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May 4, 2026

ICL scoping comments regarding the Black Pine Gold Project

Dear Mr. Johnson,

Thank you for considering our scoping comments on the Black Pine Gold Project. Founded in 1973, the mission of ICL is to create a conservation community and pragmatic, enduring solutions that protect and restore the air you breathe, the water you drink, and the land and wildlife you love. ICL's seven strategic initiatives include confronting climate change, recovering Idaho's wild salmon and steelhead, cleaning up the Snake River, protecting public land, restoring abundance and diversity of Idaho's wildlife, safeguarding North Idaho lakes and waters, and reducing pollution. ICL achieves these goals through public outreach and professional advocacy. With offices in Boise, McCall, Ketchum, and Sandpoint, the organization is a consistent, statewide voice for conservation in Idaho and represents more than 30,000 members and supporters. ICL's members and supporters care deeply about protecting and restoring the environment.

The Black Pine Gold Project would entail the construction of a major open-pit, cyanide heap leach gold mine in southern Idaho. The applicant's Mine Plan of Operations entails the construction of four new open pits and expansion of four existing open pits as well as development of related mine infrastructure and support facilities with an estimated mine life of 17 years. This is a significant and complex proposal on public lands that requires a thorough analysis through the Environmental Impact Statement process. From our perspective, a thorough analysis of such a complex proposal would require an EIS longer than the standard 150-page limit, the development of multiple alternatives, and 45-day public comment periods on both the DEIS and FEIS.

Our specific comments are included below and are intended to identify key areas of analysis to be considered in the development of the DEIS.

We understand that this particular mine proposal has specific characteristics based on its location that help avoid (to some degree) a few of the most prominent environmental concerns typically associated with large mining projects:

1. Redevelopment of a previously mined site creates an opportunity to better address legacy mining issues
2. No surface waters and associated fish habitat directly within the project area
3. A relatively deep water table with groundwater levels sitting below the level of the deepest proposed open pit
4. Potentially favorable geology that limits potential for acid mine drainage (mineralized areas such as these may still have contaminants of concern)

While we are thankful for those potentially derisking factors, the fact remains that the Black Pine Mine Project is a large, open-pit cyanide heap leach gold mine located on public lands with inherent complexity and environmental risk that must be properly and thoroughly analyzed through the EIS process. ICL looks forward to reviewing the DEIS for this project once it is available.

Sincerely,

A handwritten signature in black ink, appearing to read 'Josh Johnson', with a stylized, flowing script.

Josh Johnson, Central Idaho Director
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Idaho Conservation League scoping comments on the Black Pine Mine Project EIS

NEPA Process

We recognize that this project has been included in the FAST-41 program. While we appreciate the increased transparency around project timelines associated with FAST-41, we would like reassurance from the Forest Service that there will be public comment periods of at least 45 days for both the DEIS and FEIS. Public comment periods at those stages are essential for stakeholders - including the local communities that will be impacted by this project - to weigh in on the specifics provided by the DEIS and offer recommendations to best avoid, minimize and mitigate the environmental impacts of this project.

Regarding the length of an EIS, 40 CFR 1502.7 establishes that the text shall not be greater than 150 pages *except for proposals of extraordinary complexity*, which can have an EIS up to 300 pages long. ICL strongly believes that the Black Pine Gold Project reaches that “extraordinary complexity” threshold and thus the Forest Service should be allowed to produce an EIS for this project that exceeds 150 pages. Major open-pit, cyanide heap leach mines are by definition very complex projects given that they have more potential to disturb land, impact water quality, threaten sensitive wildlife species than just about any other possible project proposed for our public lands.

The fact that this project and access routes span Forest Service, BLM, and private properties adds additional layers of complexity and requires additional transparency. Water management is going to be particularly complex given the cyanidation circuit, solution ponds, dust suppression and restoration needs, and requires detailed review. Management of air quality regarding dust emissions, fuel exhaust, any land application and particulates is a complex process that requires full disclosure in the DEIS.

Simply trying to optimize the economics of this project will require an examination of different stripping methods and sequencing, waste storage, liners, cover types, and revegetation proposals. Other open-pit mining projects such as Rasmussen Ridge, North Rasmussen, Blackfoot Bridge, and Smoky Canyon conducted extensive analysis on different cover liners, cover types, and revegetation seed mixes that would best isolate contaminants of concern and allow restoration for productive uses following mining. There are often tradeoffs regarding initial expenses and long-term cost savings that are not evident without a thorough analysis.

