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Attorneys for Nez Perce Tribe and Idaho Conservation League

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

IN THE MATTER OF AIR QUALITY)
PERMIT TO CONSTRUCT P-2019.0047)

Agency Case No. 0101-2201

OAH Case No. 23-245-01

_____)
NEZ PERCE TRIBE, IDAHO)
CONSERVATION LEAGUE, and SAVE)
THE SOUTH FORK SALMON,)

**DECLARATION OF JONATHAN
OPPENHEIMER**

Petitioners,)

v.)

IDAHO DEPARTMENT OF)
ENVIRONMENTAL QUALITY,)

Respondent,)

and)

PERPETUA RESOURCES IDAHO,)
INC.)

Intervenor.)
_____)

I, JONATHAN OPPENHEIMER, state and declare as follows:

1. My name is Jonathan Oppenheimer. I live in Boise, Idaho and am over 18 years of age. The following statements are based on my personal knowledge, and if called as a witness, I would and could testify thereto.

2. I have worked at Idaho Conservation League (ICL) since April 2002. I currently work as External Relations Director at ICL. I have also been a member of ICL, since at least 2001, before joining the staff of the organization.

3. Since 1973, ICL has worked to protect Idaho's environment. ICL is Idaho's largest state-based conservation organization with over 25,000 supporters. ICL's mission 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 main office is in Boise. ICL has field offices in Sandpoint, McCall, and Ketchum.

4. Since ICL's founding, advocating for responsible mining practices has been central to ICL's mission. As part of our work at ICL, my colleagues and I regularly review and evaluate mining proposals and permits for consistency with federal, state, and local regulations and laws. We submit comments on state and federal mining proposals, reclamation plans, administrative rules, and during associated public input opportunities. We have been involved in efforts to promote restoration of abandoned mines, have developed cooperative restoration and mitigation proposals with mining companies, and have engaged in litigation to ensure compliance with existing laws and regulations in order to minimize the negative impacts associated with mining.

5. Of all the things I work on, I feel that mining is one of the most important because of the large-scale, lasting impact it can have on the landscape, water quality, air quality, fish,

wildlife, and communities. One of the primary ways we work to achieve our mission is through participating in the public review and comment process for mining and mineral exploration projects on National Forest lands and other public lands, such as the Stibnite Gold Project.

6. ICL has been engaged in the Stibnite Gold Project for over a decade, since Perpetua's predecessor Midas Gold was conducting exploration at the site. ICL has remained engaged in the Stibnite Gold Project, which has become an organizational priority and is of great concern to our members. Among other activities, ICL has regularly met with Midas Gold and Perpetua staff, contractors, and investors, as well as with state and federal agency officials, tribal members, and journalists concerning the Project. ICL has engaged in public processes for the Project's permitting, including by submitting comments to the Forest Service.

7. ICL has also been engaged in Idaho DEQ's air permitting process for the Stibnite Gold Project. Among other activities, ICL submitted comments to DEQ in October and November of 2020, March of 2021, and March of 2022. These comments have been instrumental in correcting permitting errors within draft permits.

8. Not only is the Stibnite Gold Project important to me professionally; it also important to me personally.

9. My family and I regularly visit the South Fork Salmon River (SFSR) drainage, including the East Fork of the SFSR. I have visited and recreated in and near the East Fork SFSR drainage every summer for more than a decade. My daughters love and appreciate the East Fork SFSR so much that they developed a song about the river. I have explored the surrounding areas, including Riordan Lake, which we visited as a family. I have also camped at Riordan Lake on my own in the past and look forward to returning. We have also rented and stayed at the Johnson Creek Guard Station, where we have adventured into the surrounding mountains.

10. Among other visits to the area, in 2021, I hiked up Sugar Creek with my dogs, off Forest Road #374. I parked near the junction of Sugar Creek and the main Stibnite Road, and I enjoyed visiting the site, picnicking along the creek, walking with my dogs, and birdwatching.

11. During the summer of 2022 my wife, one of my daughters, and I camped in the Old East Fork Road campground, just downstream of Yellow Pine. On that trip, we visited the East Fork SFSR area and enjoyed swimming, hiking, huckleberry picking, and watching wildlife.

12. The East Fork SFSR drainage is special to me and my family, and we look forward to returning every year and enjoying the fresh air, public lands, clean waters, and environment of the area.

13. This summer, we plan to visit the East Fork SFSR drainage. Once again, we plan to camp at the Old East Fork Road Campground and stay at the Johnson Creek Guard Station. I look forward to exploring the area with my family, fishing in Johnson Creek and the East Fork SFSR, and visiting the Stibnite area.

14. I have reviewed the Permit to Construct DEQ issued to Perpetua for the Stibnite Gold Project as well as DEQ's Statement of Basis, ICL's public comments, and Petitioners' filings in this contested case.

15. I am concerned about the air pollution the proposed gold mine would emit and the adverse health effects to my family and me. I have suffered from allergy and exercise induced asthma since I was a child. I regularly use an albuterol inhaler to manage my asthma. Any amount of additional particulate matter (PM) makes air less healthy to breathe. Recent studies on the nature of PM concentrations and their health effects back up previous studies and provide support for a no-threshold relationship between PM exposure and several respiratory and

cardiovascular effects, and mortality, meaning any concentration of PM can have negative health effects.¹ These health risks from increased particulates are even more significant for people like me, with asthma or other respiratory ailments.²

16. I am also concerned about arsenic air pollution from the Project. Inhalation of arsenic-bearing dusts have been definitively linked to increased systemic uptake, as well as carcinogenic and non-carcinogenic health outcomes.³

17. I am also concerned about particulate and arsenic pollution settling out from the air and into water. The East Fork SFSR is inhabited by native and threatened species, including Chinook salmon, steelhead trout, and bull trout. Atmospheric deposition from elevated heavy metal concentrations has been well studied to increase concentrations in nearby water-ways.

18. The Stibnite Gold Project will degrade the clean air we breathe, the fish and bird life we enjoy, and the public lands we love when my family and I (and other ICL members) visit the SFSR watershed, especially in the East Fork. If the Stibnite Gold Project is approved, traveling through and recreating in the area will harm me and my family by exposing us to increased levels of PM and arsenic in the air, putting our health at risk. I am concerned that we will not enjoy the area as we have in the past, including because I will have to restrict my activities due to the heightened health risks I face with exercise-induced asthma. I also worry that the environment will be degraded by this increased air pollution. And I worry that we may not be able to visit the area at all in order to protect our health.

¹ See Exhibit A (attached and excerpted), U.S. EPA. Integrated Science Assessment (ISA) for Particulate Matter (Final Report, Dec 2019). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R-19/188, 2019 (available at <https://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=347534>).

² See *id.*, p. 1-1.

³ See Exhibit B (attached), Martin, R.; Dowling, K.; Pearce, D.; Sillitoe, J.; Florentine, S. Health Effects Associated with Inhalation of Airborne Arsenic Arising from Mining Operations. *Geosciences* 2014, 4, 128-175 (available at <https://doi.org/10.3390/geosciences4030128>).

I declare under of penalty of perjury that the foregoing is true and correct.

Dated this 6th day of June 2023, at Boise, Idaho.

/s/ Jonathan Oppenheimer
Jonathan Oppenheimer