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Petition And Motion To Nevada County For A Status Conference, For Due Process For These And Other Objections, And To Clarify Issues, Rules, And Procedures For This And Other Oppositions To Rise Grass Valley, Inc.'s Vested Rights Petition Dated September 1, 2023, (the "Rise Petition"), Based on These Illustrative, Preliminary Rebuttals (herein this "Objectors Petition") aka "Part 2".

I. Introductory Comments And Request For a Status Conference And Other Relief To Facilitate Objections By Objectors, Especially Those With Special Standing For Our Comprehensive Disputes Regarding Rise's Vested Rights Petition, Including Clarifying Evidentiary And Legal Issues, Procedures, And Rules In This Administrative Process.

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(i) Some Rise Provocations And Disputed Claims Against Objectors To Consider AS PRIORITIES Before the Hearing.

This "**Objectors Petition**" is provoked by various claims below both in the disputed Idaho-Maryland Mine Vested Rights Petition dated September 1, 2023 (the **"Rise Petition")** and in Rise's new **"2023 10K**" SEC filing dated October 30, 2023. E.g., **Exhibit A #II.B.25 (asserting nonexistent surface rights on objecting surface owners' property to support Rise's underground mining beneath our homes and businesses in the 2585-acre underground IMM.**

Those require relief from the County sufficiently in advance of the Board hearing on December 13, so that objectors can improve their more comprehensive objections to come and better counter Rise's expected "additions" at the hearing when we precluded from rebutting them. See, e.g., the record objections to such Rise's tactics when it expanded and changed its EIR positions after DEIR or EIR objection deadlines. Objectors are concerned that the disputed County procedural rules limiting the scope or content of objections (e.g., deferring various issues, such as Rise reclamation plan and financial assurances disputes that are at the core of any vested rights claim, and also require their own vested rights) can again be exploited by Rise.

For example, since our objections must be filed before the hearing, but Rise is allowed ample opportunity during the hearing to change and supplement its disputed vested rights claims (as Rise did at the DEIR and EIR hearings at the Planning Commission, objectors need both (i) greater clarity before our objection deadline, and (ii) our own fair chance to supplement our rebuttals to such Rise changes and supplements after that hearing. Three minutes per person is not a sufficient, due process, rebuttal opportunity, even just to identify what disputed things Rise has so added at the hearing. See also objectors' "Idaho-Maryland Mine Vested Rights Petition Disputes: Objectors' Rebuttal (Part 1) To the Vested Rights Petition of Rise Grass Valley, Inc." (which petitioner is herein, together, as applicable, with Rise Gold Corp., is called **"Rise")** dated November 14, 2023, [herein called the **"Evidence Objection Part 1"].** That companion objection rebutted Rise Petition's, vested rights' historical Exhibits 1-307, sometimes using such Exhibits' admissions both (i) to counter Rise's claims, and (ii) as a foundation for selected, objector legal or evidentiary rebuttals. That **"**Evidence Objection Part 1**"** includes **Exhibit A** (also attached again hereto) and other **Attachments** that are all incorporated and used herein (and vice versa). This "Objectors Petition" is referred to therein as its companion "**Objectors Petition For Pre-Trial Relief, Etc."**

The need for greater clarity is increased by this simple fact: the Rise Petition not only is contradicted by, and in conflict with, (i) its own Exhibits and such 2023 10K and other SEC filings as exposed in such Exhibit A hereto, but also with (ii) the EIR/DEIR and governmental applications for permits and approvals exposed in Evidence Objection Part 1. Such contradictions and inconsistencies themselves are self-defeating for Rise as proven in the law of evidence in such Evidence Objection Part 1, citing many cases like *Hardesty* and especially **Communities for a Better Environment v. City of Richmond** (2010), 184 Cal.App.4th 70, ("**City of Richmond"** or "**Richmond v. Chevron"),** where such contradictions and inconsistencies in Chevron's SEC filings defeated any relief for Chevron in its EIR etc. applications. Hundreds of objectors cannot possibly organize themselves to respond sufficiently to such Rise additions "on the fly" at the hearing. Indeed, since no objector at the hearing can know what anyone else would say in rebuttal, comprehensive and coherent rebuttals from hundreds of such three-minute commentators seem unlikely. While "the public" may collectively have time proportionate time, that is not a fair comparison to Rise's pre-planned surprise presentation of new claims and data by one or two Rise spokespeople. Even legislators have that same problem in debates, which is why individual legislators can allocate part of their time to better-informed or specialized other allies for a more coherent rebuttal on behalf of a like-minded group. A similar arrangement could be arranged in this case, such as where one objector could present a signed document in which other objectors transferred some or all of their three minutes times to him or her for such a consolidated presentation on behalf of that allied group.

