



**TESTIMONY OF LAUREL SAYER
PRESIDENT AND CEO OF MIDAS GOLD IDAHO, INC,
UNITED STATES SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
July 17, 2018**

I. INTRODUCTION

Chairman Murkowski, Ranking Member Cantwell and distinguished members of the Committee, my name is Laurel Sayer and I am the President and CEO of Midas Gold Idaho Inc. I appreciate the chance to appear before you today to talk about our Stibnite Gold Project in Idaho. Once in production, Stibnite will be a producer of both critical minerals and precious metals, but we will also restore a historic mining legacy site while in operation.

During World War II, a small mining camp deep in the heart of Idaho grew virtually overnight to a town of 1,500 people and produced more tungsten and antimony than any other mine in the United States right through to the end of the Korean War. Both were critical minerals for defense; tungsten was needed for strengthening steel and antimony for hardening lead, manufacturing munitions and making the wooden flight decks of aircraft carriers flame resistant. In fact, ninety percent of the domestic antimony output and forty percent of the domestic tungsten came from Stibnite, Idaho. This production was so critical to the war effort that President Eisenhower sent the mine a telegram in 1943 thanking the workers for their contribution.

The wars ended and, eventually, Stibnite went largely dormant—small operations for gold occurred sporadically through the early 1980s and into the 1990s.

Stibnite was essential for the war effort and an entire town grew from the enterprise. However, unlike today, operations at Stibnite did not go through rigorous regulatory oversight nor was anyone required to reclaim the Site once the area was mined. Instead, the Site was left abandoned and, 65 years later, in need of repair.

Meanwhile, today there are no current domestic sources of antimony. China controls 76% of the global supply, followed by Russia with 7% and Tajikistan with 6%, of a mineral critical to the defense and energy sectors of the United States.

This is where we come in. Midas Gold identified over 4.5 million ounces of gold and 100 million pounds of antimony reserves remaining at Stibnite. This Project is a rare opportunity to fuel a



rural economy, to develop the sole domestic source of antimony, and to finally provide a permanent environmental remedy and restore the Site.

II. TESTIMONY

A. Stibnite and Antimony (Part of the Critical Minerals List Put Out by USGS)

In September 2016, we delivered a Plan of Restoration and Operations (PRO) to the United States Forest Service. The PRO laid out a radical idea—that mining could be used to restore the environment. We designed our plan from the beginning with final closure in mind and to ensure that Endangered Species Act (ESA) listed fish are reconnected to native spawning grounds that have been blocked for 80 years.

We designed the plan to remove, reprocess or repurpose, and safely store millions of tons of spent ore and tailings left by prior operators and which we know have the potential to leach metals into ground and surface water. We designed the mining operations to repair the largest source of sedimentation in the East Fork of the South Fork of the Salmon River, which degrades water quality and impacts fish habitat. These things will not happen without private investment and partnership with the mining industry.

The Stibnite Gold Project also has the potential to again be the only domestic source of antimony. The term “antimony” comes from Greek, meaning “not alone” because it readily combines with other elements. It is crucial to our everyday lives and our military defense. According to USGS, in 2016, \$152 million worth of antimony was consumed in the United States, but none was produced here.

Antimony trioxide is the most common industrial form of antimony, and it is almost entirely manufactured in China. Antimony is also the key ingredient in the primer required for military grade munitions. The U.S. Department of Defense (DOD) noted the importance of antimony for defense applications in 2013, when the DOD ranked antimony #2 in the list of strategic and non-fuel defense material shortfalls (US DOD, 2013) and recommended strategic stockpiling of ~11,000 tons of antimony.

Today, antimony is used as a flame retardant in the coating around copper wires, in fabrics and in the solutions used for combatting forest fires. It is even a key ingredient to clarifying the glass in our smart phones. As the recent USGS report indicates, it plays a critical role in defense products, the energy sector as well as telecommunications and electronics. Today we rely only on limited recycled domestic sources of antimony, but most comes from imports from China. As a result, antimony was included in the USGS 2018 list of critical minerals.



B. Introduction to the Stibnite Regulatory Infrastructure

Mr. Chairman and distinguished members of the Committee, there is a myriad of Federal, State and local permits needed before our Project can proceed. Of course, the U.S. Forest Service must approve our Plan of Restoration and Operations (PRO) and review the project impacts pursuant to the National Environmental Policy Act (NEPA). That is Job One. But overall, we must receive over 50 permits and approvals before we can move forward.

