



April 25, 2022

Linda L. Jackson
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Re: Stibnite Gold Project Air Quality Issues

Dear Ms. Jackson:

Idaho Conservation League, Save the South Fork Salmon, Earthworks, and Idaho Rivers United submit this letter to the Payette National Forest highlighting serious air quality issues with Perpetua Resources' proposed Stibnite Gold Project that continue to come to light through the Idaho Department of Environmental Quality's air Permit to Construct process.

These comments represent the work of the coalition of groups described above, which have notable expertise in air quality issues, including those issues that stem from mining projects, as well as numerous professional scientific consultants. This letter is in addition to any separate letters that the groups mentioned above may submit. For all the reasons detailed in our letter, we urge the Payette National Forest to include a comprehensive, bolstered air quality analysis in the upcoming Supplemental DEIS for public review.

Idaho Conservation League (ICL) is a non-profit organization dedicated to preserving Idaho's clean water, wilderness, and quality of life through citizen action, public education, and advocacy. Save the South Fork Salmon (SSFS) is a grassroots, community-based organization in Valley County dedicated to protecting the South Fork of the Salmon River watershed, its outstanding and remarkable natural values, and the economies that depend on those values. Its members and supporters have a strong interest in protecting natural resources, maintaining recreational opportunities and access, and ensuring future generations can enjoy and benefit from these resources and opportunities in the South Fork of the Salmon River watershed. Earthworks is a national non-profit organization dedicated to protecting communities and the environment against the adverse effects of mineral and energy development, while seeking sustainable solutions. Idaho Rivers United (IRU), a nonprofit organization, is Idaho's leading river-focused conservation

organization working to protect and restore Idaho's rivers and streams. Our mission is to protect wild rivers, restore damaged rivers, and conserve clean water for people and nature.

Background

In parallel with the US Forest Service (USFS) permitting process, Perpetua Resources has also been pursuing its required air quality permit through the Idaho Department of Environmental Quality (IDEQ) for the proposed Stibnite Gold Project (SGP). IDEQ first received an application for a permit to construct (PTC) from Perpetua (then Midas Gold) in August 2019. Four separate times IDEQ determined that the application was incomplete due to missing important emissions information and modeling analyses. Finally, the application was deemed complete and a draft PTC was noticed for public comment in September 2020. IDEQ received a number of substantive public comments, including from some of the organizations signed on to this letter, prompting IDEQ to request supplemental information from the applicant. A revised PTC was noticed for public comment in February 2021, and IDEQ once again received a number of critical comments, including from EPA Region 10. Based on that round of comments, IDEQ once again made substantive changes to the permit and re-noticed it for public comment in January 2022. Yet again, IDEQ received a number of substantive critical comments from NGOs (including from ICL and SSFS), EPA Region 10, and the Nez Perce Tribe that will need to be addressed by the agency.

Through this permitting process, we had the opportunity to take a deeper dive into the latest emissions inventory and modeling analysis associated with the air quality components of the SGP. While IDEQ remains the permitting authority for Perpetua's permit to construct, the USFS has a responsibility to consider and evaluate the broader air quality impacts of the project under the purview of the National Environmental Policy Act (NEPA) process. Accordingly, we would like to highlight for the USFS the latest takeaways from our technical analysis of potential air quality impacts from the SGP.

We have included the most recent technical comments submitted by ICL/SSFS, the Nez Perce Tribe, TerraGraphics International Foundation, and EPA Region 10 as attachments to this letter. We refer the USFS to these attachments for the specific, technical details related to air quality issues, and will summarize the salient points in this letter.

1. Procedural Issues

Thus far, there have been four rounds of public comments on three revisions of the proposed PTC and Draft Operating Permit for the SGP. Some progress has been achieved in securing health and environmental protectiveness through this lengthy review process. However, despite IDEQ's persistent attempts to obtain objective and transparent submittals from Perpetua, this patchwork approach to upgrade an inherently deficient application is eroding public trust in the process to provide for health and environmental safeguards. This third and latest PTC submittal continues the

same unsettling pattern of minimal, insufficient, and vague calculations; attempts by Perpetua to prevent this project from being considered a major source; ineffective monitoring; and lack of provisions for enforcement and corrective actions.

It is also worth noting that it is unusual for a PTC application for this type of project on federal lands to be considered and potentially approved prior to receiving approval from the USFS through the NEPA process. The Applicant is attempting to secure both State and Federal approvals simultaneously. Generally, the Federal approval dictates the type of facility that is acceptable, followed by state implementation of the required controls. Perpetua is submitting confusing and inconsistent air pollution emission claims to the different regulators, hampering the transparency required for the public to understand and comment in both forums. Additionally, the project has already, and will likely continue to, change substantially through the NEPA process - necessarily forcing changes to any prior PTC approval as well.