Since each of the objectors is entitled to full due process for a comprehensive response as equal parties in such a vested rights dispute, as demonstrated herein (e.g., *Calvert),* allowing objectors to unify in such a traditional manner is the only practical way to avoid such divide-and-conquer tactics incorrectly favoring Rise, as it has already exploited at EIR/DEIR hearings. E.g., consider how Rise incorrectly claimed no revisions and recirculation of the disputed DEIR was required because its disputed EIR additions (further enhanced at the EIR hearing) were just "clarifications" or "embellishments." It is especially important that objectors also be able to anticipate and target in advance the objectionable changes and additions expected to the disputed, Rise "story" at the Board hearing. That *Calvert* court also rejected as without merit many issues raised by that miner that would also defeat Rise's IMM vested rights claims. ***Calvert v. County of Yuba*** **(2006), 146 Cal.App.4th 613 ("*Calvert*"). For example, the usual claim by miners that the aggrieved public objectors failed to exhaust their administrative remedies was inapplicable in that case (as it also will be here) because (citing CA Supreme Court authority in *Horn v. County of Ventura*) the *Calvert* court held (at 622): "[o]ne need not exhaust inadequate remedies in order to challenge their sufficiency."**

(ii) **Rise's Special Threats Against Surface Owners Above and Around the 2585-Acre Underground Mine Require Special Focus By the Board And Illustrate Some of the Worst Rise Petition Risks To Our Community.**

What creates special concern and urgency is that the comprehensively disputed Rise Petition itself is often dangerously ambiguous and threatening to surface owners above and around the 2585-acre underground mine. For example, **the comprehensively disputed Rise Petition (at 58) incorrectly claims that Rise's disputed vested rights empower Rise (in effect) to mine in any place and in any manner as it wishes "without limitation or restriction."** But see Evidence Objection Part 1, including also Exhibit A hereto, exposing how at least 25 admitted "Risk Factors" in that 2023 10K contradict or conflict with the Rise Petition. Rise cannot be allowed to tell its investors a different story than it is telling the County, and, conversely, the County cannot make findings for vested rights that contradict such Rise admissions, especially those in a 2023 10K filed 10/30/2023 AFTER the Rise Petition dated 9/1/2023. This **exposes the following threat, among the worst falsehoods and overstatements in the disputed Rise Petition (at 58, emphasis added) that is both the focus of many rebuttals and the best illustration of the need for greater clarity from Rise. Id. That precise Rise Petition claim (at 58) is disputed entirely:**

> **Therefore, as a matter of law, Rise is entitled to engage in mining operations throughout the whole of the Vested Mine Property [which Rise now claims includes Centennial parcels] pursuant to the California Supreme Court's holding in *Hanson* [sic] *Brothers* [citing p. 556], as mineral rights that have been vested necessarily encompass 'without limitation or restriction' the entirety of the Vested Mine Property due to the nature of mining as an extractive enterprise under the diminishing assets doctrine." (**emphasis added)

See more such disputed Rise Petition claims in the Evidence Objection Part 1, as well as in Exhibit A, such as that Rise claim (at #II.B.25) for the ability to cause government and/or the court to force objectors' surface property above and around to support Rise's mining beneath objectors in the 2585-acre underground IMM.

Fortunately, the applicable law empowers objectors to use such Rise's 2023 10K admissions to rebut all the inconsistencies and contradictions in the Rise Petition (e.g., admitting that many laws and restrictions apply, although fewer than listed in the EIR/DEIR or in the County Staff Report on the EIR.) Such disputed Rise Petition's claims translate to objectors living on the surface above and around the 2585-acre underground mine parcels as direct risks or threats to our competing constitutional, legal, and property rights and standing, such as by Rise threatening to deplete such surface objectors' existing and future wells and groundwater "without limitation or restriction," which is not just wrong, but also intolerable. Since the Rise Petition entirely ignores such competing and objecting surface owners' repeatedly cited rights and defenses, despite many specific prior EIR/DEIR objections on that disputed topic with compelling authorities (some cited again herein and more explained in the companion Evidence Objection Part 1, including in its Table of Cases And Commentaries…), objectors continue to insist that the County allow us objectors' competing due process rights to protect our surface properties, including our existing and future wells and groundwater, from the overbroad, incorrect, and worse Rise Petition disputed "findings" it wrongly urges the County to adopt.

