

**MEMORANDUM OF UNDERSTANDING**  
**among**  
**UNITED STATES DEPARTMENT OF AGRICULTURE,**  
**FOREST SERVICE, REGION 4,**  
**PAYETTE NATIONAL FOREST**  
**and**  
**UNITED STATES DEPARTMENT OF DEFENSE,**  
**DEPARTMENT OF THE ARMY,**  
**CORPS OF ENGINEERS,**  
**WALLA WALLA DISTRICT**  
**and**  
**U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 10**  
**and**  
**IDAHO DEPARTMENT OF LANDS**  
**and**  
**IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**and**  
**GOVERNOR'S OFFICE OF ENERGY AND MINERAL RESOURCES**  
**and**  
**VALLEY COUNTY**

**CONCERNING AGENCY COOPERATION FOR THE STIBNITE GOLD PROJECT  
ENVIRONMENTAL IMPACT STATEMENT**

**August 2017**

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and among the U.S. Forest Service (Forest Service), U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency (EPA), Idaho Department of Lands (IDL), Idaho Department of Environmental Quality (IDEQ), the Governor's Office of Energy and Mineral Resources (OEMR), and Valley County. The Forest Service, USACE, EPA, IDL, IDEQ, OEMR, and Valley County are termed the Parties herein.

**I. BACKGROUND AND PURPOSE.**

This MOU provides the framework for the Parties to cooperate and efficiently process three proposals by Midas Gold Idaho, Inc. (Midas Gold): a plan of operations for mining on National Forest System (NFS) lands (Plan), a Clean Water Act, Section 404 Permit application, and an Clean Water Act, Section 402, National Pollutant Discharge Elimination System NPDES Permit application for the Stibnite Gold Project. The Plan describes redevelopment, mining, ore processing and related operations in the historic Stibnite Mining District, East Fork South Fork Salmon River drainage, Valley County, Idaho. In addition, the Plan describes new and/or upgraded offsite infrastructure including a mine access/bypass road and powerline. Implementation of the Plan will cover mining operations, including

reclamation and post-closure monitoring over a minimum period of approximately 20 years. Implementation of the Plan will also require permits under section 404 (dredge or fill in Waters of the US) and section 402 (point source discharge to Waters of the US) of the Clean Water Act of 1972, as amended (CWA). Midas Gold intends to submit applications for such permits in the near future.

Processing the Plan and CWA permit applications will require, among other things, the preparation of an Environmental Impact Statement (EIS) for compliance with the National Environmental Policy Act of 1969, as amended (NEPA) (§42 USC 4321 *et seq.*) and the Council on Environmental Quality regulations (§40 CFR 1500 *et seq.*). The processing of the plan of operations and the two permit applications is termed the Project. The EIS and NEPA project record will be prepared by a private, third-party contractor and its subcontractors (Contractor) as directed by the Forest Service.

In August 2016, the Idaho Department of Environmental Quality (IDEQ) submitted an application to EPA to administer the NPDES program in Idaho in what would be called the Idaho Pollutant Discharge Elimination System (IPDES) program. EPA is in the process of reviewing IDEQ's application, which includes a phased schedule for assuming NPDES permitting authority. According to the phased schedule, IDEQ would assume NPDES authority for industrial discharges (including mining discharges) in Phase II, which is no later than one year from IPDES program approval. EPA anticipates program approval on or after July 1, 2018 and Phase II implementation on or after July 1, 2019. Although EPA expects to make progress in developing a draft NPDES permit for this project, it is anticipated that IDEQ will issue the permit. State permit issuance does not require compliance with NEPA, and therefore NEPA compliance for the NPDES permit is unnecessary after June 2019.

This MOU establishes a cooperating agency relationship among the Parties for preparing the Stibnite Gold Project EIS and complying with the NEPA. The Forest Service will be the lead agency with primary responsibility for preparing the EIS under 40 CFR 1501.5 and 1508.16. The other Parties also have jurisdiction by law and/or special expertise with respect to environmental impacts of the Project, and will be cooperating agencies under 40 CFR 1501.6 and 1508.5. This MOU describes the jurisdictional authority, special expertise, roles, and responsibilities of each Party.

The EIS will evaluate three separate but related proposed Federal actions: 1) the Forest Service will decide whether to approve the portions of the Plan involving NFS lands under regulations at 36 §CFR 228 Subpart A, 2) the USACE will decide whether to issue a permit under section 404 of the CWA and USACE regulations at 33 §CFR 320-332 to authorize the discharge of fill material into waters of the United States in relation to the Plan, and 3) EPA will decide whether to issue an NPDES permit under section 402 of the CWA and 40 CFR §122. As noted above, if the IDPES program is authorized before the NPDES permit is issued then IDEQ will be the issuing agency and NPDES permit issuance will no longer be a federal action under the EIS.

