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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)
_____)

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

Petitioners,)

v.)

IDAHO DEPARTMENT OF)
ENVIRONMENTAL QUALITY,)

Respondent,)

and)

PERPETUA RESOURCES IDAHO,)
INC.)

Intervenor.)
_____)

Agency Case No. 0101-2201

OAH Case No. 23-245-01

**DECLARATION OF EMMIT
TAYLOR JR.**

I, EMMIT TAYLOR, JR., state and declare as follows:

1. My name is Emmit Taylor, Jr. I am a resident of Lapwai, 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 am an enrolled member of the Nez Perce Tribe (“Tribe”), a federally recognized tribe, and am the Director of the Tribe’s Department of Fisheries Resources Management (“DFRM”), Watershed Division. I hold a Bachelor of Science Degree in Civil Engineering from Colorado State University and a Master of Natural Resources Degree from the University of Idaho.

3. I grew up on my family’s land on the Nez Perce Reservation in north-central Idaho.

4. Since time immemorial, members of the Nez Perce Tribe have used and enjoyed their aboriginal lands, which include portions of the present-day states of Idaho, Oregon, Washington, and Montana and the Columbia and Snake River basins.

5. My family continuously engaged in Nez Perce culture and the exercise of Nez Perce treaty-reserved hunting, gathering, and fishing rights throughout our aboriginal homeland, including in the South Fork Salmon River (“SFSR”) watershed.

6. I have direct oral knowledge of my family’s history in the SFSR watershed—a history that traces back to time immemorial. My family has countless stories, passed down through enumerable generations, of using the SFSR watershed to gather, hunt, and, mostly, fish. My late uncle, Elmer Crow, described to me how our family annually traveled throughout our aboriginal territory for a three- to five-month fishing and gathering journey. Each year’s journey

ended on the SFSR. My grandpa, Ron Oatman, taught me the Nez Perce names for rivers and locations in the SFSR watershed and their place and use in traditional Nez Perce culture. My dad, Emmitt Taylor, Sr., and my uncle, Dave Penney, have also shared with me countless stories of my family fishing in the SFSR watersheds streams, including the East Fork SFSR (among others), as well as fishing in Big Creek, which is accessed via the East Fork SFSR.

7. This heritage is who I am and its importance to me and my family cannot be overstated. I continue to take my family to the SFSR area on an annual basis. We hunt, gather, and, most importantly, fish in order to express our culture and identity and connect to our history, ancestors, and the land and rivers themselves. These practices are the heart of who we are as Nez Perce people and are vital to our health and well-being.

8. Today, my family and other Nez Perce Tribal members typically fish in the SFSR and its tributaries from mid-June through August. The SFSR tributaries my family and other Nez Perce Tribal members seasonally fish include the Secesh River, Lick Creek, Johnson Creek, and East Fork SFSR. While there, we also gather our traditional food and medicine.

9. I have personally engaged in treaty fishing within the boundaries of the proposed Stibnite Gold Project (“SGP”). I have fished for steelhead and bull trout which are culturally significant species to the Tribe. My family and I also plan to engage in treaty fishing, hunting, and gathering within and adjacent to the proposed SGP area in the future. I am very concerned about the adverse effects resulting from Idaho Department of Environmental Quality’s issuance of the air permit for the proposed SGP on my family’s ability to safely exercise our treaty rights in, and use and enjoy, the area. My understanding is that the SGP would generate air pollutants, including dust with arsenic, that are unhealthy to breathe. This air pollution also reduces

visibility which impairs my cultural and ceremonial practices and reduced my enjoyment of these special places. I am also deeply concerned that the arsenic can enter waterways and soil in the area and adversely affect culturally-significant fish and wildlife and the habitat on which those treaty resources depend. Dust with arsenic can also collect on, and can adversely affect, culturally-significant plants and medicines that my family and I gather in the area and use for cultural, subsistence, ceremonial, and spiritual purposes.

10. In addition to personally exercising treaty rights and using and enjoying the area, I also honor my heritage through my professional work as Director of the Tribe's Fisheries Department, Watershed Division.

11. The Tribe established DFRM in the early 1980s after the federal courts acknowledged the Tribe's role as a co-manager of its fisheries. Since then, DFRM has devoted substantial time, effort, and resources to recovering and sustaining the Tribe's fishery. Today, the Tribe's Fisheries Department is one of the largest and most successful tribal fisheries programs in the United States with six divisions (Administration, Conservation Enforcement, Harvest, Production, Research, and Watershed), 180 employees, and an annual budget in excess of \$24 million. The Fisheries Department works throughout north-central Idaho, northeastern Oregon, and southeastern Washington, with funding primarily provided by the Bonneville Power Administration, to mitigate for the harm caused to anadromous fish by the Columbia River Basin hydropower system.

