



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
WATER AND WATERSHEDS

EPA Involvement in the Stibnite Gold Project

What is EPA's role in the Stibnite Mine Project?

NPDES Permit

The proposed Stibnite Gold Project involves discharges to waters of the United States, which is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit issued under Section 402 of the Clean Water Act (CWA). Midas Gold plans to apply to EPA for an NPDES permit for the project. EPA is currently the NPDES permitting authority in Idaho.

Cooperating Agency

EPA is participating as a cooperating agency in the development of the Environmental Impact Statement (EIS) for the proposed Stibnite Gold Project.

EPA NEPA Compliance and Cooperating Agency

EPA's issuance of an NPDES permit for the project is considered a major federal action subject to compliance with the National Environmental Policy Act (NEPA). Prior to issuing a permit for the project EPA must comply with NEPA. As a cooperating agency, EPA will work closely with the Forest Service to ensure the EIS contains the necessary information for us to adopt it in support of our decision-making process for issuance of a NPDES permit for the project. EPA will issue its own Record of Decision at the conclusion of the NEPA process.

NEPA 309 Review

Pursuant to Section 309 of the Clean Air Act, EPA has an independent obligation to review, comment and rate other federal agencies EIS's. EPA retains this responsibility despite being a cooperating agency and having a NEPA compliance obligation of our own. EPA will review, comment and rate the draft EIS in accordance with our EIS Rating System Criteria, which can be found here: <https://www.epa.gov/nepa/environmental-impact-statement-rating-system-criteria>

404 Oversight

Section 404 of the CWA authorizes the Army Corps of Engineers to issue permits for the discharge of dredged or fill materials into waters of the U.S. EPA provides regulatory oversight of the 404 program and, under Section 404(c), may prohibit or withdraw the specification (permitting) of a site upon a determination that the use of the site would have an unacceptable adverse effect on municipal water supplies, shellfish beds and fisheries areas, or recreational areas.

Spill Prevention, Control, and Countermeasure Plan (SPCC)

Section 311 of the CWA establishes requirements relating to discharges or spills of oil or hazardous substances. Discharges or spills of oil in "harmful quantities" are prohibited. EPA has established a requirement for the preparation of an SPCC Plan by facilities that handle substantial quantities of oil (40 CFR 112; >1,320 gallons above ground or >42,000 below ground). A registered engineer must certify the plan.

Multi-Sector General Permit for Industrial Activities

Stormwater discharges associated with industrial activities in the State of Idaho are required to obtain coverage under EPA's multi-sector general NPDES permit. Midas Gold intends to obtain coverage under the MSGP for the proposed project.

Construction Stormwater General Permit

Stormwater discharges associated with construction sites greater than one acre in the State of Idaho are required to obtain coverage under EPA's construction stormwater general permit. The proposed project has received coverage for exploration activities at the site and will retain coverage during construction of the proposed project.

Hazardous Waste Generator Identification Number

Under the Resource Conservation and Recovery Act (RCRA), an entity that generates hazardous wastes must register and receive an identification number before commencing operations.

What about Idaho's application to administer the NPDES permitting program in the state?

Idaho is currently one of only four states for whom EPA still administers the NPDES Program. In 2014, the Idaho Legislature approved legislation directing the Idaho Department of Environmental Quality (IDEQ) to seek state delegation of the NPDES Program. Under the

current transfer schedule, Idaho will assume primacy/jurisdiction for the industrial sector (including mining) on July 1, 2019, after which EPA will no longer have jurisdiction to issue an NPDES permit for the project. The current NEPA schedule has the final EIS complete by the Spring of 2019. If the NEPA and IPDES transfer schedules are maintained EPA will issue the NPDES permit for the project. If the NEPA schedule slips and the State of Idaho achieves primacy over the industrial sector prior to the NEPA process being complete, Idaho will issue the NPDES permit for the project. In light of the timing issue, EPA and IDEQ will coordinate and work closely on the development of the NPDES permit for the project.

How is EPA's NPDES permitting process coordinated with the NEPA/EIS process?

To the extent possible EPA tries to coordinate and align the NPDES and NEPA/EIS schedules. Upon receipt of an application, EPA will work with IDEQ to draft an NPDES permit while the draft EIS is being developed. EPA will work closely with the Forest Service so the impacts of EPA's proposed action—issuance of an NPDES permit for the project—are adequately considered in the EIS.

EPA intends to public notice and seek comment on the draft NPDES permit at the same time as the public notice and comment period for the draft EIS.

EPA intends to issue its own Record of Decision at the conclusion of the EIS process.

What about government-to-government Tribal consultation?

Pursuant to Executive Order 13175, EPA has an independent responsibility to consult with Tribal governments that may be impacted by our proposed action. EPA will reach out to interested tribal governments after receipt of an NPDES application.

What about Endangered Species Act (ESA) and Essential Fish Habitat (EFH) consultation?

Pursuant to ESA Section 7 and the Magnuson-Stevens Fisheries Conservation and Management Act, if EPA is the NPDES permitting authority for the proposed project we will consult with the US Fish and Wildlife Service and National Marine Fisheries Service on the impacts of our proposed action on ESA-listed species and essential/critical habitats prior to taking final permit action.

For additional information contact Stibnite Project Manager Lynne Hood at hood.lynne@epa.gov or (208)-378-5757, or NEPA Compliance Coordinator Jamey Stoddard at stoddard.jamey@epa.gov or (206)-553-6110.