Finally, various agencies of the State of Idaho will make permitting decisions regarding specific aspects of Midas Gold's Plan. While IDL, IDEQ, OEMR, and other agencies of the State of Idaho are not bound by the NEPA and do not require an EIS in order to make permitting decisions, it is in the interest of the Parties to coordinate the NEPA process with permitting authorities under applicable State law and regulations.

## **II. AUTHORITY.**

This MOU is entered into under the following principal authorities:

- A.** NEPA, as amended (PL 91-190, 83 Stat. 852, 42 USC 4321 *et seq.*), which is the basic national charter for protection of the environment and governs the preparation of EISs (40 CFR 1500 *et seq.*), including interagency cooperation.
- B.** Clean Air Act of 1970 (PL 91-604, 84 Stat. 1676, 42 USC 7401 *et seq.*), of which section 309 requires the EPA to review and publicly comment on the environmental impacts of major Federal actions which are the subjects of EISs (40 CFR 1504.1(b)).
- C.** CWA (PL 80-845, 62 Stat. 1155, 33 USC 1251 *et seq.*), of which section 404 provides authority for the USACE to issue permits for the discharge of dredged or fill material into waters of the United States, including wetlands (33 CFR 320-332). The EPA has the authority under section 402 to issue NPDES permits (40 CFR 122), the authority under section 404 to review project compliance with section 404(b)(1) guidelines (40 CFR 230), and the authority under section 404(c) to veto 404 permits proposed or issued by the USACE (40 CFR 231).
- D.** Idaho's Surface Mining Act, Idaho Code 47, Chapter 15 *et seq.*, which provides for the protection of the public health, safety and welfare, through measures to reclaim the surface of all the lands within the state disturbed by exploration and surface mining operations and measures; to assure the proper closure of cyanidation facilities and thereby conserve natural resources; aid in the protection of wildlife, domestic animals, aquatic resources, and reduce soil erosion. The Surface Mining Act also provides authority for IDL to review and approve surface mining operating and reclamation plans and obtain financial assurance from mine operators to cover the estimated reasonable costs of reclamation of affected lands to be mined, in the event of failure to reclaim by an operator.
- E.** Idaho's Environmental Protection and Health Act (EPHA) (Idaho Code 39-101 *et. seq.*) provides IDEQ the authority in ensuring clean air, water, and soil, and reducing or eliminating environmental pollution arising from human activities. In addition, IDEQ has authority under the Idaho Water Quality Act (Idaho Code 39-3601 *et. seq.*), and rules and standards promulgated thereunder. IDEQ will have primary responsibility for air quality (IDAPA 58.01.01), surface water quality (portions of the Federal Water Pollution Control Act, 33 U.S.C. 1250 *et. seq.* ("CWA" or "Clean Water Act") through IDAPA 58.01.02), ground water quality and points of compliance (Idaho Code 39-120), and cyanide facility design and operation (IDAPA 58.01.13). IDEQ also has authority and

primary responsibility to ensure compliance with the Rules and Standards for Hazardous Waste (IDAPA 58.01.05), Solid Waste Management Rules (IDAPA 58.01.06), and Solid Waste Facilities Act (Idaho Code 39-7401 *et. seq.*) for facilities and operations. Additionally, IDEQ will administer its authority to the issuance of the following project permits or approvals: Ground Water Point of Compliance, Cyanidation Permit, Air Quality Permit, and Water Quality Certification.

- F. Executive Order 2016-03 authorizes the OERM to coordinate and cooperate with federal and state agencies, departments and divisions on issues concerning the State's mineral supply and management.
- G. Valley County has Forest Roads and Trails Act (FRTA) of 1964 (PL 88-657, 78 Stat. 1089, 16 USC 532-538) easements on forest roads within both the Boise and Payette National Forests that may be impacted by the Project, making them County roads. The County has jurisdiction and minimum standards that apply to County roads and will require agreements, placing conditions on maintenance and/or snow removal. Valley County's Comprehensive Plan guides land use and the development of zoning ordinances in accordance with Idaho's Local Land Use Planning Act (Idaho Code 67-6502), which promotes health, safety and general welfare. The Sheriff is designated lead for search and rescue operations in Valley County.

### **III. STATEMENT OF MUTUAL BENEFIT AND INTEREST.**

The Project would authorize occupancy and use of Federal public lands administered by the Forest Service, as well permitting under regulatory programs administered by the USACE, EPA, and State of Idaho. Accordingly, the Parties will make independent decisions regarding the activities under the Parties' respective jurisdictions. However, these decisions must be carefully coordinated. Therefore, the Parties agree to do the following:

- A. Subject to any funding or resource limits, cooperatively address the NEPA requirements of the Parties through the development of a single EIS for the Project in a timely, efficient and thorough manner. The USACE and EPA intend (if appropriate) to adopt the final EIS, and sign separate decision documents, in satisfaction of NEPA requirements for the permit decisions.
- B. Coordinate the efforts of the Parties under this MOU to maximize use of the available resources and minimize duplication in those areas of overlapping Party responsibilities.
- C. Identify and resolve issues as early as possible during the preparation of the EIS to facilitate issue resolution.