We are also concerned that just cursory review of long-term post-closure costs may oversimplify the on-the-ground situation and leave the company with higher reclamation bonding costs that could have been lessened with a more accurate and detailed analysis.

Adding to the complexity is the fact that this is a previously mined area with existing legacy issues such as the continued need for water treatment and unfulfilled surface reclamation needs as unreclaimed pits. Previous open-pit, cyanide heap leach operations at Black Pine also necessitated the construction and maintenance of a long-term passive water treatment system

consisting of underground chambers with iron filings. We recommend that this analysis takes into account these existing obligations and ideally examines how mining operations can be configured to backfill existing pits, better reclaim the pit walls and shape the topography for future, post-mining uses. We recommend that the analysis examine how to best eliminate the need for long-term water treatment. This could include ways to reduce the water infiltration into historic mine waste and/or create a more efficient water treatment system that can address or ideally eliminate the need for long-term water treatment from both historic and planned mining operations.

The analysis could also see how to configure access from the highway to the mine site in ways that minimized impacts or perhaps even enhances the access needed for the agricultural needs and recreational opportunities for the local community and other stakeholders.

Given the presence and significance of these overlapping impacts along with the inherent complexity of large mine projects, we are concerned that an EIS limited to 150 pages will not be sufficient to properly analyze this mine proposal. Thus, we request that leeway be given to allow for a longer EIS for this project (if necessary).

Alternatives

The Forest Service should develop all reasonable alternatives to address concerns the public raises including the number of pits, pit design, access routes, tailings storage options, tailings storage locations, waste rock storage locations, mitigation for fish and wildlife, and other modifications to the proposal that would minimize environmental impacts.

The consideration of alternatives is the heart of the National Environmental Policy Act. Federal agencies must “[r]igorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated”; “[d]evote substantial treatment to each alternative considered in detail including the proposed action”; and “[i]nclude reasonable alternatives not within the jurisdiction of the lead agency.” *Id.* § 1502.14(a)–(c).

The NEPA process also requires that “environmental information is available to public officials and citizens before decisions are made and before actions are taken.” *Id.* at 1500.1(b). The information agencies are required to gather and disclose during the NEPA process “must be of high quality.” *Id.* at 1500.1(b). “Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.” *Id.*

Wildlife

The Forest Service needs to evaluate the potential impacts in the EIS from this mine proposal to MIS (Management Indicator Species), Forest Service sensitive species, migratory birds, and big game such as mule deer. The analysis should also take into account increased vehicle collisions with mule deer, elk, reptiles, amphibians, and other wildlife. The Forest Service should integrate

both seasonal restrictions and adequately protective buffers around identified raptor nests.

A wide range of mining-related activities can adversely affect wildlife and their habitat. The biggest and most obvious impact will be from the creation of four new open pits and expansion of four existing pits. Given the scarcity of standing water in the surrounding landscape, we are concerned that waterfowl, bats, and other wildlife will be attracted to process ponds, ephemeral pit lakes, and other areas where the water quality could pose risks to wildlife. The analysis needs to describe the water quality of each of these water storage reservoirs, the duration of these reservoirs, and how wildlife will be protected from harm.

The large construction and operational footprint, including the haul trucks, increases soil compaction and impairs long term soil production. Compared to large haul trucks, the use of medium-sized haul trucks may reduce dust emissions, road width, surface disturbance, soil impacts and reclamation costs. The comparison of large versus medium-sized haul trucks in terms of impacts and project timeline should be compared in the DEIS.

Wildlife, including migratory birds, bats, forest carnivores, as well as deer and elk could be affected by these disruptions around the clock both directly and indirectly. We recommend that the analysis examine both types of impacts and avoid, minimize and mitigate impacts accordingly.

Since trucks, equipment and fuel are parked on site, there are increased opportunities for spills and soil impacts are greater (particularly with sump pit construction). In addition, the occupancy by drill crews increases the disturbance level and risk of fires from human sources.

Because of the large amount of roadwork and site disturbance, the security cover will be dramatically reduced for mule deer and other wildlife. As a mitigation measure, we recommend that the Forest Service close an equal number of roads and landings in adjacent areas such that there is not net increase in overall road densities, road densities in RCAs, Detrimental Disturbance, Total Soil Resource Commitment, or Equivalent Clearcut Area.

We are concerned about how the proposed activities will affect the Elk Habitat Effectiveness rating for this area and larger hunting unit. The Black Pine Mountains are a popular elk and mule deer hunting area and the proposed activities could degrade hunting opportunities for the surrounding community.