Even worse, at the end of the incorporated "Evidence Objection Part 1," that comprehensive Exhibit A (also attached hereto for convenience of reference) contains an analysis of Rise's most recent SEC Form 10K filing dated October 30, 2023 (the "2023 10K") in which Rise threatens to use its disputed vested rights (wrongfully) to invoke the power of County government and the courts to force surface owners above and around the 2585-acre underground mine to support the disputed mining beneath objectors' homes and businesses "without limitation or restriction" (again quoting Rise Petition at 58). See Exhibit A at # II.B.25 containing a rebuttal to Rise's 2023 10K (at 19, emphasis added), where Rise admitted:

> **… There can be no guarantee that, despite having the right at law to carry on mining activities, we will be able to negotiate satisfactory agreements with any such existing landowners/occupiers for such access or purchase such surface rights, and therefore we may be unable to carry out planned mining activities. In addition, IN CIRCUMSTANCES WHERE SUCH ACCESS IS DENIED, OR NO AGREEMENT CAN BE REACHED, WE MAY NEED TO RELY ON THE ASSISTANCE OF LOCAL OFFICIALS OR THE COURTS IN SUCH JURISDICTION THE OUTCOMES OF WHICH CANNOT BE PREDICTED WITH ANY CERTAINTY. OUR INABILITY TO SECURE SURFACE ACCESS OR PURCHASE REQUIRED SURFACE RIGHTS COULD MATERIALLY AND ADVERSELY AFFECT OUR TIMING, COST, AND OVERALL ABILITY TO DEVELOP ANY MINERAL DEPOSITS WE MAY LOCATE.**

That objection and others explain why Rise's incorrect and worse attempt to "secure surface access" or take other objectionable actions (or omissions, such as to evade applicable laws "without limitation or restriction") to acquire surface access for the underground mine without consent is prohibited both by law and by the deeds by which Rise acquired the IMM, as admitted in some of the Rise Petition's Exhibits and in earlier years SEC 10K filings. See "Evidence Objection Part 1" and discussed below. That intolerable combination of Rise threats and risks must be confronted openly by the County and defeated as to both (i) that disputed Rise Petition's claim (at 58) that vested rights somehow empower Rise to do as it wishes "without limitation or restriction," and (ii) that 2023 10K claim for misuse of the government and the courts somehow to force our surface home properties to support the underground mining contrary, among other things, to the deed restrictions imposed on Rise when it acquired the disputed "Vested Mine Property" (which Rise 2017 acquisition occurred after many objecting surface owners had earlier acquired their surface properties in reliance on such contrary protective laws and deeds). **NOTE THAT IN THAT SAME 2023 10K RISE ALSO ADMITTED To The Contrary (AT 30) THAT Rise's UNDERGROUND RIGHTS ARE:** "**SUBJECT TO THE EXPRESS LIMITATION THAT THE FORE-GOING EXCEPTION AND RESERVATION [FOR MINERAL RIGHTS] SHALL NOT INCLUDE ANY RIGHT OF ENTRY UPIN THE SURFACE OF SAID LAND WITHOUT THE CONSENT OF THE OWNER OF SUCH SURFACE OF SAID LAND…**" Recall also that Rise could only inherit legally by its Quitclaim Deed what each of its predecessor itself had to give Rise, i.e., what such predecessors still then owned and had not previously transferred to surface owners or their predecessors (which also did not include such surface access above the 2585-acre underground mine.) See Evidence Objection Part 1, where objectors analyzed all the Rise Petition Exhibits 1-307 and the 2023 10K and earlier Rise SEC filings in detail.