The Forest Service should continue to monitor developments on this air permitting process as they continue through the NEPA process for the SGP.

2. Ambient Air Boundary Determination

The PTC application raises serious public health concerns due to IDEQ's exclusion of the public access road between Stibnite Road at Sugar Creek and Thunder Mountain Road at Meadow Creek from the regulatory definition of ambient air. We believe that this exclusion is inconsistent with Clean Air Act's definition of ambient air,¹ EPA's long-standing policy that allows excluding certain areas of a source's property from ambient air,² and EPA's most recent revised policy for ambient air.³ Allowing the public to access this road, even under the conditions of the Stibnite Road Access Management Plan, may result in acute exposure of the public to hazardous air conditions.

IDEQ precedent, reaffirmed as recently as 2021, makes it clear that a public right-of-way access through a project area is considered – not excluded from – ambient air, and regulatory analyses of the potential impacts along that road, and must show compliance with all ambient impact limits for averaging periods under one year. This determination has been applied by IDEQ for public roads, non-navigable rivers, and railroad tracks. Here, the general public would be allowed access through the mine site on a public road that Perpetua does not have the right to completely deny

¹ 40 C.F.R. 50.1(e).

² Letter from EPA Administrator Douglas Costle to Hon. Jennings Randolph (Dec. 19, 1980), available at: https://19january2021snapshot.epa.gov/sites/static/files/2019-11/documents/1980_costle_letter_ambient_air.pdf.

³ EPA, *Revised Policy on Exclusions from "Ambient Air"* (Dec. 2, 2019) ("Revised Policy"), available at: http://www.epa.gov/sites/default/files/2019-12/documents/revised_policy_on_exclusions_from_ambient_air.pdf.

access. There is no indication that this public road should be treated any differently from past projects. Nothing in the ambient air impact assessments supporting this permit includes any analysis of the air impacts, and thus impacts to the public traveling on the road through the project area.

Regardless of how IDEQ proceeds with their ambient air determination, the Forest Service should assess the air quality impacts of the SGP to recreationalists traveling through the site to Thunder Mountain if the Forest Service is planning to authorize that as a public access route.

3. Need for Human Health Risk Assessment

As it currently stands, neither IDEQ nor the USFS have analyzed or modeled the anticipated ambient concentration of toxic and hazardous air pollutants that people will breathe at, and beyond, the project boundary of the SGP if the project were to move forward as proposed. In particular, this assessment should consider the high concentrations of both particulate matter (PM/PM10) and arsenic in fugitive dusts, the latter of which exceeds carcinogenic and non-carcinogenic critical toxicity criteria by orders of magnitude. Arsenic-laden particulates are potentially an unacceptable risk for both inhalation and incidental ingestion through direct contact with recently deposited dusts. Human health risk assessments should be performed to address this critical pathway.

Numerous issues could be resolved if the USFS, in coordination with IDEQ and EPA, were to complete such an assessment with the following considerations:

- Include all project emissions regardless of the regulatory interpretation of who has authority to regulate what sources;
- Reflect the range of uncertainties in PM, PM10, and arsenic emission rates; and
- Calculate cancer and non-carcinogenic risk associated with hazardous and/or toxic air pollutants (HAPs/TAPs).

The results of this assessment would be invaluable to understanding the true human health risks of the SGP from the air quality standpoint and fall under the purview of what the USFS should analyze and disclose in their environmental analysis of the project.

Next Steps

It is the agency's duty under NEPA to "ensure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements," and to "independently evaluate the information submitted . . . for its accuracy, scope, and contents." 40 C.F.R. §§ 1502.23, 1506.25(b)(2). **Based on the information presented, we urge the Forest Service to include a robust air quality analysis in the upcoming Supplemental DEIS.** Doing so would clearly be in the public's interest and would conform to the letter and intent of the NEPA.

We look forward to your response and continuing the conversation on these important issues and their implications for human health and the environment. We would appreciate the opportunity to meet with the relevant staff from the Payette National Forest in the near future to discuss this important issue.

Sincerely,



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Attachments

- Attachment #1 - ICL/SSFS Comments on Stibnite PTC, dated 3/16/22
- Attachment #2 - EPA Comments on Stibnite PTC, dated 3/16/22
- Attachment #3 - Nez Perce Tribe Comments on Stibnite PTC, dated 3/14/22
- Attachment #4 - TerraGraphics Foundation Comments on Stibnite PTC, dated 3/16/22