Sage Grouse

In the EIS, the Forest Service should analyze potential impacts to sage-grouse by activities within the project area and along transportation routes to the project area. The project area and transportation routes appear to be near either General Habitat Management Area (GHMA) or Priority Habitat Management Area (PHMA) for Greater Sage-Grouse, as identified in BLM's Greater Sage-Grouse Idaho and Southwest Montana Approved Resource Management Plan

Amendment (ARMPA) (9/15/2015)[7]. The Forest Service may need to conduct a more thorough analysis on avoiding, minimizing and mitigating impacts to sage-grouse for this project.

An updated lek survey should be completed as part of this new, expanded plan of operations, especially given the greatly expanded scale of a full-blown mine operation compared to the previously approved exploration drilling.

In 2015, the BLM adopted the ARMPA as comprehensive guidance to protect and restore greater sage-grouse populations and habitat. Greater sage-grouse suffer from the loss, degradation, and fragmentation of habitat throughout the west. It is estimated that only 50-60% of the original sagebrush steppe habitat remains in the west (West 2000), and in 2007, the American Bird Conservancy listed sagebrush as the most threatened bird habitat in the continental United States. As such, we cannot stress enough how important it is for agencies to consider impacts to sage-grouse and for public land managers to avoid disturbing birds, to conserve existing habitat and to actively restore altered sagebrush steppe habitats. Depending on location and design specifics, the road use associated with mineral development may represent a risk for loss of lek areas, nesting locations, brood-rearing habitats and individual birds.

Based on the habitat guidelines for sage-grouse management presented in Connelly et al. (2000) [8], we recommend ensuring that project activities and transportation are designed in such a way to avoid impacts to sage-grouse. Specifically, the Idaho ARMPA requires the following design features to minimize impacts:

No repeated or sustained behavioral disturbance (e.g., visual, noise over 10 dbA at lek, etc.) to lekking birds from 6:00 pm to 9:00 am within 2 miles (3.2 km) of leks during the lekking season.

Avoid mechanized anthropogenic disturbance in nesting habitat during the nesting season when implementing: 1) fuels/vegetation/habitat restoration management projects, 2) infrastructure construction or maintenance, 3) geophysical exploration activities; 4) organized motorized recreational events.

Avoid mechanized anthropogenic disturbance during the winter, in wintering areas when implementing: 1) fuels/vegetation/habitat restoration management projects, 2) infrastructure construction or maintenance, 3) geophysical exploration activities; 4) organized motorized recreational events.

Locate roads to avoid priority areas and habitats as described in the Wildfire and Invasive Species Assessments.

Establish speed limits on BLM and FS system roads to reduce vehicle/wildlife collisions or design roads to be driven at slower speeds.

Require noise shields when drilling during the lek, nesting, brood-rearing, or wintering season.

Require sage-grouse-safe fences.

Use dust abatement on roads and pads.

Include objectives for ensuring habitat restoration to meet sage-grouse habitat needs in reclamation practices/sites (Pyke 2011)[9].

Maximize the area of interim reclamation on long-term access roads and well pads, including reshaping, topsoiling and revegetating cut-and-fill slopes.

-Idaho and Southwestern Montana ARMPA p. C-2 to C-9.

The Forest Service should consult closely with the Idaho Department of Fish and Game to determine appropriate measures to avoid, minimize and mitigate impacts.

Regarding the spatial scale of proposed management activity effects on sage-grouse and habitat, analysis should recognize that sage-grouse can require movements of several miles between required habitats. Thus, a significant challenge in managing and conserving sage-grouse populations is the fact that they depend upon different types of habitat for each stage of their annual cycle (Connelly et al. 2009)[10], and upon the ability to move between the different habitats throughout the year. Each seasonal habitat must provide the necessary protection from predators, required food resources, and thermal needs for the specific stage of the annual cycle. Breeding-related events and habitat needs during the proposed management activities will include:

1. Late brood-rearing period in July through September. Late brood-rearing is focused in wetter areas, especially riparian and spring-associated meadows closely associated with nearby sagebrush.
2. Movement to winter habitat.
3. Occupation of winter habitat from November through February. The primary requirement of winter habitat is sagebrush exposure above the snow, and is generally characterized by dense sagebrush, often including areas of wind-swept ridges.
4. Lekking, which may begin as early as late February, and may extend into May. Lekking requires open expanses of sagebrush within a large area of sagebrush cover. Lek persistence has been affected by disturbance activities within 3.1, 11.2, and 33.5 mile radii (Swenson et al. 1987[11], Johnson et al. 2009[12], Knick and Hanser 2009[13]).
5. Female movement to nesting sites and nesting between March and June. Nesting females commonly move 3-5 miles or farther from the lekking site. Females select areas with more sagebrush canopy than is generally available in the surrounding landscape

(Holloran et al 2005[14], Hagen et al. 2007[15])

6. Hatching and early brood-rearing in May and June. Females continue to use relatively dense stands of sagebrush for earliest brood-rearing habitat if native forbs and insects are available. When vegetation desiccates, females and broods move to wetter areas in search of the native forbs and insects required by chicks.