In any case**, if the County were (incorrectly) to accept the incorrect concept that somehow Rise had anything that could be called vested rights for any "use" or "component" on any "parcel," the County still could not properly "find" or accept anything that any such Rise Petition claims vested rights MEAN, because Rise is all wrong about the meaning, result, and possible consequences of any such vested rights. Stated another way, Rise cannot continue to "hide the ball" on such disputes, where the Rise Petition refuses to engage in any open, "apples to apples" debate on these disputes. But instead, the Rise Petition just makes vague, ambiguous, and vastly overbroad claims (e.g., at 58, mining anywhere and anyhow Rise wishes "without limitation or restriction") about Rise's incorrect conception of its vested rights, hoping to get an overbroad Board approval that Rise could then attempt to misuse later against such objecting surface owners. See Exhibit A, #II.B.25, rebutting Rise's incorrect threat to battle in government and court forums for surface rights to support underground mining that Rise does not have. This concern about Rise so misusing and exaggerating the effect of any mistaken County approval of any disputed vested rights is one reason why surface owners have asserted these particular objections, so as to be certain that nothing the County might mistakenly do for Rise could impair any of objectors' personal rights to defeat the Rise Petition, whatever the County may choose to do. Also, any such disputed rights would have to be addressed on a parcel-by-parcel, use-by-use, and component-by-component basis and with full "limitations" and "restrictions" by still applicable laws, regulations, and competing property rights (e.g., as to groundwater and both existing and future well water). Besides rejecting the Rise Petition, the County should especially find that no vested rights**

grant Rise nothing that it claims as to any "surface" (generally down 200 feet before mineral rights begin) "parcels" owned above or around the 2585-acre underground IMM, especially as to our groundwater or existing or future well water. See, e.g., objectors' discussion of ***Keystone*** and ***Varjabedian*** in objectors' "Evidence Objection Part 1" and Rise's admissions in its 2023 10K and other SEC filings and in disputed Rise Petition Exhibits.

(iii) **Such Objectors Owning the Surface Above And Around the 2585-Acre Underground IMM Have Even More Due Process And Other Rights And Standing As Parties In Interest Than Assured To Objectors in *Calvert* And Other Authorities.**

As demonstrated below in further detail, court precedents like *Calvert* assure objectors of full due process and standing as equal parties in interest to defeating such Rise vested rights claims. While the County may have practical concerns when confronting so many objectors, and while the County may argue about what is a sufficient "opportunity to be heard," at least this much is clear: There can be nothing that can be said or filed or shown by or for Rise at or before the Board hearing to which each objector could be denied a comprehensive and equal opportunity reasonably to rebut, impeach, and dispute as to all Rise's contested claims and purported "evidence." That is especially important in this contest against the Rise Petition by objecting surface owners above and around the 2585-acre underground IMM, because such surface objectors have full and equal competing constitutional, legal, and property rights that must include at least some that are independent and separate from the County (e.g., remember it is surface owners' existing and future well water and groundwater that Rise will be trying to take by its disputed 24/7/365 dewatering for 80 years. See *Keystone* and *Varjabedian*.) *Calvert* was not only focused on that surface *MINER'S* due process rights, BUT, RATHER, INSTEAD PROCLAIMED THE DUE PROCESS RIGHTS OF THE NEIGHBORING VICTIMS of that surface mining and the other impacted public (which types of victims are herein called potential "objectors." Nevertheless, those with special standing as such surface owner objectors above and around the underground mine have rights and standing independent of the County as discussed in a following section. See Id. and Evidence Objections Part 1); *Calvert v. County of Yuba* (2006), 146 Cal.App.4th 613.

OBJECTORS WILL EXPECT NO LESS THAN WHAT *CALVERT* PROVIDED WHEN IT ADDRESSED (AT 622) THIS QUESTION IN THOSE OBJECTORS' FAVOR: "IS THE VESTED RIGHTS DETERMINATION REGARDING WESTERN'S SURFACE MINING OPERATIONS …SUBJECT TO PROCEDURAL DUE PROCESS REQUIREMENTS OF REASONABLE NOTICE AND OPPORTUNITY [FOR OBJECTORS] TO BE HEARD? OUR ANSWER: YES." In that case, the county incorrectly approved that surface miner's purported vested rights in an unconstitutional, two-party "ministerial" process without notice to, and adequate due process for, any impacted neighbors or other objectors, because such vested rights evasion of the normal permit requirements is not merely a "ministerial decision" for the County alone. *Calvert* rejected as without merit many issues raised by that miner (and by Rise here) that would also defeat Rise's vested rights claims in this case. Indeed, if *Calvert* had confronted an **underground** mine like the 2585-acre underground IMM beneath objecting surface owners, instead of a surface mine, those objectors would have been requesting (and we believe would have personal standing for) such even