### **IV. PROCEDURE.**

#### **A. Mutual Responsibilities.**

- 1. The EIS will be a Forest Service document. However, all Parties will collaborate in

the preparation of the EIS.

2. The Parties will participate in the NEPA process from the earliest possible time, including the scoping process.
3. The Parties will provide adequate resources to ensure satisfactory and timely performance of their respective responsibilities as outlined in this MOU.
4. The Parties will follow a mutually agreed upon schedule for the Project.
5. The Parties will cooperate to ensure the NEPA public process, including public meetings or hearings, are conducted in a manner that satisfies the requirements of all Parties.
6. The Forest Service will ensure that necessary consultation and coordination is performed with all Federal, State, local and tribal governments and private organizations under applicable laws, rules, regulations, orders, and treaties e.g., the National Historic Preservation Act of 1966, as amended; the Endangered Species Act of 1973, as amended; and the Magnuson-Stevens Fishery Conservation and Management Act of 1996, as amended. All Parties will be promptly informed of the status and outcomes of such consultation, except in the event that tribal governments request confidentiality.
7. If EPA issues an NPDES permit for this Project, EPA will independently ensure that necessary consultations are performed for the NPDES permit, including consultations under the Endangered Species Act of 1973, the Magnuson-Stevens Fishery Conservation and Management Act of 1996, as amended, and with interested tribal governments pursuant to Executive Order 13175.
8. The Forest Service will form an interdisciplinary team (IDT) for the EIS, comprising of one qualified person for each issue/discipline. The IDT will use the interdisciplinary approach to define all important features of the analysis (issues, data-gathering needs, alternatives, etc.) throughout the NEPA process such that the decision-makers will be able to make informed decisions at the conclusion of the NEPA process. Consequently, the IDT will be primarily responsible for ensuring that the Parties are able to concur at key steps in the NEPA process specified in IV.B. 3. by communicating and attempting to resolve concerns as earliest as practicable. The interdisciplinary approach includes discussions with specialists from the Parties, contractors, and decision-makers, as appropriate. IDT members may include qualified subject matter experts from other Federal, State and local agencies or tribes, as well as non-agency individuals, as appropriate.
9. Each Party will necessarily maintain a respective portion of the administrative record during the Project. However, each Party will provide a copy of such portion of the administrative record, as appropriate, to the Contractor as required during the Project, and after all relevant Records of Decisions are signed, so that a single administrative record may be produced for the Project.
10. As appropriate, the Parties will have their representatives contact other Federal, State, regional, and local agencies to receive comments for the preparation of the EIS, and to generally provide quality communications about the Project.

11. Each Party will notify the other Parties of relevant meetings, hearings, or telephone calls with other agencies, groups and Midas Gold regarding the Project. Each Party will invite the other Parties to join such communications as appropriate. If a Party chooses not to participate in such communications, any significant issues related to the Project will be summarized and provided to that Party.
12. The Parties will generally streamline communications via the Project Contacts designated in this MOU. However, each Parties staff is expected to directly contact its Interdisciplinary Team (IDT) or Contractor counterparts as appropriate, and to involve the Project Contacts as appropriate. The Project Contacts will be updated as necessary by a Party giving written notice of such to the other Parties. The Project Contacts are responsible for distributing information and maintaining appropriate lines of communication with other persons in their organizations and among other organizations. As appropriate, the Project Contacts will make reasonable efforts to participate in meetings regarding the Project, and to ensure that staff from their organizations are available for such meetings. Delivery or notification to a Project Contact constitutes delivery or notification to the respective organization.
13. To the extent practicable, the Parties will coordinate on all public relations for the Project, including media inquiries or releases.
14. The Forest Service, in consultation with the other Parties, will develop and identify a Preferred Alternative that meets the requirements of all Parties. If agreement cannot be reached, the DEIS and-or FEIS will identify the Preferred Alternative of each Party.
15. To the extent practicable, the Parties will provide all substantive review comments on project deliverables according to the review schedule agreed upon by the Parties in IV.B.8.
16. For all Federal decisions based on the EIS, each Party will issue its own Record of Decision(s) according to its respective jurisdiction.