Knick and Hansen (2009) analyzed factors in lek persistence of over 5,000 leks. They used three radii to test for landscape disturbance effects on lek persistence – radii of 3.1 miles, 11.2 miles, and 33.5 miles. Previous studies had shown behavioral effects on sage-grouse related to sagebrush disturbance at the 33.5 mile radius (Swenson et al. 1987, Leonard et al. 2000[16]). Knick and Hansen’s study showed adverse effects on lek persistence from wildfire at the 33.5 mile radius.

Avoiding and minimizing human footprint at a 3.1 mile radius from leks is an important first step in protecting sage-grouse populations, but sage-grouse will be engaged in nesting and brood-rearing, rather than lekking, for most of the planned management activity period. Recent studies have shown that only 64% of nesting sites occur within 3.1 miles of leks, but 80% of nests are found within five miles, and 20% of nests occur at distances greater than five miles from leks. Nest success is also greater the farther a nest occurs from a lek, indicating a disproportionate potential importance of these more important nests for population recruitment. Aldridge and Boyce (2007)[17] and Doherty et al. (2010)[18] identify a buffer of 6.2 miles to protect important nesting and brood-rearing habitats.

Given the considerations of year-round habitat use and known impacts of human activity on sage-grouse populations, mitigation will likely be needed for disturbance to sagebrush near lekking areas; disturbance and loss of sagebrush and native forbs used for early brood-rearing; and disturbance and impacts to hydrologic function of wet areas used for early to late brood-rearing. A conservative estimate for the nesting and brood rearing area affected will include buffers with radii of 6.2 miles around known leks. Mitigation specifics could be based on a mitigation template created for the Lesser Prairie Chicken, a ground-nesting species facing similar threats (Horton et al. 2010)[19].

Regarding adverse impacts from invasive exotic species, including increased wildfire risk, the Forest Service needs to address concerns about cheatgrass establishment and spread. Once cheatgrass becomes established in a sagebrush community, its effects cascade in synergistic feedbacks toward increasing dominance resulting from increased fire disturbance, loss of perennial species and their seed banks, and decreased stability and resilience to changes in the surrounding landscape (Miller 2009)[20].

Effective cheatgrass prevention after disturbance is most likely with the establishment of a healthy native vegetation community. The Forest Service needs to identify the baseline vegetation conditions and the desired post-reclamation plant community, and require post-project

monitoring of the reclaimed areas and repeated revegetation treatments as necessary until the desired vegetation is established. The footprint for areas to be revegetated and monitored should include a 5 m buffer around linear disturbances such as roads. Suggested monitoring protocols could include Interpreting Indicators of Rangeland Health (IIRH, Duniway 2010)[21].

The Forest Service and the proponent should develop a mitigation and monitoring program designed to detect and offset any adverse impacts from habitat loss or avoidance due to project activities or transportation activities. The 2015 Idaho ARMPA requires monitoring of habitat degradation and mining density for sage-grouse management areas. This could include monitoring the availability of the sagebrush base layer and calculating the density of disturbances within a defined analysis unit (ARMPA Appendix D). The mitigation program may include timing restrictions on driving to and from the site, additional measures to prevent and control wildfires along the transportation route, dust abatement on dirt roads, and speed limits to prevent collisions. We note that the Governor's Office of Species Conservation is developing an in-lieu fee mitigation program that could be available for the project proponent.

Mitigation

We strongly encourage the USFS and the project proponent to consider a robust mitigation package as part of this project. Black Pine's mine life is expected to be at least 17 years, meaning that final reclamation and full environmental restoration would not be completed for at least two decades. The gap between impacts and eventual restoration also means that the quality and overall success of restoration will not be fully known for many years.

As such, we recommend initiating off-site mitigation efforts as soon as possible and making these part of the terms and conditions for the project, including bonding. Mitigation efforts need to factor in consistent metrics, additionality, effectiveness, durability, duration, timeliness of offsets, risk, uncertainty, tracking and transparency. We point to the Mitigation Principles developed by the State of Idaho as one model for consideration, but there may be other useful frameworks depending on the issue.

