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First name: Tamara

Last name: Johnson

Organization: Montana Mining Association

Title: Executive Director

Comments: INTRODUCTION

The Montana Mining Association (MMA) encourages you to complete the National Environmental Policy Act (NEPA) analysis for Midas Gold Idaho Inc.'s (Midas Gold's) Stibnite Gold Project (SGP) as soon as possible. As discussed below, our review of the August 2020 Draft Environmental Impact Statement (DEIS) has found that the Payette and Boise National Forests have prepared a comprehensive and complete analysis of this important project, which should facilitate timely preparation of the Final EIS and issuance of the Record of Decision.

MMA believes there is urgency to approve the SGP in order to start the restoration measures that are an integral part of Midas Gold's Plan of Restoration and Operations (PRO) for the SGP. Additionally, President Trump's recently declared national emergency regarding the country's undue reliance on China and other foreign adversaries for critical minerals like antimony deserves the Forest Service's immediate attention. Because the SGP will become the Nation's only domestic antimony mine, the Forest Service must give this project priority consideration.

The Montana Mining Association (MMA) is a trade association of mineral developers, producers, refiners and vendors from fifteen states, including Montana, and two Canadian Provinces. The mining industry is a major employer and taxpayer in Montana, and we believe the continued viability and growth of our members' operations are significant factors in the economic health of our state and its citizens. Members of the MMA also conduct mining in other states, including Idaho and many of our valued Associate members provide goods and service not only in Montana but to a much broader region including Idaho.

#### THE SGP SOLVES LONGSTANDING ENVIRONMENTAL PROBLEMS

Montana has its fair share of mines developed in the late 1800s and early-to-mid-1900s that have unresolved environmental and safety problems similar to the Stibnite mine site, where mining began in the 1890s and had a heyday during World War II and the Korean War when the federal government was involved with mining tungsten and antimony to support the military. Throughout Montana, Idaho, and the rest of the West, mines developed long before there were modern environmental regulations and at times the result was contaminated streams and groundwater systems, degraded terrestrial and aquatic wildlife habitats, other environmental problems and public safety hazards.

What sets the Stibnite mine site apart from many old mining districts is that there is a willing party [ndash] Midas Gold [ndash] that has developed a plan to restore this site. Fortunately for Idahoans, Midas Gold is proposing to invest \$1 billion of its corporate resources to clean up this site and redevelop it into a modern, state-of-the-art gold and antimony mining operation. Because much of the land in the SGP project area is National Forest system lands, U.S. taxpayers and the federal land managers (i.e.; the Forest Service) are also lucky. All that stands in the way of Midas Gold's ability to implement its SGP environmental restoration proposal is the lengthy NEPA process and issuance of the Record of Decision approving Alternative 2 as the Agency's Preferred Alternative.

According to the DEIS (Section 3.7.3.3), the U.S. Environmental Protection Agency (EPA) considered placing the Stibnite Mine site on the National Priorities List (NPL) in 2001 to make it eligible for a taxpayer-funded cleanup. However, to date, the site is not on the NPL. Thanks to Midas Gold's extraordinary plan to invest \$1 billion in restoring and redeveloping the site, placement on the NPL will not be necessary and taxpayers will not be burdened with paying to remediate this site.

In the absence of Midas Gold's PRO, a robust taxpayer-funded cleanup in the foreseeable future is highly unlikely. Many NPL sites throughout the country remain un-remediated due to funding shortages. The partial cleanup actions undertaken in the late 1990s and early 2000s at Stibnite are a case in point.

These limited activities did not successfully restore the site, leaving it in its present problematic condition. Furthermore, when environmental cleanup funding is available, sites that have human health issues typically take precedence over sites with environmental and safety issues. Although the water quality problems at Stibnite certainly pose a risk to the public, the remoteness of the site may give it a comparatively low-priority ranking for a taxpayer-funded cleanup. Midas Gold's PRO thus presents the Forest Service and taxpayers with a compelling opportunity to capitalize upon a private-sector plan to remediate this site in the near future. For this reason alone, the Forest Service should expedite the permitting process for the SGP.

The PRO includes an environmental restoration component that is of significant interest to MMA because of its potential applicability to other historic mines where piles of mining wastes (mainly tailings and waste rock) produced long before the enactment of modern environmental regulations are contaminating surface water and groundwater and creating other environmental problems. In particular, Midas Gold's proposal to remove the 10.5-million ton pile of legacy mine wastes from the Spent Ore Disposal Area (SODA) in Meadow Creek Valley is especially significant.

The proposed reprocessing of 3 million tons of legacy tailings and repurposing 7.5 million tons of spent leached ore will effectively eliminate future contamination of the watershed from these materials. The SODA waste pile is currently the source of metals-laden leachate that is degrading the East Fork of the South Fork of the Salmon River (EFSFSR).