**B. Forest Service Special Expertise, Role and Responsibilities.**

1. The Forest Service has special expertise in managing National Forest System lands, including surface mining operations. The Forest Service has broad expertise in evaluating the environmental impacts of a wide range of Federal actions on National Forest System lands.
2. The Forest Service regulates the mining of locatable minerals on National Forest System lands, and requires an approved plan of operations for all such mining. Implementation of the Plan will require Forest Service approval for those portions of the Plan applicable to National Forest System lands. Consequently, the Forest Service must evaluate aspects of the Plan under the NEPA before making a decision regarding the Plan. The Forest Service expects the EIS to satisfy such evaluation requirements.
3. The Forest Service will be the lead agency for the Project with primary responsibility for supervising the preparation of the EIS under 40 CFR 1501.5 and 1508.16, ensuring compliance with the NEPA, and final responsibility for the scope and

content of all planning and NEPA documents, DEIS, FEIS. The Forest Service responsibilities include determining the purpose and need of the proposed (Federal) action, selecting alternatives for analysis, and determining appropriate mitigation measures. The Forest Service will have sole direction of the NEPA Contractor. In meeting these responsibilities, the Forest Service will follow all applicable laws and regulations. However, the Forest Service will cooperate closely with the other Parties to ensure that the EIS meets the requirements of all Parties.

4. To the fullest extent consistent with its responsibilities as the lead agency, the Forest Service will address the comments, recommendations, data, and/or analyses provided by the Parties. In particular, the Forest Service will seek concurrence from the Parties on key steps in the NEPA process including scoping, purpose and need, significant issues, range of alternatives, mitigation measures, predictive methodology, and the Preferred Alternative.
5. Where the Forest Service and one or more of the other Parties disagree on a substantive element of the EIS (e.g., designation of the alternatives to be analyzed or analysis of effects), and this disagreement cannot be resolved (Section V.A.), the Forest Service will include a summary of the views of the other Party(ies) in the DEIS and FEIS. The Forest Service will also describe substantive inconsistencies between its proposed action and the objectives of State, local, or tribal land use plans and policies.
6. The Forest Service will coordinate with the Parties throughout the preparation of the EIS, and will keep the Parties informed of the progress on the EIS, as well as any changes to the Project schedule and additional data needs, at a minimum on a monthly basis.
7. The Forest Service will provide the Parties with draft copies for review of the Preparation Plan, Federal Register notices, technical reports, other related reports that the parties identify, draft EIS Chapter 1, draft Chapter 2, Preliminary Draft EIS, Administrative Draft EIS [DEIS], Draft Biological Assessment(s) (BA), Preliminary Final EIS, and Administrative Final EIS [FEIS].
8. The Forest Service will afford the Parties a minimum of two-weeks-notice prior to review of draft products described under IV.B.7. The Project Contacts may negotiate different review periods for certain products by mutual verbal agreement, and, if necessary, the Project schedule will be modified accordingly. The project schedule will include the following specific project checkpoints and/or deliverable review periods, which shall not be concurrent:
  - a) Review periods of 15 working days for Preparation Plan, Federal Register notices, Draft Chapter 1, and Draft Chapter 2.
  - b) Review periods of 20 working days for resource technical reports and draft Biological Assessments.
  - c) Review periods of 30 working days for Preliminary Draft and Preliminary Final EIS.
  - d) Review periods of a minimum of 15 working days for Administrative Draft EIS and Administrative Final EIS.

9. The Forest Service will coordinate revision of products described under IV.B.7. with the Contractor in response to comments, concerns and issues identified by the Parties. The Forest Service will provide the Parties with documentation of how such comments, concerns and issues were addressed.
10. The Forest Service will have primary responsibility for distributing the DEIS and FEIS and ensuring the appropriate level of public review.
11. The Forest Service will promptly provide the Parties with copies of all public comments regarding the EIS that might require an official response from a Party other than the Forest Service. The Forest Service will promptly provide the Parties with copies of all Forest Service correspondence regarding the EIS, as appropriate.
12. The Forest Service will ensure that the Parties receive copies of all public comments received during the public comment period for the DEIS. Any public comments pertaining to special expertise or jurisdiction of law by a Party other than the Forest Service will be identified accordingly.
13. The Forest Service Project Contact will be the following:

Piper Goessel, Stibnite Gold PM  
Payette National Forest  
500 N Mission Street  
McCall, Idaho 83638  
Phone: 208-634-0619  
[kgoessel@fs.fed.us](mailto:kgoessel@fs.fed.us)

**C. USACE Special Expertise, Role and Responsibilities.**

1. The USACE has special expertise in regulating work in the waters of the United States (33 CFR 328), including erosion control, excess material, floodplains, stream and water body modification, water quality, and wetlands.
2. The USACE regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Consequently, the USACE must evaluate portions of the Plan under the NEPA before making a decision regarding the issuance of a 404 permit for the mine. The USACE expects the EIS to satisfy such evaluation requirements. In particular, the USACE expects the EIS to evaluate the least environmentally damaging practicable alternative that meets the Project's purpose, and to include an adequate wetland analysis section. The Corps understands the 404(b)(1) analysis section will be included as an appendix to the EIS.
3. The USACE will be a cooperating agency for the Project, and will assist the Forest Service and Contractor in obtaining necessary information, performing environmental analysis, preparing supporting documents for the EIS, and reviewing the DEIS and FEIS. The USACE will provide comments, as appropriate, on material submitted for review within the timeframes specified in IV.B.8. The USACE will notify the Forest Service of any potential Project delays foreseen by the USACE.
4. The USACE will promptly provide the Forest Service with copies of any public

comments that might be received by the USACE regarding the EIS that might require an official response from the Forest Service. The USACE will promptly provide the Forest Service with copies of all USACE correspondence regarding the EIS, as appropriate.