Issues that should be considered for mitigation include different types of plant communities such as aspen and sagebrush steppe. The Forest Plan objectives provide additional guidance here:

Objective 1915 Restore early seral aspen and Douglas-fir in the Cool Dry Douglas-Fir vegetation group, as described in Appendix A.

Objective 1916 Restore and maintain desired size class structure and diversity in the Aspen vegetation group, as described in Appendix A, by promoting regeneration.

Objective 1917 Restore canopy cover, as described in Appendix A, within the Mountain Big Sagebrush and Pinyon-Juniper cover types in the southern and western portions of

the management area.

Objective 1918 Restore riparian vegetation and streambank stability by reducing soil compaction and accelerated sediment, and restoring herbaceous and woody shrub composition in the Eightmile and Sixmile Creek drainages.

Objective 1919 Evaluate the need for sagebrush re-establishment in the northern portion of the management area that burned in 1999 and 2000.

Guideline 1920 Priority of vegetation treatments should be given to those areas containing big-game winter range.

Sawtooth Forest Plan III-343.

The Forest Service and Liberty Gold should also consider habitat improvements for pollinators, habitat for wildlife such as Greater sage-grouse, sharp tailed grouse, ferruginous hawks, mule deer, and big game.

Per the Sawtooth Forest Plan:

The area supports possibly the highest number of wintering mule deer on the Sawtooth National Forest. The northeastern section of this Management Area provides habitat for Columbia sharp-tailed grouse and several active leks exist within the area. Bald eagles often winter in the Sixmile and Eightmile drainages adjacent to the Forest boundary on BLM and private lands although no winter roosting sites are known to occur on National Forest land. Pinyon pine has limited distribution and is important habitat for pinyon jay and pinyon mouse. Nesting, foraging and roosting habitats for other Region 4 Sensitive species, including goshawk, flammulated owl and Townsend's big-eared bat, are found in the mid-elevation forests. Higher elevation forests provide mule deer summer range and habitat for boreal owl. Other species present within the area include migratory landbirds, mountain lion, bobcat, antelope, elk, dusky grouse, ferruginous hawk, Swainson's hawk, and golden eagle.

Forest Plan p. III-339.

The Forest Plan provides additional guidance:

Objective 1926 Maintain or restore sharp-tailed grouse habitat in Mineral Gulch and the northeast corner of the management area.

Objective 1927 Provide blue grouse habitat by maintaining large mature Douglas-fir to accommodate roosting.

Objective 1928 Maintain or restore bitterbrush and other shrubland communities for wintering wildlife on the southern and western portions of the management area.

Guideline 1929 Management actions in sage grouse habitat should be designed to meet the desired conditions for sagebrush, as described in Appendix A. Where greater than 40 percent of the sage grouse habitat in the management area has less than 10 percent canopy cover, management actions should be designed to maintain or restore canopy cover conditions.

Sawtooth Forest Plan III-344.

There are two important nearby designated areas that could benefit from additional support to protect their integrity: the adjacent Black Pine Inventoried Roadless Area and the Pole Canyon Research Natural Area. In addition, the Idaho Department of Fish and Game has identified the Black Pine Management Area as a designated focal area due to its biological significance:

This designation was given to these areas due to their exceptional diversity of SGCN based on species' richness models and is identified as core habitat for terrestrial wildlife species including sage grouse and ferruginous hawk.

Sawtooth Forest Plan III-340.

We recommend utilizing the Habitat Equivalency Analysis to assess the acreage of disturbance, the type of habitat affected, and the quality of the habitat, resulting in a mitigation package and subsequent uplift of an equal or greater amount. The effects to vegetation, wildlife and ecological services will not be limited to just public lands parcels. We recommend that the USFS design a mitigation program factoring both direct and indirect effects from project activities across all ownerships.

In terms of environmentally-minded projects in the broader vicinity of the proposed mine, there are a number of restoration efforts that could be supported as part of a larger mitigation package, including restoration of native trout habitat:

Both Sixmile and Eightmile Creeks are known to support Yellowstone cutthroat trout. The Eightmile population is believed to be a genetically pure strain of cutthroat that was native to the upper Snake River and Yellowstone River drainages. Sixmile Reservoir, an impoundment within the Sixmile Creek drainage, contains rainbow and cutthroat trout. Fish habitat is non-existent elsewhere due to the small size and intermittent nature of area streams. Aquatic habitat is functioning at risk in some areas due to localized sedimentation impacts. Native cutthroat trout populations in Sixmile Creek are at risk due to introduced rainbow trout. The West Dry-Eightmile-Fisher subwatershed has been identified as important to maintaining or restoring strong populations of Yellowstone cutthroat trout. **This subwatershed is therefore a high-priority area for restoration.**

Sawtooth Forest Forest Plan III-137. Emphasis added.

