



February 15, 2024

Kathleen Steele
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Certified Mail: 70221670000217887365

RE: South Railroad Mine Project Meeting January 18, 2024

Dear Ms. Steele:

Thank you for meeting with Glenn King and me via Microsoft Teams on January 18, 2024. As discussed in that meeting, Gold Standard Ventures ("GSV"), a subsidiary of Orla Mining, requests to have the South Railroad Mine Project (the "Project") Debit Habitat Quantification Tool ("HQT") Calculators verified under Conservation Credit System ("CCS") Manual Version 1.7 (January 2022).

We have compiled a table of dates and milestones below which demonstrates that GSV has been diligently working with the Bureau of Land Management ("BLM") and cooperating agencies since 2020 to comply with regulations, timelines, and deliverables associated with the National Environmental Policy Act ("NEPA") process for the South Railroad Mine Project. This table includes cooperation with the Sagebrush Ecosystem Technical Team ("SETT") to determine appropriate mitigation for the Project through the CCS.

<u>Date</u>	<u>Milestone</u>
November 1, 2020	GSV submitted South Railroad Plan of Operations and Reclamation Permit Application to BLM
December 31, 2020	BLM determined Plan of Operations application was complete and assigned casefile NVN-100107
March 24, 2021	BLM signed Memorandum of Understanding ("MOU") with GSV to formally begin environmental review of Project
July 2021	GSV selects and BLM approves consulting firm (SWCA) to manage preparation of the Draft EIS and supporting documents
September 14, 2021	BLM holds Kick-Off Meeting
September 15, 2021	BLM lists September 15, 2021 as "Project Start Date" on BLM National NEPA Register and assigns NEPA Identification Number



September 20, 2021	GSV's contracted CCS Verifier submits HQT Debit Calculator Package to SETT for the South Railroad Mine Project
January 17, 2022	SETT confirms receipt of HQT Debit Calculator Package from GSV's contracted CCS Verifier
March 2, 2022	SETT invited to inter-agency biology working group meeting; Justin Small and Dan Huser of SETT both participated.
March 2022	Project Feasibility Study completed
August 10, 2022	Bi-Weekly meetings initiated between BLM, GSV, third-party contractors, and cooperating agencies
March 2, 2023	Motion to adopt Version 1.8 fails based on Sagebrush Ecosystem Council vote
March 15, 2023	Pre-Field Submittal Packages submitted to SETT for Alternate Access Routes
March 17, 2023	Meeting between K. McGowan (SETT) and GSV to discuss development of credits on public lands
March 23, 2023	Justin Small (SETT) participates in Biology Working Group Virtual Meeting
May 12, 2023	Motion to adopt Version 1.8 fails based on SEC vote
May 19, 2023	BLM releases IM NV-2023-003 that changes Nevada NEPA protocol and associated timelines so that a portion of the document preparation and analysis occurs prior to publication of the Notice of Intent
November 1, 2023	Adoption of Version 1.8 approved by SEC vote
December 19, 2023	HQT Debit Calculator Packages for Mine, Proposed Access, and Alternate Access submitted to SETT with Version 1.7
January 8, 2023	GSV's contracted CCS Verifier re-submits HQT with requested revisions to SETT
January 9, 2023	SETT confirms via email that the HQT for the Alternate Access route is acceptable, but that the Quality Assessment ("QA") will have to wait
January 18, 2024	Virtual Meeting between G. King (Orla), D. Dwyer (Orla), K. Steele (SETT)
January 23, 2024	Version 1.8 is released to CCS Verifiers, signaling the 90-day window for projects to be approved under Version 1.7 before being subject to Version Control
February 2025	Anticipated publication of Notice of Intent to Federal Register

As demonstrated from the timeline outlined above, the BLM has been reviewing the Project under NEPA for over three years.