However, because we are impacting and restoring certain wetlands and diverting existing streams on the Project Site in order to protect or improve water quality, we will also need a “dredge and fill” permit issued by the United States Army Corps of Engineers under Section 404 of the Clean Water Act.

And, because part of our PRO involves discharging through point sources into waters of the United States, we will need a National Pollutant Discharge Elimination System (NPDES) permit written by the State of Idaho and supported by the Environmental Protection Agency.

And very importantly, because all of this activity will take place in habitat for Endangered Species Act listed bull trout (under the jurisdiction of the United States Fish & Wildlife Service), and Chinook salmon (under the jurisdiction of NOAA Fisheries), our mine plan will require separate biological opinions from each of these Federal agencies under the ESA.

Then, all of this has to be analyzed by the Forest Service under the NEPA before our Plan of Restoration and Operations can finally be approved by the Federal government.

Also, because our Site is culturally significant to several Federally-recognized tribes in the State of Idaho, the Federal government is engaging in government-to-government consultation with three Tribes in Idaho as a prerequisite to approving our project.

Finally, there are many other Federal, state and local permits that must be issued as a part of the complete permitting review before we can begin construction and operations. Attached to my testimony as Exhibit 1 is a list of the permits that we need from our government in order to operate the Stibnite Gold Project.

1. NEPA Analysis

Before we delivered our plan to the US Forest Service, we spent well over \$20 million collecting the baseline data needed, evaluating alternative development scenarios, and compiling the baseline reports required to present the government with the best possible plan for the Stibnite Gold Project. This plan was summarized in the 486-page PRO and the supporting baseline information provided to the regulators amounted to 25 reports totaling 21,564 pages, or 2.3 gigabytes of data. Our initial planning was exhaustive.

We delivered our plan to the regulatory agencies almost two years ago. In this time, we have spent an additional \$4 million paying for the Forest Service project manager and their third-party contractor. Of course, we have our own employees and consultants that are fully



engaged in responding to the regulators' requests to help facilitate this project through the permitting process, plus we are still collecting and providing information to the permitting agencies. In the last two years we have spent \$11 million on meeting these additional demands related to permitting.

As we appear before this Committee today, our project milestones under NEPA have slipped for a third time, and each quarter that we fail to meet our deadline requires additional resources and costs us \$1.5 million in permitting costs payable to the Forest Service and their contractor and \$2.6 million for our personnel and consultants to address the quarterly permitting requirements. To be candid, there have been times when the delay was on our end. Yet, we have had moments of frustration where it appears this process has suffered from a lack of efficiency and effectiveness by federal agencies that has just added time. Attached to my testimony as Exhibit 2 is a flow chart of the NEPA review process and our current status.

To be clear, we understand the importance of environmental review under NEPA, and my testimony is not to be misunderstood as advocacy for any weakening of the several environmental laws that play a part in permitting our Project. As you have no doubt heard, and will hear today, equally robust permitting processes in first world countries like Canada and Australia are regularly completed in two to three years and at considerably lower cost. There is no reason that we in the United States cannot have an equally thorough, effective and efficient process that is completed in a timely manner.

Why does our process take so much longer? Often it is an inefficient process structure that is overly time consuming. For example, there is a method by which a Federal lead agency under NEPA requests additional information through an "RFAI" or Request for Additional Information. Normally, RFAIs are requested by Federal agencies when there is a data gap from the existing body of information and an RFAI is otherwise essential to continue the NEPA analysis. RFAIs are not unusual, but they are normally used as a last resort, kind of like a jury sending a note to a judge during their deliberations to clarify an evidentiary issue.

For our Project, we have received close to 100 RFAIs from our lead Federal agency. We have provided back nearly 93 responses so far comprising 25,135 pages of information that aggregates to a total of 1.5 gigabytes of information to regulators for their review under the RFAI process. This is *in addition* to the volumes of data already provided in the PRO and baseline reports. So far, the total for this NEPA review amounts to over 46,000 pages. Digesting the sheer volume of this data has likely been a significant cause for delays in advancing permitting. Regularly, the requests covered information we already provided and could have been answered through a simple conversation to point regulators to the right information rather than resorting to this overly bureaucratic process that adds weeks to the timeline.

I raise this example to help the Committee better understand that permitting and subsequent analysis under NEPA will always be inherently imperfect. The hallmark of NEPA review is that Federal agency decision makers should have before them a **reasonable** amount of information to make a **reasonably** "informed" decision.