Objective 1912

Reduce impacts from roads and grazing on the small but strong pure strain population of cutthroat trout within the West Dry-Eightmile Fisher subwatershed. This includes maintaining the existing barrier to keep non-native fish from migrating upstream from private land.

Soil, Water, Riparian, and Aquatic Resources, Sawtooth Forest Plan III-343.

Objective 1913

Maintain structures in Eightmile and Sixmile Creeks for pool habitat and establishment of woody riparian components.

Soil, Water, Riparian, and Aquatic Resources, Sawtooth Forest Plan III-343.

There may be some lower return grazing allotments in the area where livestock grazing is having a disproportionate negative environmental impact in sensitive locations such as riparian areas or springs in spite of management efforts.

Current livestock grazing in some areas is not allowing localized areas of historic grazing impacts to recover. Sawtooth Forest Plan III-339.

Funding for grazing retirements or buy downs with willing sellers could result in strategic ecological benefits while keeping larger ranching operations whole.

Other mitigation ideas might include funding of biological or ecological studies to improve the scientific understanding of the area, conservation easements and interpretation. There are two important nearby designated areas that could benefit from additional support to protect their ecological integrity and scientific value: the adjacent Black Pine Inventoried Roadless Area and the Pole Canyon Research Natural Area.

Ideally, mitigation measures would be located close to the project area, providing that the benefits can be realized there. In some circumstances, as perhaps with sage-grouse, mitigation might be best realized farther away. We note that the previously approved sage-grouse mitigation in the Idaho National Laboratory was affirmed in the District Court and we recommend building on this foundation for other sage-grouse impacts.

Water Quality

No degradation of surface or groundwater resources should be allowed. Mining activities have a well-documented history of adversely impacting water quality and soil productivity. The effects of mining activities on surface water and groundwater quantity and quality need to be determined for a full range of flow conditions at the mining site. This analysis should include the following factors:

- Baseline water quality
- Sedimentation from roads
- On-site water needs
- Source of water
- Depth and flow of water table
- Stormwater runoff

Water Quantity

The Black Pine project will require significant water supplies for mine-related activities. The Forest Service needs to disclose the source and quantity of water withdrawals from surface and groundwater sources and design the project to avoid, minimize and mitigate impacts.

Access and Transportation

The project will require the transportation of cyanide, diesel fuel, ammonium nitrate, sulphuric acid and other hazardous materials. The Forest Service needs to provide a list of all chemicals to be hauled on site along with quantities. We are concerned about the risk of spills both on site and along the transportation route. The Forest Service needs to develop a series of design features such as the use of pilot cars, flaggers, pull outs, and developing and posting transportation schedules for the public so they can minimize interactions with mine traffic.

The Forest Service should work with the project proponent to define the safe speed for each section of road. All mine-related traffic should travel at safe speeds at or below posted speed limits, according to current road conditions. All drivers should participate in safe-driver training courses. Regarding reducing the risk of collisions with wildlife, the Forest Service should work with the Idaho Department of Fish and Game to identify the location of wildlife crossings and require further speed reductions at these locations.

The Forest Service should estimate the annual number of vehicle trips for the different classes of vehicles involved. The Forest Service should also estimate vehicle accidents, delays for local and recreational traffic, noise levels, wildlife collisions, dust and sediment production and other negative impacts accompanying the project activities. The Forest Service should develop design features to avoid, minimize and mitigate the impacts for each of these issues. Monitoring efforts should include both baseline conditions as well as seasonal and annual reports during mining activities.

The dramatic increase in mine traffic will significantly increase road maintenance needs. Liberty Gold should continue to reapply gravel and other surfacing on roads as needed to reduce sediment impacts. The Forest Service should describe available gravel sources and the impacts if new ones need to be developed.

Exploration Drilling

The project includes additional exploration drilling. We expect that Liberty Gold will utilize the

same best management practices for exploration drilling as they have used previously, including mitigation measures on noise, lighting, and water quality. We understand that, if used properly, the drilling fluids are not expected to violate state or federal drinking water standards. The Forest Service states that the only fluid that will migrate into groundwater is a negligible amount of the filtrate from non-toxic drilling fluids and that risks are low due to low permeability rates in bedrock. We recommend that sumps be outfitted with ramps to allow small animals to escape and some form of surrounding fencing to further reduce the chances of wildlife entrapment.