By removing this relatively small volume of legacy mine waste in conjunction with a much larger (100- million ton) mining operation, the PRO will achieve significantly improved water quality. The lesson for other sites is that a small removal action can result in important and long-lasting environmental benefits.

However, it's important to realize that the reprocessing and repurposing of the legacy wastes at Stibnite represents a site-specific, custom-designed plan that is integrated into the overall SGP mine plan to extract and process 100 million tons of gold and antimony ores. Without this larger mine plan, the reprocessing and repurposing activities would likely be impractical and cost prohibitive. This is an important point in the larger policy dialogue about cleaning up historic and abandoned mines. The new mining at Stibnite makes the environmental restoration possible and demonstrates that if site-specific economic factors are favorable, new mining may play a significant role in solving environmental problems at other legacy sites.

The PRO's interim and permanent measures to enable upstream fish migration in the EFSFSR deserve special recognition as an exemplary example of environmental stewardship. The proposed 0.9-mile long temporary fish passageway tunnel that will be built during the first years of the project goes above and beyond what would be required to mine the Yellow Pine Pit. Building a conventional stream diversion channel around the pit would be sufficient (and much less costly). But this would not remove the barrier to upstream migration that this pit currently creates.

Rather than waiting until the end of the project to restore the drainageway, the PRO includes a multi- million-dollar fish passageway tunnel that is designed to enable upstream and downstream migration. For the first time in over 80 years, fish will be able to migrate upstream to high-quality spawning grounds in the upper reaches of the EFSFSR.

The permanent reclamation and restoration plan for the Yellow Pine Pit is equally impressive. When mining of this pit is concluded in Year 7 of the project, Midas Gold will backfill the pit and reestablish the EFSFSR across the backfilled pit as a meandering drainageway and riparian corridor. The restored stream will become a

permanent fish passageway that will support upstream and downstream migration.

#### SPECIFIC COMMENTS ON THE DEIS

The Forest Service's Project Website and Virtual Meeting are Excellent

MMA commends the Forest Service for developing a thorough and comprehensive DEIS that we believe satisfies all NEPA requirements to evaluate the proposed action and a reasonable number of project alternatives, describe the affected environment, and disclose the environmental consequences that would result from implementing the proposed action and the project alternatives. We found the Forest Service's SGP website easy to use and quite complete. We especially appreciated having the DEIS, the DEIS references, Midas Gold's PRO, and the public scoping comments all in one easily accessible site.

Additionally, the Forest Service's virtual meeting website very effectively presents the project and the project alternatives in an easy to understand format. The convenience of being able to [ldquo]attend[rldquo] this virtual meeting at any time from any place is a tremendous benefit to stakeholders [ndash] especially out of state stakeholders like MMA.

Although we are quite interested in the SGP, MMA probably would not have been able to devote the time or incur the expense to travel to Idaho for public meetings on the DEIS. The virtual meeting greatly facilitated our review of the SGP and the DEIS and enhanced our understanding of the project. The

ability to visit the project website and the virtual meeting numerous times at any time of day or night is much more convenient and effective compared to an in-person, crowded public meeting where the project information is only available for a limited amount of time.

The Forest Service Should Select Alternative 2

The information in the DEIS presents many compelling reasons why the Forest Service should select Alternative 2 as the Agency's Preferred Alternative because this alternative includes the most environmental benefits and advantages. Selecting this alternative would best satisfy the mandate to minimize adverse impacts in Section 228.8 of the Forest Service's 36 CFR Part 228 Subpart A surface management regulations for locatable minerals.

The most obvious environmental benefit associated with Alternative 2 is the synergy of placing the tailings storage facility (TSF) in the Meadow Creek Valley where the SODA is located and the proposed legacy waste removal action prior to constructing the TSF in this location. The environmental superiority of this site is even more compelling when compared to the tailings location in the EFSFSR proposed in Alternative 3. Alternative 3 would fail to capitalize upon the removal action in Alternative 2 and would involve disturbing virgin land in contrast to reusing the already disturbed and contaminated SODA. Additionally, there is a large old landslide at the Alternative 3 TSF location, which makes this a risky place to build and operate a TSF.

Alternative 2 proposes eliminating the West End Development Rock Storage Facility (DRSF) and using this rock to partially backfill the Hanger Flats Pit. This proposal represents a meaningful opportunity to reduce project impacts by avoiding the surface disturbance that would be created by the West End DRSF. This is another reason why Alternative 2 best satisfies the 36 CFR [sect] 228.8 mandate to minimize adverse environmental impacts.