greater clarity, rules, and procedures like those objectors are seeking in this Petition. That is especially true considering the special, competing, constitutional, legal, and property rights of objecting **surface owners above and around the 2585-acre underground IMM and the disproportionate contradictions, inconsistencies, and risks created by Rise for such surface owners and their such properties.** The "status conference" requested herein should explore, beginning with the need for more such clarity from Rise, what process, rules, and procedures will be constitutionally and legally sufficient for due process objections to the Rise Petition and for the protection of objectors' competing, constitutional, legal, and property rights under the prevailing judicial authorities. For example, ***Calvert*** **was not only focused on the** ***MINER'S*** **due process rights, BUT RATHER INSTEAD PROCLAIMED THE DUE PROCESS RIGHTS OF THE NEIGHBORING VICTIMS of that surface mining and the other impacted public (which types of victims are herein called potential "objectors," some with special standing as discussed in a following subsection. See** ***Calvert v. County of Yuba*** **(2006), 146 Cal.App.4th 613.**

Perhaps, the County should start asking Rise such hard questions from our Rise ignored EIR/DEIR objections and our companion Evidence Objection Part 1 that still have not been asked (as far as we can tell) by the County staff or EIR/DEIR enablers and have not otherwise been addressed sufficiently by Rise. Fortunately, *Calvert, Hardesty,* and other cases forbid us objectors to be ignored on these vested rights disputes in such an adjudicatory process where we must have equal rights and standing. As *Calvert* explained (at 625):

> SMARA's policy is to assure that adverse environmental effects are prevented or minimized; that mined lands are reclaimed to a usable condition; that the production and conservation of minerals are encouraged while giving consideration to recreational, ecological, and aesthetic values; and that residual hazards to the public health and safety are eliminated. (# 2712) **A PUBLIC ADJUDICATORY HEARING THAT EXAMINES ALL THE EVIDENCE REGARDING A CLAIM OF VESTED RIGHTS TO SURFACE MINE IN THE DIMINISHING ASSET CONTEXT WILL PROMOTE THESE GOALS MUCH MORE THAN WILL A MINING OWNER'S ONE-SIDED PRESENTATION THAT TAKES PLACE BEHIND AN AGENCY'S CLOSED DOORS. (emphasis added)**

Notice that the Calvert court emphasized requiring "evidence" in its technical, legal meaning. But **much of what Rise cites as "evidence" is not competent "evidence" at all**, either because it is just unsubstantiated "opinion" from an unqualified source (or, if such opinions were to be allowed for Rise, then every objector would be no less entitled to express their comprehensively opposite opinions), lacks sufficient foundation and other bases to be admissible, or is otherwise inadmissible or objectionable. See Evidence Objection Part 1, especially Attachment 1, where **even** ***Hansen*** **insisted on sufficient admissible and credible evidence, rejecting the vested rights claims regarding certain parcels for lack of such evidence.**

(iv) Hardesty **Defeats the Rise Petition In Many Ways, But Especially By Prohibiting What Objectors Dispute as Rise's Unprecedented, "Unitary Theory of Vested Rights," By, For Example, Proving That SURFACE Mining "Uses" Alleged by Rise Cannot Create Any Such**

Vested Rights for Any UNDERGROUND Mining "Uses," Especially in the 2585-Acre Underground IMM Parcels Beneath Objecting Surface Owners.