However, there are circumstances in which fluid pressure is lost and unknown volumes of fluid have been lost into fissures, cracks, voids and to surface expressions. While steps can be taken to condition the drill hole to limit fluid loss and prevent future loss of pressure, the Forest Service notes that approximately 25 gallons per 1,000 foot hole *or more* may be lost before the driller could be aware of the new inflow/outflow condition. This implies that more significant losses may occur in the future before corrective steps are taken.

Air Quality

The EIS should fully analyze the effects of mine operations on air quality. In addition to direct emissions, the EIS should analyze the effects of fugitive emissions, such as dust from roads, tailings, blasting activities, and incinerator operations, among others. Per a comment letter on this project from the EPA, the proposed project may have reasonably foreseeable adverse impacts on air quality, including potential impacts from fugitive dust, mercury, and hydrogen cyanide emissions.

In other mine permitting efforts in the state, we have seen the Forest Service defer the bulk of this analysis to the state as part of their air permitting process. However, that is not sufficient from a NEPA standpoint for a mine project of this scale and complexity. The state air permitting process is fairly narrow in scope and does not consider the full range of potential impacts to air quality that an EIS should consider.

Cultural Resources

The EIS should analyze the full range of potential impacts to cultural resources (archaeological and historic) from this project.

Tribal Engagement

The proposed project is located in the ancestral homeland of the Shoshone-Bannock Tribes and not far from the present-day Fort Hall Reservation. Accordingly, the USFS should conduct a *robust and meaningful* consultation with the Tribes on this project and its potential impacts. The DEIS should detail what specific concerns were raised by the Tribes and the specific changes the USFS made to address their concerns.

Noise and Light

The EIS should include baseline information on noise and light levels within the project area,

and evaluate the impacts of light and noise on wildlife resources. Mining activity within the project area will displace wildlife such as elk, deer, moose, lynx, fisher, wolverines, raptors, and other wildlife. This displacement started with initial exploration several years ago and will continue for at least the next twenty years. Unlike other types of human activity, the bright lights and loud noise from exploration drilling can operate 24 hours a day, 7 days a week. Twenty or more years of year-round activity may well have significant impacts on wildlife that warrant additional analysis and more protective measures.

The continuous noise and lights from mining activities will also impact nearby residents and recreationists. In addition to diminished aesthetics, light pollution can have a host of negative impacts on wildlife, including disruption of migrating birds.

We request that the Forest Service implement noise and light-reducing features for all activities for every stage of this project. Examples of effective techniques that should be considered as part of this project include:

- Mufflers or sound control devices on all construction vehicles
- Scheduling noise-producing activities concurrently when possible
- Restrictions on hours of operations if possible
- Installation of night shields on outside lights if work is to be performed at night
- Monitoring of the effectiveness of noise reduction measures

We also recommend reviewing the [Dark Skies report](#) created by Midas Gold [22]. While ICL and others have issues with the Stibnite Gold Project, the Dark Skies report itself represents a positive step forward in reducing the impacts of light pollution from mining projects.

Hazardous Materials

A hazardous material plan needs to be in place in the event of a fuel or solvent leak anywhere from the nearest gas station to the mine site. Hazardous wastes including grease, oil, and fuels need to be disposed off-site in an environmentally appropriate manner on a weekly basis. Fuel containment equipment, including chemical absorbers and booms to intercept stream transport need to be on site. Regularly inspected fire extinguishers need to be placed in all vehicles. We also recommend caching spill cleanup equipment at strategic locations along the transportation route.

Fire Safety

We also recommend developing an evacuation plan and identify potential safe zones in the event of a wildfire. Regularly inspected fire extinguishers need to be placed in all vehicles. In case of a vehicle fire, each vehicle should be required to contain a Pulaski axe, fire rake, McLeod fire tool, fire flag, and shovel.

In the event of a wildfire, protection of the operator's equipment should be the responsibility of

the operator and a point protection plan with appropriate fire suppression equipment should be detailed. During the summer fire season, the operator must comply with all regulations to avoid and to curtail fire starts.

Climate Change

We are also concerned about the potential effects of climate change (e.g., increase in intensity and frequency of large storm events and more rain-on-snow events in winter and spring) on the tailings storage facility, storm water systems, process ponds, and all mine facilities that store and manage water.