Another important environmental advantage unique to Alternative 2 is the proposed onsite lime kiln that will minimize traffic, thereby enhancing safety, and reduce vehicular air and greenhouse gas emissions. The onsite lime kiln will reduce overall project surface disturbance because the limestone and marble development rock that must be mined from the West End pit will not have to be stored in a DRSF. This is a third way in which

Alternative 2 reduces project impacts consistent with the 36 CFR 228.8 mandate to minimize adverse environmental impacts.

We are also favorably impressed that Alternative 2 does the best job of incorporating public comments raised during public scoping that requested preservation of the existing seasonal access route through the mine site. Alternative 2 preserves seasonal access through the mine site during mine operations. The Alternative 2 road network also minimizes exposure to avalanche and landslide prone areas because the Alternative 2 Burntlog Route is higher and out of the drainageway than the Alternative 4 Johnson Creek - Yellow Pine Route, which is in the stream valley and parallels Johnson Creek. By reducing exposure to avalanches and landslides, the higher Burntlog Route will significantly reduce public and worker safety hazards.

Furthermore, the Alternative 4 road network is problematic compared to the Alternative 2 road system because the use of Johnson Creek Road in Alternative 4 increases the potential for sedimentation and habitat degradation due to the road's proximity to Johnson Creek. Additionally, spills along this route would have a higher potential to cause environmental harm because of the likelihood that spills of hazardous substances would flow into Johnson Creek and harm aquatic resources and degrade water quality.

#### The Forest Service Should Not Select Alternative 3

The Forest Service should not select the environmentally and geotechnical inferior Alternative 3 location for the TSF as the Agency's Preferred Alternative. Alternative 3 places the TSF in the EFSFSR on currently undisturbed land. In addition to unnecessarily disturbing virgin land, the Alternative 3 TSF location would mean that the 10.5-million ton pile of legacy mine wastes at the Alternative 2 Meadow Creek Valley/SODA location for the TSF would remain in place and would continue to leach contaminants into the EFSFSR. It would make no sense for the Forest Service to overlook the important environmental benefits of removing this waste pile and reusing this already disturbed and currently contaminated site by selecting the Alternative 3 location for the TSF. Therefore, Alternative 3 should be rejected on the basis of a significantly inferior environmental outcome.

Additionally, the geotechnical problems at the Alternative 3 East Fork TSF location due to the presence of an old, large landslide is another reason to reject this site. Building and operating the TSF at this location would incur more risk compared to the Alternative 2 Meadow Creek Valley location for the TSF because the landslide could become destabilized by constructing the TSF in the EFSFSR. There would be no justification for creating and increasing risks by building the TSF in the vicinity of this geohazard SF.

Because the Alternative 2 SODA location for the TSF solves a serious environmental problem whereas the Alternative 3 location in the East Fork creates more environmental disturbance, it seems obvious that the Forest Service should select the Alternative 2 location for the TSF in preference to the Alternative 3 location.

#### The Forest Service Must Not Select the No Action Alternative

The Forest Service cannot select the No Action Alternative (Alternative 5) for several reasons. As is the case for all locatable mineral projects proposed on National Forest System lands, the Forest Service does not have the discretionary authority to reject a proposed mineral exploration or development project that complies with the 36 CFR 228A surface management regulations and other regulatory requirements. The U.S. Mining Law (30 U.S.C. [sect][sect] 21a et seq) grants claim owners and project proponents like Midas Gold a statutory right to use mining claims and other lands open to mineral entry under the U.S. Mining Law for any and all mineral purposes that are reasonably incident to the proposed mining and mineral processing operation pursuant to the Surface Resources Act of 1955 (30 U.S.C. [sect][sect] 610 [ndash] 615) and that comply with the applicable regulations.

Mining Law rights extend to all National Forest System lands that are open to mineral entry under the

U.S. Mining Law regardless of whether there are mining claims on the land. The presence or absence of mining claims and the discovery status of the lands in question are irrelevant because rights granted by the Mining Law apply equally to all National Forest System lands that are open to location both on and off of mining claims and on claims with or without a discovery of a valuable mineral deposit. Consequently, the Forest Service cannot deny the PRO by selecting the No Action Alternative. Additionally, the Forest Service does not need to determine whether the claims in the PRO contain a valuable mineral discovery or conduct a claim validity examination to determine the discovery status of the claims in the SGP area in conjunction with evaluating and approving the PRO.

The substantial environmental and public benefits associated with the PRO create another compelling reason why the Forest Service must not select the No Action Alternative. It would be ludicrous for the Forest Service to reject Midas Gold's unmatched proposal to invest the \$1 billion that will be necessary to restore and redevelop the Stibnite mine site. There are no other companies or agencies waiting in the wings to step up to the plate and make the same level of investment to clean up this legacy site.