12. DFRM established an office in McCall, Idaho, in the mid-1990s to maintain the Nez Perce Tribal fishery in the SFSR watershed due to its cultural and biological significance to the Tribe and to Chinook salmon recovery in Idaho. DFRM currently expends \$2.79 million

annually in the SFSR watershed on hatchery supplementation, fishery research, and habitat restoration.

13. Among other production and research projects, DFRM biologists in McCall have conducted a unique, long-running study that provides information on the effects of using a hatchery supplementation program to increase a naturally spawning population of fish listed under the ESA. DFRM staff trap and spawn natural/wild-returning salmon in Johnson Creek, a tributary of the East Fork SFSR, to provide the eggs, which are reared to smolts at the McCall Fish Hatchery. DFRM biologists then release approximately 130,000 smolts back into Johnson Creek each year. DFRM monitors these juvenile releases to determine their survival through various stages of their journey out to the ocean and back to spawn. Returns are compared with non-supplemented fish to determine genetic, behavior, and morphological differences in an effort to evaluate how the use of a hatchery affects, and whether a hatchery can be a benefit to, a natural spawning population.

14. Each year, DFRM staff also collect Pacific lamprey from downriver dams, hold them at the Tribe's hatchery on the Clearwater River until the spring, and then release them to spawn in various tributaries within the Tribe's aboriginal territory, including the SFSR, to ensure their continuing presence in these streams. DFRM also moves some Chinook salmon above the fish passage blockage created by the legacy mine pit, known as the Glory Hole, at the historical Stibnite mine site to spawn. The resulting juvenile production from above the Glory Hole helps boost overall returns to the SFSR.

15. I have worked for DFRM, Watershed Division since 1996 and have been the Director for the last twelve years. As Director, I am responsible for developing and

implementing a regional aquatic ecosystem restoration and protection program for anadromous and resident fish habitat. As part of this work, I direct the Tribe's efforts to protect and restore aquatic ecosystems within the SFSR watershed.

16. DFRM Watershed Division first began working out of the McCall Fisheries Department office in 2007, when it applied for, and received, a grant for the specific purpose of reestablishing fish passage in the East Fork SFSR above the Glory Hole and of rehabilitating one mile of spawning habitat above the Glory Hole, in the headwaters of the East Fork SFSR.

17. Unfortunately, the McCall Fisheries Watershed Division was unable to complete this work. Before the Tribe could begin restoring fish passage, the private land owner of the Glory Hole reach of the East Fork SFSR entered into a lease-to-purchase option with Perpetua Resources' predecessor corporations. The Tribe was then told that it could not move forward with the project because of the possibility of re-opening a mine. Consequently, the McCall Fisheries Watershed Division moved its restoration efforts to other parts of the SFSR watershed.

18. Since 2007, DFRM Watershed Division has been able to complete numerous aquatic ecosystem restoration and protection projects in conjunction with the U.S. Forest Service, Idaho Department of Fish and Game, and private landowners. The Watershed Division has planted over 8,000 plants, removed nine fish passage barriers (opening 46 miles of blocked salmon habitat), decommissioned 214 miles of road, and improved 26.7 miles of road to reduce sediment in the SFSR that is detrimental to fish species listed under the federal Endangered Species Act.

19. In addition to this on-the-ground restoration and protection work, DFRM Watershed Division also critically evaluates and comments on other activities proposed within

the Tribe's aboriginal territory that may negatively affect the health of the aquatic ecosystem, undermine DFRM's work in the SFSR watershed, and/or harm the Tribe's treaty-reserved rights and resources and its members.

20. The proposed SGP is currently the biggest ecological threat to the SFSR watershed. The proposed mining activities under the SGP could undermine the Tribe's fisheries and fishery restoration work by degrading or polluting the East Fork SFSR and SFSR, as well as upland terrestrial habitat. Consequently, DFRM Watershed Division, along with Tribe's Cultural Resources Program, Wildlife Department, Water Resources Department, and Air Quality Program have been deeply engaged in review of the SGP. Throughout the process, the Tribe has submitted numerous written comments to federal and state permitting agencies, including written comments to Idaho Department of Environmental Quality on October 12 and November 10, 2020, March 8, 2021, and March 14, 2022. The Tribe has also engaged extensively in staff-to-staff meetings, many of which I participated in personally, and convened government-to-government consultations with federal permitting agencies.

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

Executed this 6th day of June 2023, at Lapwai, Idaho.

/s/ Emmitt Taylor, Jr.
Emmitt Taylor, Jr.