5. The USACE will assist the Forest Service and/or Contractor to prepare responses to public comments regarding the DEIS where the USACE has jurisdiction by law or special expertise. The USACE may communicate directly with the Contractor as approved by the Forest Service.
6. The USACE Project Contact will be the following:

Christen Marve Griffith, Project Manager  
 U.S. Army Corps of Engineers  
 Boise Regulatory Office  
 720 Park Blvd., Suite 245  
 Boise, Idaho 83712  
 Phone: 208-433-4470  
[christen.m.griffith@usace.army.mil](mailto:christen.m.griffith@usace.army.mil)

**D. EPA Special Expertise, Role and Responsibilities.**

1. The EPA has special expertise in the protection of air, water and soil from pollution, including that potentially caused by mining activities.
2. The EPA regulates point sources that discharge pollutants into waters of the United States pursuant to the NPDES permit program under section 402 of the CWA. Midas Gold intends to submit permit application(s) for the Stibnite Gold Project. The EPA will coordinate its NPDES permit review and issuance process with the NEPA process for the project. As discussed in Section I., depending upon the timing of the EIS process and IDPES program authorization, the permit may be issued by IDEQ.
3. The EPA will review the EIS as required by section 309 of the Clean Air Act. The section 309 review responsibility is independent of the EPA's role as a cooperating agency in the NEPA process.
4. The EPA also has authority under section 404 of the CWA to review project compliance with section 404(b)(1) guidelines, and, pursuant to section 404(c), to veto 404 permits proposed or issued by the USACE. Under section 404(c), the EPA may prohibit or withdraw the specification (permitting) of a site upon determination that use of the site would have an unacceptable adverse effect on municipal water supplies, shellfish beds, fishery areas, or recreational areas.
5. The EPA will be a cooperating agency for the Project, and will assist the Forest Service and Contractor in obtaining necessary information, performing environmental analysis, preparing supporting documents for the EIS, and reviewing the DEIS and FEIS. The EPA will provide comments, as appropriate, on material submitted for review within the timeframes specified in IV.B.8. The EPA will notify the Forest Service of any potential Project delays foreseen by the EPA.

6. The EPA will promptly provide the Forest Service with copies of any public comments received by the EPA regarding the EIS.
7. The EPA will assist the Forest Service and/or Contractor to prepare responses to public comments regarding the DEIS where the EPA has jurisdiction by law or special expertise. The EPA may communicate directly with the Contractor as approved by the Forest Service.
8. The EPA Project Contact will be the following:

Lynne Ann Hood  
Environmental Scientist, NEPA Review  
EPA R10- Idaho Operations Office  
950 W Bannock Street, Suite 900  
Boise, Idaho 83702  
Phone: 208-378-5757  
[hood.lynne@epa.gov](mailto:hood.lynne@epa.gov)

**E. Idaho Department of Lands' Special Expertise, Role and Responsibilities.**

1. The IDL has special expertise in surface mining and reclamation and the protection of public health, safety, and welfare.
2. The IDL is the State of Idaho agency with authority to regulate mining and reclamation on all land in the state, regardless of ownership, under Idaho Code § 47-1501, *et seq.* IDL also manages state-owned surface and mineral estates under Idaho Code § 58-301, *et seq.* and Idaho Code § 47-701 *et seq.* As such, IDL is responsible for determining the appropriate level of reclamation, regardless of surface and mineral ownership. Idaho Code § 47-708 provides protections for the surface owner on split estate land. Additionally, any bond required under Idaho Code § 47-1512 is payable to the State of Idaho and IDL will hold a reclamation bond or bonds related to mining operations within its jurisdiction.
3. The IDL will be a cooperating agency for the Project, and will assist the Forest Service and Contractor in obtaining necessary information, performing environmental analysis, preparing supporting documents for the EIS, and reviewing the DEIS and FEIS. The IDL will provide comments, as appropriate, on material submitted for review within the timeframes specified in IV.B.8. The IDL will notify the Forest Service of any potential Project delays foreseen by the IDL.
4. The IDL will promptly provide the Forest Service with copies of any public comments that might be received by the IDL regarding the EIS that might require an official response from the Forest Service. The IDL will promptly provide the Forest Service with copies of all IDL correspondence regarding the EIS, as appropriate.
5. The IDL will assist the Forest Service and/or Contractor with the preparation of responses to public comments regarding the DEIS where the IDL has jurisdiction by law or special expertise. The IDL may communicate directly with the Contractor as approved by the Forest Service.