Neither Congress in the original Act nor courts which have reviewed NEPA challenges require perfection. Instead, what is required is development of a **reasonable** amount of information and a meaningful and transparent public process so that the best decision can be made from the best information available. I fear that for many projects, a quest for permitting perfection and the pursuit of every piece of information and analysis of multiple scenarios may unduly delay putting good people to work, defer capital investment and, in our case, delay restoring the Site.

C. Recommendations on Permitting Efficiencies

I emphasize again, for the record, that Midas Gold does not support cutting corners or lowering environmental review standards for mining in the United States. Mining deserves appropriate review and reasonable financial assurances to protect water, wildlife and the environment.

We are here to tell you that mining will not be a viable industry in this Nation if we don't find a solution to manage the permitting process with more efficiency. The current regulatory process is an enormous deterrent to investment, from its uncertainty, time and cost. To date, we have invested \$36 million in collecting, compiling, presenting our Project to regulators and responding to their queries, and yet we are still two years away from publication of a record of decision. At the current rate of expenditure, this amount will almost double before a ROD is issued. These are substantial costs to incur even before a shovel goes in the ground.

There are concrete steps that the government can take that will maintain the potency of our environmental protections and move viable projects forward more expeditiously and cost effectively, and all while losing none of the protections.

1. Working Better with the Project Applicant

The Federal government should bring everyone around the same permitting table, including the applicant, but often this is not the case. Nothing under the law should prevent those who know the most about the project from working closely and together with the Federal permitting agencies. The key is that we, as project advocates, understand that we cannot invade the province of Federal decision-making because that is not our role in the permitting process. When it comes time to deliberate, we will simply be excused and leave that to the Federal government and other regulators, which is as it should be.

However, if we were more able to work directly with the Federal and other agencies to respond to their questions, information needs and requests, a process that sometimes takes weeks could be turned into days and perhaps without the need to resort to formal information requests. In many of our cases, the answers are already contained within the PRO and baseline data we have already submitted to the regulators and it is just matter of pointing to the information already provided. But the formal written RFAI process makes even these simple responses time consuming. Closer collaboration with our Federal partners would ensure that



project proponents such as Midas Gold need not spend inordinate amounts of time and dollars on RFAs and their responses, which the regulators then have to review.

A simple example illustrates the point. The regulators met and wanted us to analyze an alternative location for our tailings storage facility, which request the Forest Service communicated to us. We clarified, in a meeting and in writing with the Forest Service, the specific location requested, spent considerable time and dollars internally and externally with consultants to evaluate the alternative location, prepared a written report and analysis and submitted it to the agencies, only to find that the original requesting regulator was talking about a different location, and the whole process had to be repeated. If we had all been in the room together, we could have avoided significant delays and costs. This is a matter common sense.

2. Allow for Informal ESA Consultation in Parallel with NEPA and Resolve CERCLA Issues Early

As we work through NEPA, there are specific issues regarding the Endangered Species Act and CERCLA that would be advantageous to all parties to work out in parallel to the NEPA process rather than waiting until the end, when it is too late to modify an approved plan.

With regards to the ESA, we are firm believers that listed species and the habitat on which they depend are always better off the earlier project proponents and the Federal agencies can get together to resolve issues before they become a problem.

Under the ESA, there is a process known as “informal” consultation. This is where project proponents (such as Midas Gold) get together with Fish & Wildlife Services and NOAA Fisheries, along with the other Federal action agencies, and informally work through project design issues before formal consultation begins under Section 7 and the clock starts ticking. If informal consultation is executed appropriately, we are all, as one senior Fish & Wildlife Service official tells me, “smart from the start.”

If this process works as it should, potential project impacts can be addressed early and potentially redesigned more favorably to protect listed species and habitat instead of mid-stream during a NEPA process designed to select a preferred alternative. Important time may be lost because the process has to go backwards and reevaluate the impacts of the redesign due to input from the Services under the ESA. We know from first-hand experience that the Services prefer this approach, and we are great proponents of any reforms that get project applicants together with Fish & Wildlife Service and NOAA Fisheries as soon as possible.

With regards to CERCLA, the Stibnite Project Site is in an area subject to previous Superfund actions – hence it is a “Brownfields” site. In order to fulfill the vision of putting Idahoans to work and mining precious metals and critical minerals such as antimony as well as fixing the legacy impacts that remain at Site, we must have certainty under the Federal Superfund law before we disturb these areas on the Project Site. Undoubtedly, there are many other abandoned mining projects that are in similar circumstances but are avoided due to the



uncertainty created by their Brownfields status. Implementing improved certainty for Brownfields sites would enhance the potential for such sites to be remediated at industry cost, as opposed to being left abandoned or becoming a government problem.

