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**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF IDAHO**

IN THE MATTER OF AIR QUALITY	)	
PERMIT TO CONSTRUCT P-2019.0047	)	
_____	)	Agency Case No. 0101-22-01
	)	
NEZ PERCE TRIBE, IDAHO	)	OAH Case No. 23-245-01
CONSERVATION LEAGUE, and SAVE	)	
THE SOUTH FORK SALMON	)	<b>PETITIONERS’ MOTION FOR</b>
	)	<b>SUMMARY JUDGMENT</b>
Petitioners,	)	
	)	
v.	)	
	)	
IDAHO DEPARTMENT OF	)	
ENVIRONMENTAL QUALITY,	)	
	)	
Respondent,	)	
	)	
and	)	
	)	
PERPETUA RESOURCES IDAHO,	)	
INC.	)	
	)	
Intervenor.	)	
_____	)	

Pursuant to IDAPA 58.01.23, Idaho Rule of Civil Procedure 56, and the January 19, 2023 Scheduling Order in this matter, Petitioners Nez Perce Tribe, Idaho Conservation League, and Save the South Fork Salmon move for the Hearing Officer to enter summary judgment in Petitioners' favor on the claims in First Amended Petition to Initiate Contested Case: Air Quality Permit to Construct P-2019.0047 (Jun. 17, 2022), challenging the Idaho Department of Environmental Quality's issuance of a permit to construct (the "Permit") to Perpetua Resources Idaho, Inc. for the Stibnite Gold Project.

Summary judgment is appropriate, as the claims involve no genuine dispute of material fact, and Petitioners are entitled to judgment as a matter of law.

This Motion is supported by the accompanying: Petitioners' Opening Brief in Support of Motion for Summary Judgment; the Declaration of Bryan Hurlbutt; and Exhibits 1-14 to the Hurlbutt Declaration. This Motion is also supported by the pleadings and files before the Hearing Officer.

WHEREFORE, Petitioners respectfully request the Hearing Officer grant this Motion for Summary Judgment, enter judgment in Petitioners' favor, and set aside and remand the Permit to DEQ.

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Dated this 14<sup>th</sup> day of April, 2023.

Respectfully submitted,

/s/ Bryan Hurlbutt

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/s/ Julia S. Thrower

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 14, 2023, a true and correct copy of the **Petitioners’ Motion for Summary Judgment, Petitioners’ Opening Brief in Support of Motion for Summary, and Declaration of Bryan Hurlbutt** was served on the following:

Dylan B. Lawrence Varin Thomas, LLC 242 N. 8th St., Suite 220 Boise, ID 83702 (208) 345-6021 <a href="mailto:dylan@varinthomas.com">dylan@varinthomas.com</a> <i>Hearing Officer</i>	<u>Via:</u>  Email: [x] Fax: [ ] CM/ECF: [ ] Hand Delivery: [ ] U.S. Mail: [ ]
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Paula Wilson <a href="mailto:paula.wilson@deq.idaho.gov">paula.wilson@deq.idaho.gov</a> <i>Hearing Coordinator</i>	<u>Via:</u>  Email: [x]
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*/s/ Bryan Hurlbutt*  
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