6. The Idaho Department of Lands Project Contact will be the following:

Diane Green  
Lands Resource Specialist, Sr.  
Idaho Department of Lands  
Payette Lakes Area Office  
555 Deinhard Lane  
McCall, ID 83638  
Phone: 208-634-7125  
[dgreen@idl.idaho.gov](mailto:dgreen@idl.idaho.gov)

**F. Idaho Department of Environmental Quality Special Expertise, Role and Responsibilities.**

1. The IDEQ has special expertise in and regulates surface and ground water quality, cyanidation operations, hazardous waste management, solid waste management, and air quality.
2. The IDEQ has the authority to protect the quality of the environment of the State of Idaho in order to protect and promote the health, safety and general welfare of the people of this state. This includes ensuring clean air, water, and soil, and reducing or eliminating environmental pollution arising from human activities under the Idaho Environmental Protection and Health Act (EPHA) (Idaho Code 39-101 et. seq.). In addition, IDEQ has authority under the Idaho Water Quality Act (Idaho Code 39-3601 et. seq.), and rules and standards promulgated thereunder. IDEQ has been delegated authority to implement portions of the Federal Water Pollution Control Act, 33 U.S.C. 1250 et. seq. (“CWA” or “Clean Water Act”) through the Idaho Water Quality Standards (IDAPA 58.01.02). In addition, the IDEQ is charged pursuant to Idaho Code 39-120 with promulgating and implementing a program for the protection of ground water quality within the State and has implemented the Idaho Ground Water Quality Rule (IDAPA 58.01.11) for the purpose of carrying out this mandate. Lastly, the IDEQ has implemented the Rules for the Control of Air Pollution in Idaho (IDAPA 58.01.01), and the Rules for Ore Processing by Cyanidation (IDAPA 58.01.13). The IDEQ will have primary responsibility for air quality, surface water quality, ground water quality and points of compliance, and cyanide facility design and operation. IDEQ also has authority and primary responsibility to ensure compliance with the Rules and Standards for Hazardous Waste (IDAPA 58.01.05), Solid Waste Management Rules (IDAPA 58.01.06), and Solid Waste Facilities Act (Idaho Code 39-7401 et. seq.) for facilities and operations.
3. The IDEQ will be a cooperating agency for the Project, and will assist the Forest Service and Contractor in obtaining necessary information, performing environmental analysis, preparing supporting documents for the EIS, and reviewing the DEIS and FEIS. The IDEQ will provide comments, as appropriate, on material submitted for review within the timeframes specified in IV.B.8. The IDEQ will notify the Forest Service of any potential Project delays foreseen by the IDEQ.
4. The IDEQ will promptly provide the Forest Service with copies of any public

comments that might be received by the IDEQ regarding the EIS that might require an official response from the Forest Service. The IDEQ will promptly provide the Forest Service with copies of all IDEQ correspondence regarding the EIS, as appropriate.

5. The IDEQ will assist the Forest Service and/or Contractor to prepare responses to public comments regarding the DEIS where the IDEQ has jurisdiction by law or special expertise. The IDEQ may communicate directly with the Contractor as approved by the Forest Service.
6. The Idaho Department of Environmental Quality Project Contact will be the following:

Aaron Scheff  
 Administrator, Boise Regional Office  
 Department of Environmental Quality  
 1445 N. Orchard St.  
 Boise, Idaho 83706  
 Phone: 208-373-0420  
[aaron.scheff@deq.idaho.gov](mailto:aaron.scheff@deq.idaho.gov)

**G. Governor’s Office of Energy and Mineral Resources Special Expertise, Role and Responsibilities.**

1. The OEMR has special expertise in coordinating comments amongst the various Idaho state agencies. The resulting final comments will be the official comments submitted to the Forest Service on behalf of the State of Idaho, and will be submitted prior to the published deadlines.
2. Pursuant to Idaho Executive Order 2016-03, the OEMR has authority to coordinate and cooperate with federal and state agencies, departments and divisions on issues concerning the State’s mineral supply and management.
3. The OEMR will be a cooperating agency for the Project, and will assist the Forest Service and Contractor in obtaining necessary information, performing environmental analysis, preparing supporting documents for the EIS, and reviewing the DEIS and FEIS. The OEMR will provide comments, as appropriate, on material submitted for review within the timeframes specified in IV.B.8. The OEMR will notify the Forest Service of any potential Project delays foreseen by the OEMR.
4. Other State of Idaho agencies and offices that may have permitting authority and that have special expertise regarding aspects of Midas Gold’s Plan include, but may not be limited to: Idaho Department of Water Resources (IDWR), State Historic Preservation Office (SHPO), Idaho Department of Fish and Game (IDFG), Idaho Department of Parks and Recreation (IDPR), and Office of Species Conservation (OSC).
5. The OEMR will promptly provide the Forest Service with copies of any public comments that might be received by the OEMR regarding the EIS that might require an official response from the Forest Service. The OEMR will promptly provide the

Forest Service with copies of all OEMR correspondence regarding the EIS, as appropriate.