GSV submitted a Plan of Operations and Reclamation Permit application for the South Railroad Mine to BLM in November 2020. The Plan of Operations was determined complete by BLM and assigned casefile number NVN-100107 on December 31, 2020. At that time, BLM determined that it was necessary to prepare an Environmental Impact Statement (EIS). The BLM formally began its environmental review of the Project on March 24, 2021, when it signed an MOU with GSV, outlining the BLM and GSV's responsibilities, as well as those of the third-party contractor, in the preparation of the EIS under NEPA. As part of the MOU, GSV reimburses BLM costs associated with work on preparing the EIS. The BLM assigned the Project's BLM NEPA identification number as DOI-BLM-NV-E020-2022-0003-EIS. The BLM held a site NEPA Kick-Off Meeting on September 14, 2021, after a consulting firm (SWCA) was selected and approved to manage preparation of the Draft EIS and supporting documents. Consistent with the process BLM uses for drafting mining project EISs under 43 CFR Subpart 3809, the agency is currently working on drafts of the environmental analysis that will serve as the basis for the draft EIS. The Notice of Intent is anticipated to be published in the Federal Register in February 2025. Accordingly, GSV is well into the NEPA process for the Project despite the fact that a Notice of Intent has not been published in the Federal Register yet.

GSV's contracted CCS verifier submitted an HQT Submittal Package to the SETT on September 20, 2021. Many months of work had taken place between the Verifier and the SETT, requiring the SETT's approval at various stages of the process. SETT confirmed receipt of a GIS package and debit calculator from one of GSV's contracted CCS Verifiers (HDR) on January 17, 2022. This was an initial attempt to weigh differences in habitat impacts utilizing different mine access routes. Sagebrush Ecosystem Technical Team (SETT) representatives additionally attended an interagency biology meeting on March 2, 2022. In summary, GSV and its consultants have been working closely with SETT since 2021. While several meetings were held between GSV, the SETT, and other cooperating agencies to explore mitigation opportunities, no "shovel ready" mitigation projects have been identified.

GSV has been working diligently to develop additional credits for the Project.

The Habitat Quantification Tool ("HQT") indicates that development of the South Railroad Mine Project would result in a significant number of debits. GSV has recognized the need for mitigation throughout the development of the project and is committed to environmental stewardship. GSV has been engaged with the BLM and cooperating agencies since the submittal of our Plan of Operations to develop meaningful mitigation for impacts to Greater Sage-Grouse ("GRSG") habitat.

GSV also recognizes the limited number of credits currently available from non-mine-owned ranches and thus has been developing new credits with private landowners and investigating opportunities for uplift projects on public land.



However, development of credits on public lands is further complicated by the requirement of NEPA analysis for any actions on public lands. As is exhibited by this letter and the table above, the NEPA process takes a prolonged amount of time, which does not lend viability to public lands credit development to support this project if a portion of mitigation is required before the initiation of project construction.

Given the limited number of credits available at this time, GSV's purchase of currently-available credits from private sources would put a significant burden on the system. In fact, it could even inhibit development of other projects, as it would entirely deplete the currently available credits from non-mine-owned ranches and would significantly deplete the anticipated credit inventory (based on the CCS 2023 Performance Report).

With the reality of limited credit availability in mind, GSV has focused on developing new credits with private landowners and investigating opportunities for uplift projects on public land. Recognizing the significant number of debits necessary for the project, Kelly McGowan met with GSV on March 17, 2023. At GSV's request, SETT facilitated several interagency meetings to identify uplift opportunities on public land. This public land approach was envisioned as a viable option for project mitigation when the Nevada Conservation Credit System was adopted in 2014, since according to the Legislative Counsel Bureau, over 85 percent of the land in Nevada is public. To date, there has been discussion of restoration of fire burned areas, but these restoration projects have not gained much agency support.

The Project's debit calculators should be evaluated for quality assurance and verification under CCS Manual Version 1.7.

GSV and its contractors have diligently cooperated with the SETT and abided by published deadlines regarding the HQT analysis. The HQT Submittal Packages for the Proposed Mine and Access Route and the Proposed Mine and Alternate Access Route were submitted in accordance with these timelines and have been accepted by the SETT.

The reason cited as to why these HQTs cannot be verified under Version 1.7 is not supported through the published documents for the program. To conclude that these HQTs cannot be verified under Version 1.7 would be arbitrary and capricious.