3. Efficiency in Developing Alternatives Analysis

Addressing development of alternatives, which is the “heart” of NEPA, I concur with the voices of some in the regulated community that the best NEPA analysis should not be measured by the development of any **and all** possible alternatives for review. Hundreds of pages written to explain alternatives that do not address the original purpose and need of the NEPA review in the first place is not a successful process.

The better approach is development of elements of a proposed action that makes technological and economic sense for the underlying project so that the important discussions on project design are reserved for project elements that have a reasonable chance of later being implemented. With respect to our Stibnite Gold Project, we early on evaluated and eliminated project alternatives that made no sense to the Project operations, as a matter of environmental protection, technical feasibility and economics, and we explained why in our PRO.

NEPA could be better served by exploring potential efficiencies to reasoned decision making. The most important efficiency involves a fundamental understanding that a project proponent is the best source of information on the project’s impact on the environment. Both the Federal government and the economic opportunity embodied in reaching a conclusion on environmental review is best served when – no surprise here - project applicants and Federal government are in the same room, working together, to address concerns, resolve problems and come to solutions. Many unrealistic, uneconomic or technically infeasible alternatives could be quickly eliminated by a roundtable discussion, saving time and money.

As this Committee discusses statutory reform, Congress should consider putting mandatory timelines for decision making in the NEPA process so that for the regulated community and the regulators, there is certainty that we will finish what we start.

4. Should there be a Priority for Projects that Improve the Environment and Can be Linked to Strategic Minerals?

Mr. Chairman and distinguished members of this Committee, I don’t know of another mining project that fulfills the vision of providing economic hope and opportunity in rural America - in this instance, my home state of Idaho - while fulfilling goals of laudable environmental stewardship and proving a source of domestic critical minerals than the Stibnite Gold Project.

We will clean up the Stibnite Site as we execute our PRO and leave this beautiful part of our State better off, not only because it is the right thing to do, but because as fiercely proud Idahoans, we want to continue to live and work in one of the most beautiful places in the United States.



Given these commitments, where environmental remediation is a key component of any natural resources business model, we believe our Project is one that should receive priority attention from the Federal government. Particularly where Stibnite will soon become the only domestic source of the designated critical mineral antimony, and here, where Site restoration is an essential component of the Plan **of Restoration and** Operations, such projects should be permitted with all due speed by the Federal government and with no lesser thoroughness or reduction in standards. These very same goals were reiterated in a resolution passed and supported by the leadership of both parties in both houses of the Idaho State Legislature and delivered to the President, the Federal Agencies and the Idaho delegation of this Federal Congress, which I am attaching to my testimony as Exhibit 3.

III. CONCLUSION

In closing, I greatly appreciate the opportunity to appear before this Committee and discuss the Stibnite Gold Project in Idaho. It is a Plan of Restoration and Operations that should be approved by the Federal government as efficiently and timely as possible. Future employment of Idahoans and environmental restoration hinges in the balance with each passing day while our Project is undergoing environmental review.

And to reiterate for one last time, I do not advocate overlooking any required legal element of environmental review or reducing standards. Rather, environmental review and permitting can always be more efficient, which is what we in the mining industry believe Congress intended in the first place through its environmental laws.