6. The OEMR will assist the Forest Service and/or Contractor in the preparation of responses to public comments regarding the DEIS where the OEMR has jurisdiction by law or special expertise. The OEMR may communicate directly with the Contractor as approved by the Forest Service.
7. The Governor's Office of Energy and Mineral Resources Project Contacts will be the following:

John Chatburn  
Administrator, Boise Office  
[John.Chatburn@oer.idaho.gov](mailto:John.Chatburn@oer.idaho.gov)

Scott Pugrud  
Deputy Administrator, Boise Office  
[Scott.Pugrud@oer.idaho.gov](mailto:Scott.Pugrud@oer.idaho.gov)

Governor's Office of Energy and Mineral Resources  
304 N. 8<sup>th</sup> Street, Suite 250  
Boise, Idaho 83702  
Phone: 208-332-1660

#### **H. Valley County Special Expertise, Role and Responsibilities.**

1. Valley County has authorities and special expertise regarding management and maintenance of County roads, County land use planning, construction permitting, County-administered recreation programs, law enforcement, public health and safety, and local socioeconomics.
2. Valley County will be a cooperating agency for the Project, and will assist the Forest Service and Contractor in obtaining necessary information, preparing supporting documents for the EIS, and reviewing the DEIS and FEIS. Valley County will provide comments, as appropriate, on material submitted for review within the timeframes specified in IV.B.8. Valley County will notify the Forest Service of any potential Project delays foreseen by the Valley County.
3. Valley County will promptly provide the Forest Service with copies of any public comments that might be received by Valley County regarding the EIS that might require an official response from the Forest Service. Valley County will promptly provide the Forest Service with copies of all Valley County correspondence regarding the EIS, as appropriate.
4. Valley County will assist the Forest Service and/or Contractor to prepare responses to public comments regarding the DEIS where Valley County has jurisdiction by law or special expertise. Valley County may communicate directly with the Contractor as approved by the Forest Service.

5. The Valley County Project Contact will be the following:

Gordon Cruickshank  
Commissioner  
Valley County Commission  
P.O. Box 1350  
Cascade, Idaho 83611  
Phone: 208-382-7102  
Cell: 208-634-6874  
[glc55@frontier.com](mailto:glc55@frontier.com)

V. **ADMINISTRATION OF THE MOU.**

A. **Dispute Resolution.** In the event of any dispute among the Parties under this MOU, the Parties will first make a good-faith attempt to resolve the dispute at the Project Contact level. If the Parties are unable to resolve the dispute at this level, they will coordinate to mutually elevate the dispute to their respective, corresponding supervisory levels to resolve the dispute, e.g.:

- Forest Service – Forest Supervisor, Payette National Forest; Regional Forester, Region 4
- USACE – Deputy Chief, Regulatory Division, Walla Walla District; Chief, Regulatory Division, Walla Walla District; District Commander, Walla Walla District
- EPA – Director, Office of Environmental Review and Assessment; Regional Administrator, Region 10
- Idaho Department of Lands – Director
- Idaho Department of Environmental Quality – Director
- State of Idaho – Governor

The Parties will cooperate to identify and use procedures that might help resolve the dispute, such as facilitation and fact finding.

B. **Confidentiality of Documents.** A Party may designate as confidential any document that it provides to another Party in connection with the activities covered by this MOU. A Party may release a document, which has been designated confidential by another Party only with the consent of the Party(ies) that provided the document, or if legally required to release the document. In the latter event, the Party that proposes to release such document will notify the affected Party(ies) of the proposed release and provide such Party(ies) with the opportunity to appeal the decision in accordance with applicable regulations prior to any such release. This section will not apply if a Party has legitimately obtained a copy of the same document without a confidentiality designation. The Parties recognize that each is subject to public disclosure laws, which are not affected by this MOU.

C. **Modifications.** This MOU may be modified only by written agreement of all Parties, except for changes to Project Contacts as described in IV. Modifications will be

initialed and dated on each replacement page by the authorized official of each Party.