The CCS Manual defines a "debit project" and "competing land use". Additionally, it outlines that upon a Version update, the previous Version can be used for up to 90 days past the new Version's implementation. Based on the definition in the CCS Manual Version 1.7, the South Railroad Mine Project qualifies as a "debit project". GSV's request for Quality Assurance and verification was submitted *prior* to the release of the new Version, and therefore should be verified within the 90-day window of the new Version's implementation.



The Project meets the definition of a debit project per the CCS Manual Version 1.7, page 92:

"An anthropogenic disturbance that creates a debit. A debit project qualifies as competing land use when the debit project signs and submits the Debit Review Form to the SETT with proof of the start of NEPA (e.g., project initiation form) or state equivalent on state-owned land."

The Project is an anthropogenic disturbance that creates a debit, as it is a proposed mining operation in GRSG habitat. BLM clearly began the NEPA process for the Project in 2021, almost three years ago, when the BLM held a Kick-Off Meeting, assigned a NEPA Identification Number to the Project, and listed the "Start Date" for the Project on the Federal Register. The BLM executed an MOU with GSV to reimburse costs and outline roles and responsibilities, deemed the detailed Plan of Operations as submitted, and determined the Project will need EIS-level review. Biweekly meetings between BLM, GSV, the third-party contractor (SWCA) and cooperating agencies have been occurring since August 10, 2022.

During the Microsoft Teams meeting on January 18, 2024, you indicated that NEPA had not begun since a Notice of Intent had not been published in the Federal Register. This interpretation is not consistent with the CCS Manual Version 1.7 language or NEPA. The CCS Manual language does not define the "start of NEPA" by tying that action to the publication of a Notice of Intent. In fact, it does not define the term at all. The "proof of start of NEPA" is made clear within this letter—NEPA began in 2020 when the BLM evaluated the Project's proposed Plan of Operations under 43 CFR Subpart 3809 and determined that an EIS would need to be prepared. Nowhere in the published documents for the Conservation Credit System Version 1.7 or prior, does the program define the start of NEPA as the issuance of a Notice of Intent. The definition of a "debit project" was updated in CCS Manual Version 1.8 to define the start of NEPA as a filing of the Notice of Intent for EIS or public notice initiating public comment for an EA.

The SETT cannot impose an interpretation of language that is not made clear in writing in the published CCS documents, cannot retroactively impose a new definition, and Project Proponents cannot be penalized for the SETT's oversight in not clearly defining a term or process in any prior written program document.

The environmental review process under NEPA begins well before the publication of a Notice of Intent; the BLM must review the proposed plan of operations, evaluate its anticipated impacts to determine what level of environmental review is necessary, work with the project applicant to develop a memorandum of understanding, numerous detailed Supplemental Environmental Reports, consult other agencies, etc. All these activities occur before the *environmental document preparation process*, which is begun by



the Notice of Intent, but are still part of and critical to the NEPA review process.¹ To choose the Notice of Intent as the “start of NEPA” where the written, published CCS documents do not make that distinction is inaccurate and arbitrary. That interpretation additionally ignore BLM’s extensive NEPA process under 43 CFR Subpart 3809.

Debit Project Review Forms were included with each iteration of the HQT that have been submitted to the SETT. GSV has previously provided SETT with proof that NEPA has begun, and therefore the Project constitutes a debit project; additional proof is included herein to bolster this conclusion.

The Project was originally initiated under Version 1.6 and has met all stated deadlines and requirements to be verified under Version 1.7.

The CCS Manual provides clear guidance on page 20 which Version of the manual shall be used, specifically if an update is approved:

Debit calculations and mitigation provisions for a debit project must be based on the current Version(s) of the CCS Manual and HQT. Specifically, the QA must be completed and signed by the Administrator using a) the most recent Version of the CCS Manual and HQT posted on the CCS website on the date of submittal, or b) the previous Version of the CCS Manual and HQT if the current Version of the CCS Manual and HQT was posted less than 90 days prior to the date of the signed QA.