To illustrate a core objection that the Rise Petition cannot possibly overcome, consider *Hardesty*, one of the most important cases ignored by Rise because (even by itself alone) *Hardesty* defeats such vested rights claims. *Hardesty* dealt with the key issue of Rise's disputed surface mining theories by requiring separate vested rights treatment of IMM **underground** mining and other realities. Stated another way, Rise's disputed, so-called "unitary theory of vested rights" (i.e., incorrectly claiming that any mining-related "use" entitled to vested rights on any mine parcel thereby somehow also entitles all mining-related vested rights "uses" on all parcels [and, presumably, also for all "components," although Rise ignores that critically important "component" holding in *Hansen*, which approved the *Paramount Rock* precedent and defeated any possible Rise claim to vested rights, for instance, for Rise's water treatment plant "component"]). **(The *Hardesty* court supported objectors' position from the reverse perspective of preventing a miner to shift from (i) vested rights for other, underground mining "uses" to (ii) surface mining "uses," instead of from (iii) surface mining uses to (iv) underground mining uses. Nevertheless, Hardesty still confirmed that each type of mining "use" [surface versus underground] is a different vested rights "use," neither of which creates vested rights for the other use or for any other parcel, use, or component.**) Specifically, *Hardesty* ruled in part (with further analysis to follow below):

> [T]he italicized portion of the statute [SMARA #2776] speaks of vested rights to ***surface*** mining, **not *any* mining**. "Surface mining involves stripping off the top of an area to reach the minerals, in contrast to boring down through tunnels or shafts to extract them." ([People v.] *Rinehart*, supra, 1 Cal. 5th [652] at p. 671, fn. 10 …) (emphasis added)
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> To the extent Hardesty contends he has a vested right to surface mine under section 2776, he simply **failed to carry his burden to prove any substantial *surface* mining on the property** had been conducted by that date. As the trial court found, substantial evidence shows that **prior mining had been hydraulic, tunnel, and drift mining, not surface mining,** which began in the 1990's, and **which represented a SUBSTANTIAL CHANGE,** contrary to former section 2778's requirement that no substantial changes may be made in any such operation except" according to SMARA's terms…. (emphasis added)
> ***
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> … Hardesty failed to prove any mining was occurring on or even reasonably before the date SMARA took effect. **SMARA was designed to allow existing, operating surface mines to continue operating** after its effective date without the need to obtain local permits. **SMARA's grandfather provision does not extend to dormant mines.**

***Hansen** Brother Enterprises, Inc. v. Board of Supervisors* (1996), 12 Cal. 4th 533…*(Hansen Brothers*)—**consistent with a long line of zoning cases—holds that A USE MUST BE PRESENT AT THE TIME A NEW LAW TAKES EFFECT, TO BE CONSIDERED A NONCONFORMING USE….** Communities for a Better Environment … (2010), 48 Cal.4th 310, 323 fn.8 …[“the traditional protections for nonconforming uses established *at the time* zoning restrictions become effective”]…; *McCoslin v. City of Monterey Park* (1958), 163 Cal. App.2d 339, 346…[“A nonconforming use is **a lawful use existing *on the effective date* of the zoning restriction and continuing since that time** in nonconformance to the ordinance.”] … ***NEITHER A DORMANT NOR AN ABANDONED USE IS A NONCONFORMING USE.* (*HANSEN BROTHERS,* AT PL 552…*[“NONUSE IS NOT A NONCONFORMING USE.”])* As stated by our Supreme Court, “The ultimate purpose of zoning is … to reduce all nonconforming uses within the zone to conformity as speedily as is consistent with proper safeguards for the interests of those affected.” We have recognized that, given this purpose, courts should FOLLOW A STRICT POLICY AGAINST EXPANSION OF THOSE USES…**

That policy necessarily applies to attempts to continue nonconforming uses which have ceased operation.” *(Hansen Brothers*, at 568 …) (emphasis added)

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Further, **the record shows a proposed significant change in use since pre-1976 [SMARA’s effective date] times. THE CONTINUANCE OF A NONCONFORMING USE “IS A CONTINUANCE OF THE SAME USE AND NOT SOME OTHER KIND OF USE.” …[citing McClurkin, Edmonds, and Goldring, where, FOR EXAMPLE, EDMONDS V. COUNTY OF LA (1953), 40 CAL. 2D 642 HELD “ENLARGEMENT OF PLAINTIFF’S TRAILER COURT TO ACCOMMODATE 30 MORE TRAILERS IS CLEARLY A DIFFERENT USE.”] SURFACE MINING IS A CHANGED USE ON HARDESTY’S PROPERTY, WHEN CONTRASTED WITH THE PRE-SMARA USE [FOR UNDERGROUND ETC. MINING NOTED ABOVE]. Nor can Hardesty persuasively rely on post-1976 unpermitted surface mining –twice halted by the government— to show that surface mining was extant before 1976.** (emphasis added)