- D. Commencement/Termination.** This MOU will be effective on the date of the last signature. If disagreements cannot be resolved or for any other reason or good cause, any Party may withdraw from this MOU 30 days after written notice is received by the other Parties. During the 30-day period, all Parties will actively make good-faith efforts to resolve any disagreements. This MOU will terminate upon the latest date that a Record of Decision for the Project is signed. However, the Parties may reinstate this MOU by mutual written agreement if additional actions become necessary.
- E. Conflict of Interest.** The Parties agree not to utilize any individual or organization for purposes of environmental analysis or Party representation, including officials, employees, or third-party contractors, having a financial interest in the outcome of the Stibnite Gold Project EIS.
- F. Immunity and Defenses Retained.** Each Party retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this MOU.
- G. Non-Binding Agreement.** This MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity. The Parties shall manage their respective resources and activities in a separate, coordinated and mutually beneficial manner to meet the purpose(s) of this MOU. Nothing in this MOU authorizes any Party to obligate or transfer anything of value.

Specific, prospective projects or activities that involve the transfer of funds, services, property, and/or anything of value to a Party requires the execution of separate instruments and are contingent upon numerous factors, including, as applicable, but not limited to the following: Party availability of appropriated funds and other resources; cooperator availability of funds and other resources; Party and cooperator administrative and legal requirements (including Party authorization by statute); etc. This MOU neither provides, nor meets these criteria. If the Parties elect to enter into an obligation instrument that involves the transfer of funds, services, property, and/or anything of value to a Party, then the applicable criteria must be met. Additionally, under a prospective instrument, each Party operates under its own laws, regulations, and/or policies, and any Party's obligation is subject to the availability of appropriated funds and other resources. The negotiation, execution, and administration of these prospective instruments must comply with all applicable law.

Nothing in this MOU is intended to alter, limit, or expand the Parties' statutory and regulatory authority. Nothing in this MOU may be construed to require any Party to obligate or pay funds or in any other way take action in violation of the Anti-Deficiency Act (31 USC 1341) or Idaho Code § 59-1015.

- H. Use of Forest Service Insignia.** Permission must be granted from the Forest Service Office of Communications for any other Party to use the Forest Service insignia on any

published media, such as a Web page, printed publication, or audiovisual production. A written request must be submitted and approval granted in writing by the Office of Communications (Washington Office) prior to use of the insignia.

- I. **Endorsement.** Any contributions (monetary, services, efforts, etc.) made by a Party under this MOU do not by direct reference or implication convey endorsement of products or activities by any other Party.
- J. **Participation in Similar Activities.** This MOU in no way restricts any Party from participating in similar activities with other public or private agencies, organizations, and individuals.
- K. **Freedom of Information Act (FOIA).** Public access to MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 USC 552) or the Idaho Public Records Act, Idaho Code § 74-101 et. seq.
- L. **Party Acknowledgement in Publications and Electronic or Audiovisual Media.** The support of a Party(ies) in developing any publications and electronic or audiovisual media as a result of this MOU shall be appropriately acknowledged in the products.
- M. **Nondiscrimination Statement - Printed, Electronic or Audiovisual Media.** A Party shall include the following statement in any printed and electronic or audiovisual media for public distribution developed or printed with any Federal funding:

*In accordance with Federal law and policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)*

**To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). Federal agencies are equal opportunity providers and employers.**

If the material is too small to permit the full statement to be included, the material must at least include the following statement in print size no smaller than 12 point:

*“This institution is an equal opportunity provider.”*

**VI. APPROVAL.**

*Keith B. Lannom*

**Keith B. Lannom**  
Forest Supervisor  
Payette National Forest  
Forest Service  
U.S. Department of Agriculture

*09/05/17*

Date

**VI. APPROVAL.**



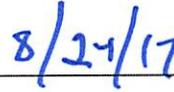
**Kelly J. Urbanek**  
Chief, Regulatory Division  
Walla Walla District  
Corps of Engineers  
Department of the Army  
U.S. Department of Defense

8/24/17  
Date

VI. APPROVAL.



\_\_\_\_\_  
**R. David Allnutt**  
Office of Environmental Review and Assessment  
Region 10  
U.S. Environmental Protection Agency



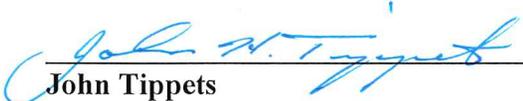
\_\_\_\_\_  
Date

**VI. APPROVAL.**

  
\_\_\_\_\_  
**Thomas M. Schultz Jr.**  
Director  
IDL Director's Office  
Idaho Department of Lands

8/31/17  
Date

**VI. APPROVAL.**

  
\_\_\_\_\_  
**John Tippetts**  
Director  
DEQ State Office  
Idaho Department of Environmental Quality

\_\_\_\_\_  
Date 8/31/17

**VI. APPROVAL.**



**John Chatburn**  
Administrator  
OEMR Boise Office  
Governor's Office of Energy and Mineral Resources

8/29/17  
Date

**VI. APPROVAL.**



**Gordon Cruickshank**  
Commissioner  
Valley County, Idaho



Date