THE STIBNITE GOLD PROJECT

PERMITTING

APPROVALS & ACTIONS RELATED TO NEPA

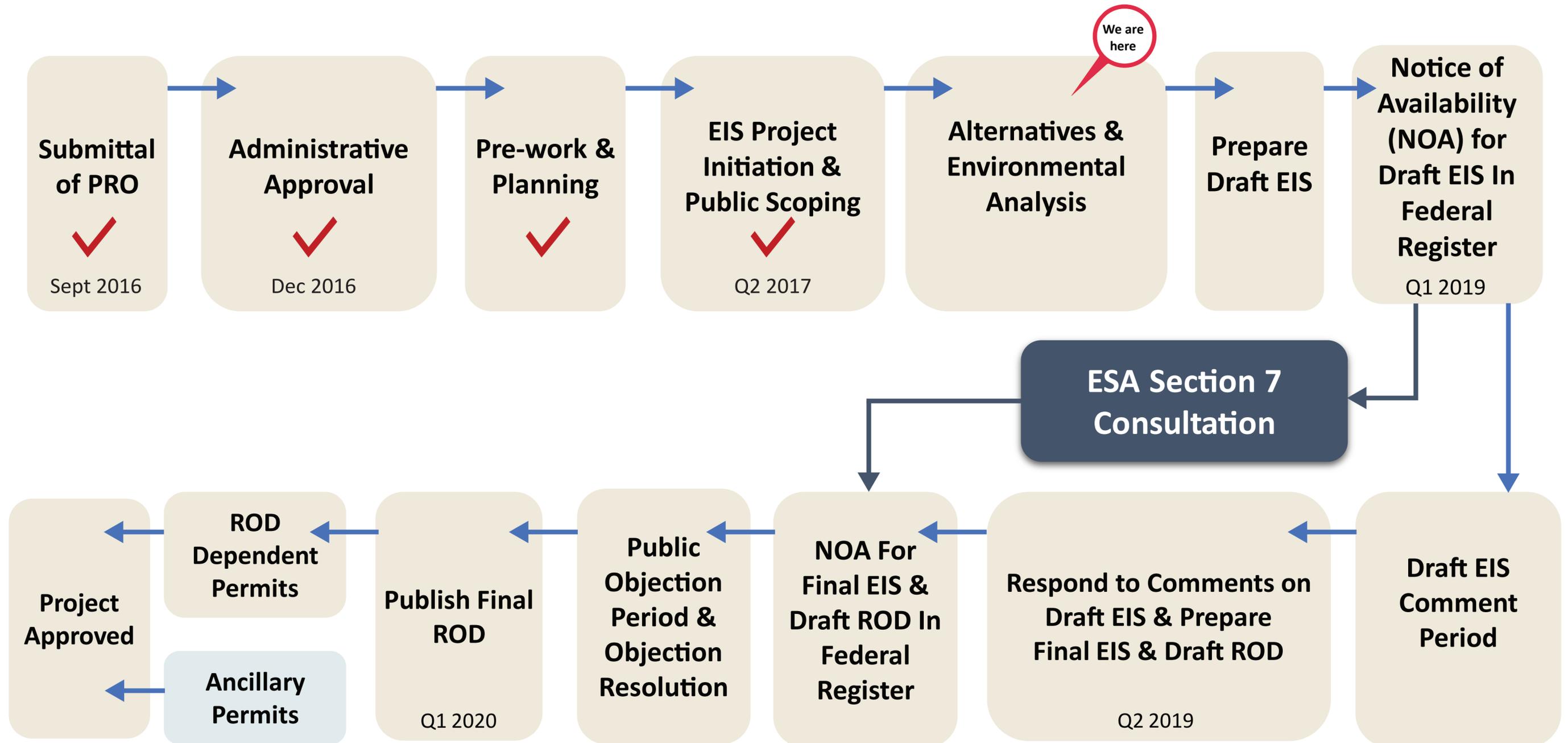
Point of Compliance **Financial Assurance**
Stream Channel Alteration Mine Tailings Impoundment
Forest Plan Amendments **401: Water Quality Certification**
NPDES: Water Discharges Native American Consultation
Cultural Clearance **NEPA** Air Quality Cyanide Permit
Power Line ROW **Idaho Roadless Rule**
Idaho Department of Lands Reclamation Approval
Road Use Permit Mineral Material Permit (Borrow Sources)
Endangered Species Consultation **ROD** Water Rights
404: Clean Water Act Detailed Mitigation Plans
Transportation Impact Study

APPROVALS & ACTIONS ANCILLARY TO NEPA

County Building Permit Solid Waste Permit FCC: Radio Licenses
Spill Prevention Control & Countermeasure Plan (SPCC)
EPA Generator ID# **Planning & Zoning - Conditional Use Permit**
MSGP Storm Water Pollution Prevention Plan (SWPPP) Operations
SGP SWPPP Construction Timber Sale Permit & Contract
Food Establishment **ANCILLARY** Potable Water
Burn Permit
Explosives Permit **State & Federal Financial Assurance**
MSHA Mine ID# & Safety Plan Septic System Approval
Waste Water Treatment **County Road Use Authorization**

THE STIBNITE GOLD PROJECT

NEPA PERMITTING PROCESS



IN THE HOUSE OF REPRESENTATIVES

HOUSE JOINT MEMORIAL NO. 10

BY RESOURCES AND CONSERVATION COMMITTEE

A JOINT MEMORIAL

1
2 TO THE PRESIDENT OF THE UNITED STATES, THE SECRETARY OF AGRICULTURE, THE SEC-
3 RETARY OF THE INTERIOR, THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTEC-
4 TION AGENCY AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE
5 OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