GSV submitted its debit calculators for the Project on December 19, 2023, and responded to SETT requests for revisions through January 10, 2024. At that point, the SETT expressed concurrence via e-mail that these submissions were acceptable based on their review, but that they would not verify those findings under the current Version 1.7. These submissions and communications all took place prior to the release of the new CCS Version 1.8 on January 23, 2024, clearly evidencing that the Project had the full 90-day window to be reviewed and verified before being subject to Version 1.8.

Further, to the extent that SETT attempts to argue that the new Version 1.8 specifically identifies the Notice of Intent as the benchmark for when a project qualifies as a debit project and can receive verification and QA, the SETT may not apply that provision retroactively. If anything, that change from Version 1.7 to Version 1.8 shows that SETT could have used the phrase “Notice of Intent” if that was what it meant by “start of NEPA,” but did not do so. Accordingly, this alteration in language between versions

¹ The environmental document preparation process would have begun by now, but the Notice of Intent Federal Register publication packet was placed on hold by BLM to evaluate the impacts of 2023 changes in Nevada’s NEPA procedures under a new Instructional Memorandum.



shows that Version 1.7's reference to "start of NEPA" means something other than the publication of the Notice of Intent in the Federal Register.

The Project's economic feasibility was based on the prior Version of the HQT.

Mining projects require millions of dollars of capital investment and years of study and planning to develop. This kind of investment requires some degree of permitting and economic certainty. GSV and its consultants have been working with SETT to generate baseline data on GRSG populations in the Project area for nearly 3 years. Debit cost estimates from this data were used to estimate credit purchase costs when the project feasibility study was completed in the Spring of 2022.

GSV has invested millions of dollars in exploration, project design, and permitting. GSV proceeded with permitting the Project by factoring in the cost of credits under the HQT in its feasibility analysis. However, after two prior failed motions in March and May 2023, revisions to the HQT were approved in the Sagebrush Ecosystem Council ("Council") meeting on November 1, 2023.

The potential financial and economic implications of the HQT changes to the Project, as shown on SETT's "Mine 2" example and GSV's own quantification efforts, are substantial. The estimated impact increases the required credits for mitigation from approximately 13,000 to over 25,000. The current market rates for credit purchases range from \$2,000 - \$3,000 per credit. The HQT changes would result in a \$24M- \$36M increase from previous estimates for mitigation. The total estimated capital investment for the project is approximately \$200M. The significant changes in sage grouse mitigation alone represent an increase to the capital investment of 12%-18%.

The language in the CCS Manual Version 1.8 is inconsistent with the Nevada State BLM process.

As discussed above, GSV has been engaged with the BLM since 2020. As part of these engagements the BLM has advised that it will require additional certainty on sage grouse mitigation prior to publishing the Notice of Intent in the Federal Register. By requiring GSV to have the Notice of Intent published in the Federal Register before verifying the debit calculations for the Project, SETT is creating a regulatory death spiral. Version 1.8 of the CCS Manual ensures that GSV will not be able to provide certainty to the BLM on sage grouse matters in order to have the Notice of Intent published. This new language provides GSV with no practicable solution to advance permitting for the Project, further support that such an interpretation is arbitrary and capricious.



Denial of GSV's request for verification under CCS Manual Version 1.7 is arbitrary and capricious.

SETT's refusal to provide verification under CCS Manual Version 1.7 is arbitrary and capricious. GSV has clearly met the criteria of providing its debit calculators for verification in a timely fashion for evaluation under CCS Version Manual 1.7, and SETT has refused based on an interpretation of the manual's language that is not supported by the plain text or facts.

GSV urges you to reconsider your interpretation of the CCS Manual and provide the requested verification of the Project under CCS Manual Version 1.7. GSV requests a formal, written response to this letter no later than February 23, 2024.

We appreciate your consideration and are hopeful we can work with you to achieve a workable and meaningful mitigation strategy for our Project. Please contact me directly with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "DDwyer".

Donald Dwyer
General Manager
Orla Mining
Gold Standard Ventures (US) Inc., South Railroad Project

Cc: DCNR Director James Settelmeyer
Governor's Chief of Staff Ryan Cherry