Bonding

The EIS should include the bond calculation for public review. While we realize that the bond calculation will ultimately be revised and updated, based on the Final EIS and ROD, it is important for the public to participate in evaluating the financial assurance associated with the mine project. Without sufficient financial assurance for the reclamation and restoration components of the project, it's impossible to determine whether these measures will be completed as proposed. The amount of money necessary for a post-closure financial surety alone is typically in the tens to hundreds of millions of dollars. If this surety is not calculated properly to protect the public from an underestimation of the cost involved, the taxpaying public would have to pay the money, as is the case at the Zortman-Landusky and Beal mines in Montana, or suffer the environmental damage associated with not treating the contamination. Failure to analyze this potentially significant impact violates NEPA's requirement for a full discussion of all mitigation measures and impacts.

NEPA requires that mitigation measures be fully reviewed in the FEIS, not in the future. "[O]mission of a reasonably complete discussion of possible mitigation measures would undermine the 'action-forcing' function of NEPA. Without such a discussion, neither the agency nor other interested groups and individuals can properly evaluate the severity of the adverse effects." Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 353 (1989). NEPA requires that documents: (1) "include appropriate mitigation measures not already included in the proposed action or alternatives," and (2) "include discussion of . . . Means to mitigate adverse environmental impacts (if not already covered under 1502.14(f))." 40 C.F.R. § 1502.14(f); 40 C.F.R. § 1502.16(h). "Mitigation" is defined as a way to avoid, minimize, rectify, or compensate for the impact of a potentially harmful action. 40 C.F.R. §§ 1508.20 (a)-(e). Mitigation measures must be discussed with "sufficient detail to ensure that environmental consequences have been fairly evaluated." Robertson, 490 U.S. at 352. The discussion of mitigation measures must also assess their effectiveness. "An essential component of a reasonably complete mitigation discussion is an assessment of whether the proposed mitigation measures can be effective." South Fork Band Council v. Dept. of Interior, 588 F.3d 718, 726 (9th Cir. 2009).

The public needs to have an idea of how "effective" the mitigation/reclamation bond would be for any of the action alternatives:

NEPA establishes “action-forcing” procedures that require agencies to take a “hard look” at environmental consequences.

...

An EIS serves two purposes:

First, [i]t ensures that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts. Second, it guarantees that the relevant information will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that decision.

Center for Biological Diversity v. Dept. of Interior, 623 F.3d 633, 642 (9th Cir. 2010). Such public review is required in this case.

The U.S. EPA specifically notified the USFS that bonding must be discussed and reviewed as part of the NEPA process:

EPA believes that financial assurance is an important element of the proposed action and must be disclosed in the EIS. FA is an important component of the mitigation plan, and disclosing information on the costs and form of FA is essential for the public to understand and comment on the adequacy of mitigation, risks to the environment, and financial risks to the public. EPA believes it is not possible to fully evaluate anticipated effectiveness of the mine and reclamation plan and associated risks to the environment without this type of information. (Letter from Lynne McWhorter, EPA Environmental Review and Sediment Management Unit to Dave Rosenkrance, Challis BLM, dated September 27, 2010)

The EIS must contain a review of bonding levels for the action alternatives. The reclamation cost estimate should be periodically reviewed and adjusted annually. Our past experience with other mining operations has led us to conclude that bonds are not reviewed as frequently as needed.

Monitoring and Implementation

The Forest Service should establish a robust monitoring program managed by the agency or a third party. The Forest Service should also engage in spot inspections without prior notification. In addition, the Forest Service should establish an implementation website showing activities completed and activities underway. This website should also host all completed monitoring, inspection and compliance reports. In this way, members of the public can track project implementation, ascertain whether the project is complying with existing regulations, and see how the project adapts to changed conditions. Members of the public should be able to sign up for alerts as the implementation website is updated with new material. The website could post recent photos and updates, as well. The website should be managed by the Forest Service or an independent third party. In addition, since the project is on public lands and responsible mine management is of great interest to the public, we request that the site be available for seasonal

public tours to be arranged in advance with the Forest Service and Liberty Gold so as not to disrupt operations. This would be similar to the required offering of a public tour at the Thompson Creek Mine on the Salmon-Challis National Forest.

Post-Closure

We recommend that the project be designed to restore and ideally uplift the ecological site potential of the area and site productivity. The DEIS needs to also factor in climate changes for this area and plan restoration and post-closure management to meet these new conditions.

For areas with relatively low restoration potential and with reliable powerline access, the Forest Service and Liberty Gold may wish to consider developing a renewable energy project such as a solar project on site that could be easily connected to service local energy needs.

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