, antimony, thallium, and mercury into groundwater and surface water 'predictably pollutes' in the precise sense the Supreme Court identified. The displacement of wolverine, sage-grouse, and northern goshawk from disturbed landscapes follows as a foreseeable and predictable consequence of industrial-scale habitat fragmentation. The EIS must treat each of these as proximate effects requiring rigorous analysis, not as remote or speculative possibilities to be minimized or deferred.

The Supreme Court's holding in *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332 (1989), established that NEPA itself requires a reasonably complete discussion of mitigation measures in an EIS and that a mere listing of mitigation possibilities is insufficient. Under *Robertson* and *Seven County*, the EIS must analyze the actual effectiveness of proposed mitigation measures — not simply enumerate them — and must demonstrate with baseline data and rigorous environmental modeling that those measures will prevent the proximate environmental harms identified above. Vague commitments to 'best management practices' do not satisfy NEPA where the predictable consequence of inadequate mitigation is pollution of waters supporting a genetically unique native trout population, loss of wolverine denning habitat, or degradation of an Inventoried Roadless Area.

XIV. TRIBAL CONSULTATION AND HISTORIC PROPERTIES

The Black Pine Mountain Range lies within the ancestral territories of Shoshone-Bannock and other indigenous peoples. The National Historic Preservation Act (NHPA), 54 U.S.C. § 306108, requires federal agencies to assess the effects of federal undertakings on historic properties, including properties of cultural and religious significance to Indian tribes. The Forest Service must conduct meaningful government-to-government tribal consultation with all affected tribes as part of the EIS process, and must not proceed with NEPA analysis until tribes have been meaningfully consulted.

XV. CONCLUSION AND RECOMMENDATIONS

For the foregoing reasons, FSEEE urges the Forest Service to conduct a rigorous, comprehensive EIS that fully addresses the following:

- A detailed legal analysis of the scope of valid existing mineral rights within the Black Pine Inventoried Roadless Area, and a rigorous assessment of whether proposed road construction and mine facilities within the IRA are authorized under the 2008 Idaho Roadless Rule;
- Initiation of formal ESA Section 7 consultation with the U.S. Fish and Wildlife Service prior to any approval decision, covering all listed and proposed species including wolverine, Canada lynx, and all other affected species;

- Comprehensive baseline studies of watershed hydrology, water quality, fish populations, and wildlife use before the EIS process advances;
- Full compliance analysis with all applicable Sawtooth Forest Plan standards, including SWRA 1, SWRA 4, and the Wildlife Conservation Strategy, before any approval decision;
- A 'no action' alternative that fully evaluates the benefits of not authorizing the mine, including the restoration value of the West Dry-Eightmile-Fisher subwatershed for Yellowstone cutthroat trout;
- Adequate financial assurance bonding based on worst-case reclamation scenarios, adjusted annually;
- Meaningful government-to-government tribal consultation prior to any further NEPA analysis; and
- A 90-day public comment period on the Draft EIS, with multiple public meetings in the affected communities of Cassia and Oneida Counties.

FSEEE reserves the right to supplement these comments as additional information becomes available, including information revealed through FOIA requests currently pending with the Forest Service and Bureau of Land Management. FSEEE further reserves all legal rights and remedies, including judicial review, if the Forest Service fails to comply with its obligations under NEPA, NFMA, MUSYA, ESA, the Clean Water Act, NHPA, and all other applicable laws and regulations.

We appreciate the opportunity to submit these scoping comments and urge the Forest Service and Bureau of Land Management to ensure that the EIS provides a thorough, scientifically rigorous, and legally sufficient analysis of all significant impacts. The Black Pine Mountain Range — with its genetically unique Yellowstone cutthroat trout, wolverine habitat, sage-grouse breeding grounds, and irreplaceable recreation values — deserves nothing less.

Respectfully submitted,

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