6 We, your Memorialists, the House of Representatives and the Sen-
7 ate of the State of Idaho assembled in the Second Regular Session of the
8 Sixty-fourth Idaho Legislature, do hereby respectfully represent that:

9 WHEREAS, mining played an integral role in the settlement of the West
10 and Idaho in particular, hence its motto "The Gem State"; and

11 WHEREAS, mining activity for minerals including tungsten, antimony,
12 gold and silver has taken place in the Stibnite Mining District in Valley
13 County, Idaho, since 1899; and

14 WHEREAS, the supply of tungsten and antimony from the Stibnite Mining
15 District was critical to the United States war efforts during World War II
16 and the Korean War; and

17 WHEREAS, after decades of mining activity that largely pre-dated state
18 and federal regulatory guidelines, standards and oversight left the Stib-
19 nite area in need of repair and a legacy of millions of tons of unlined tail-
20 ings, blocked fish passage and conditions degrading water quality; and

21 WHEREAS, Midas Gold Idaho, Inc., has proposed to redevelop a portion
22 of the historic Stibnite Mining District as outlined in the Stibnite Gold
23 Project Plan of Restoration and Operations, delivered to the United States
24 Forest Service in September 2016 for review under the National Environmental
25 Policy Act (NEPA); and

26 WHEREAS, the Stibnite Gold Project is designed to clean up legacy envi-
27 ronmental impacts before and during mining; and

28 WHEREAS, the United States dependency on foreign minerals has doubled
29 in the last twenty years, and China controls 83% of the world's antimony re-
30 sources. The Stibnite Gold Project would be the only domestic source of pri-
31 mary antimony, a critical component for flame retardants essential to the
32 defense and energy sectors and for metal strengthening; and

33 WHEREAS, bureaucratic delays and redundant policies have expanded the
34 time frame for environmental permitting to anywhere from seven to ten years,
35 or longer, which is considerably longer than other countries with comparable
36 environmental standards; and

37 WHEREAS, modern regulations require that companies set aside adequate
38 financial assurances to cover the cost of environmental cleanup, ensuring
39 that reclamation is completed; and

40 WHEREAS, once approved, the Stibnite Gold Project will provide a \$1 bil-
41 lion investment in Idaho, including upgrades to public infrastructure such
42 as roads and power lines in rural Idaho. The project will provide approx-
43 imately 1,000 well-paying direct and indirect jobs to Idahoans, and expand

1 the economy with more than \$40 million in direct annual payroll during oper-
2 ations and hundreds of millions in federal, state and local taxes over the
3 life of the project. This will be an economic boon to the people and busi-
4 nesses of the great State of Idaho, where rural communities have been hard-
5 hit over recent decades; and

6 WHEREAS, over the last seven years, Midas Gold Idaho's involvement in
7 the community, commitment to building a mine that will help the community and
8 the environment, and dedication to being a partner with local communities
9 proves they are the right team to undertake this project.

10 NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular
11 Session of the Sixty-fourth Idaho Legislature, the House of Representatives
12 and the Senate concurring therein, that the State of Idaho supports actions
13 by the U.S. Forest Service and other federal agencies, in partnership with
14 agencies of the great State of Idaho and Valley County, to move forward to
15 approve the Stibnite Gold Project in a timely and cost-effective manner to
16 permit the redevelopment and restoration of the site.

17 BE IT FURTHER RESOLVED that we believe Midas Gold Idaho's commitment to
18 mining in a way that restores and protects the environment will serve as a
19 global template for responsible, sustainable and successful mining prac-
20 tices.

21 BE IT FURTHER RESOLVED that the federal government agencies commit ad-
22 equate, experienced and knowledgeable personnel and sufficient financial
23 resources to complete the review under NEPA and other laws and regulations
24 as expeditiously as possible, while ensuring compliance with those laws and
25 regulations.

26 BE IT FURTHER RESOLVED that the Chief Clerk of the House of Represen-
27 tatives be, and she is hereby authorized and directed to forward a copy of
28 this Memorial to the President of the United States, the Secretary of Agri-
29 culture, the Secretary of the Interior, the Administrator of the Environmen-
30 tal Protection Agency, and to the congressional delegation representing the
31 State of Idaho in the Congress of the United States.