Selecting the No Action Alternative would mean that none of the legacy environmental problems at Stibnite would be solved. The site would remain contaminated with legacy mine wastes that would continue to leach arsenic, antimony, and other problematic constituents into the EFSFSR [ndash] possibly for decades into the future. The environmental protection mandate in the Forest Service's Organic Act of 1897 (16 U.S.C. [sect] 478), as well as the clear directive to authorize mining, dictate that the Forest Service cannot disregard this opportunity to solve the environmental problems at Stibnite by authorizing the PRO. Consequently, the Forest Service is obligated to seize upon this unique private-sector solution to a public environmental problem and approve the SGP.

In light of the environmental restoration measures included in the PRO, the Forest Service needs to expand the discussion of the No Action Alternative in the Final EIS. The perfunctory section on the No Action Alternative in the DEIS does not adequately describe the environmental consequences associated with the No Action Alternative. This section needs to be revised in the Final EIS to explain the environmental problems that would persist into the foreseeable future without implementing the PRO. At a minimum, this discussion should evaluate the adverse impacts to water quality, public health and safety, and aquatic resources that would continue into the future without the PRO. The revised section should also estimate how long it would take the Yellow Pine Pit to fill up from the sediment flowing into the pit lake from Blowout Creek and how this would impede upstream and downstream fish migration.

**THE SGP IS AN IMPORTANT CRITICAL MINERALS AND HIGH-PRIORITY INFRASTRUCTURE PROJECT**  
On September 30, 2020, President Trump issued an Executive Order (EO) entitled, [ldquo]Addressing the Threat to the Domestic Supply Chain from Reliance on Critical Minerals from Foreign Adversaries.[rdquo] This EO has significance for the SGP because it is a critical minerals project. The critical mineral, antimony<sup>1</sup>, will be recovered as a byproduct of the gold production at the SGP. According to Midas Gold's pre- feasibility study, the SGP will produce roughly 100 million pounds of antimony.

In the EO, the President declares that the Nation's reliance on countries like China for critical mineral is creating a national emergency:

[bull] I[hellip]determine that our Nation's undue reliance on critical minerals[hellip]from foreign adversaries constitutes an unusual and extraordinary threat[hellip]to the national security, foreign policy, and economy of the United States. I hereby declare a national emergency to deal with that threat.

This declaration of emergency creates urgency for federal agencies like the U.S. Department of Agriculture/Forest Service to take appropriate actions to lessen the emergency. Approving the PRO would reduce the country's reliance on China and Russia for 86 percent of the antimony we currently use<sup>2</sup>. This

new EO creates another reason why the Forest Service needs to publish the Final EIS and issue a Record of Decision to authorize the PRO for the SGP on an expedited basis.

The Council of Environmental Quality (CEQ) recently designated the SGP as a [ldquo]High Priority Infrastructure Project<sup>3</sup> and established a permitting dashboard for the project that shows September 1, 2021 as the desired permitting process completion date. The Forest Service should strive to comply with this timeline so work on this high-priority infrastructure project can commence.

1 In 2018, the U.S. Geological Survey (USGS) included antimony in its list of 35 critical minerals

<https://www.federalregister.gov/documents/2018/05/18/2018-10667/final-list-of-critical-minerals-2018>

2 <https://pubs.er.usgs.gov/publication/mcs2020>

3 <https://www.permits.performance.gov/permitting-project/stibnite-gold-project>

## CONCLUSION

Midas Gold submitted the PRO in September 2016. Public scoping for the DEIS took place in mid-2017. It has taken the Forest Service more than three years to develop the DEIS. The resulting DEIS document and associated references present a detailed and comprehensive analysis. There can be no doubt that the SGP proposal, the affected environment in the project area, and the environmental consequences have been carefully studied. In light of this in-depth analysis, it is time to complete the NEPA analysis for this important project so the environmental restoration work can commence, to meet the CEQ[rsquo]s September 2021 permit schedule objectives, and to respond to the critical minerals national emergency. MMA believes the extensive environmental baseline and project impact studies and the analysis in the DEIS provide the Forest Service and the public with the information needed to make a sound and well- informed decision.

The critical minerals national emergency, the nation[rsquo]s need for this high-priority infrastructure project, the environmental problems that need to be solved, and the area[rsquo]s need for the hundreds of direct and indirect jobs the SGP will bring to central Idaho creates an imperative for the Forest Service to approve this project in a timely fashion. We strongly urge the Forest Service to end the DEIS public comment period on October 28, 2020 as currently scheduled. The 75-day public comment period exceeds the 45- day comment period requirement for a DEIS. There is no justification for extending the comment period beyond 75 days because the Forest Service[rsquo]s excellent project website and virtual meeting make it easy for the public to review and understand the SGP proposal and the DEIS.

MMA appreciates the opportunity to provide these comments. Please do not hesitate to contact me if you have any questions.