Hardesty v. State Mining And Geology Bd. (2017), 11 Cal. App.5th 790, 799-812 (“***Hardesty***”). The miner lost at the Board, trial court, and on appeal in its mandamus action claiming SMARA vested rights as to an ancient, “19th century” federal mining patented gold mine that ceased operation during World War II and was “essential dormant” “through the 1970’s” with “virtually no evidence that **qualifying mining activities** [not just the nondeterminative, incidental, or different “exploration” work “uses” on the parcel on which that miner incorrectly attempted to call “mining”] ‘continued’ to exist at the time SMARA was enacted [effective January 1, 1976], apart from “sporadic,” “unpermitted surface (open pit) aggregate and gold mining in the

1990's." Nevertheless, the miner incorrectly claimed "vested rights to mine the property for gold, sand and gravel [as well as diamonds and platinum]" after he bought the property in 2006. The trial and appellate courts rejected that miner's vested rights claim, agreeing with the Board that "any right to mine had been abandoned," as discussed in the evidence analysis sections herein and in the companion Evidence Objection Part 1, especially in Exhibit A. Note that, while Rise Petition's disputed and unprecedented "unitary theory of vested rights" incorrectly treats any "exploration" "use" from the surface of any parcel (i.e., drilling) as sufficient for vested rights to mine underground on any "Vested Mine Property," *Hardesty* and other authorities defeat that claim. **Indeed, Rise itself admits in its 2023 10K (see Exhibit A) that "exploration" is a separate use from underground mining uses, just as surfacing operational uses are different from underground uses.**

More importantly, in setting up that decision, wherein ***Hardesty* forbids the kind of mining and use changes the disputed Rise Petition ignores between such different types of mining (for exploration vs. surface vs. underground mining) in Rise's incorrectly claiming vested rights for "everything" and "everywhere" (i.e., rejecting Rise's unprecedented such "unitary theory of vested rights"), the *Hardesty* court stated (Id.):**

> **The trial court found that in the 1990's unpermitted surface (open pit) aggregate and gold mining began different in nature from the 'hydraulic, drift, and tunnel' [i.e., underground] mining that historically had been conducted on the land.** The RFD alleged the new proposed open-pit mining was safer and better for the environment. *** As an alternative to the finding of no vested right based on the lack of mining [in the right way and at the required time] … the trial court **found that any right to mine had been abandoned**." (emphasis added)

Objectors' companion Evidence Objection Part 1 divides that 2585-acre underground IMM between (i) the **"Flooded Mine" parcels** and (ii) the "**Never Mined Parcels."** The reason is that each part contains parcels with different vested rights disputes with Rise. As the 72 miles of existing underground tunnels and 150 miles of existing drifts and cross-cuts comprising the original mine for which Rise Petition incorrectly claims vested rights on October 10, 1954, despite winding down to a close (like the whole gold mining industry collapsing because the chronic, $35 legal cap on gold was continuously less than the cost of mining it. Id) which occurred by 1956, when that "dormant" and flooded IMM was closed, "discontinued," and "abandoned." However, there has never been any basis (and no Rise proof of) any mining "uses" of any Never Mined Parcels, which the EIR/DEIR describes as their gold mining target requiring 76 miles of new underground tunnels to seek new gold veins to mine on new offshoots. Thus, under the applicable authorities, including even Hansen, Rise does not even have a serious claim to any vested rights on the key parcel where all the new mining is supposed to focus. Id. and see below.

Indeed, ***HARDESTY* ALSO CLARIFIES KEY DIFFERENCES BETWEEN VESTED RIGHTS AS A PROPERTY OWNER VERSUS A VESTED RIGHT FOR MINING**, STATING (AT 806-807) (emphasis added):

> As we will explain, we agree that the [ancient Federal mining] patents conferred on **Hardesty vested rights *as a property owner*, but that is not the same as vested rights *to mine* the property absent compliance with state environmental laws.** The Board and trial court correctly concluded that Hardesty **had to show active surface mining was occurring on the effective date of SMARA, or the very least show objective evidence that the then owner contemplated resumption of such activities.** Under the facts, viewed in the appropriate light, Hardesty did not carry his burden to show that ***any*** mining was occurring or any intent to mine existed on the relevant date [3/31/1988. **Further, the Board and trial court correctly applied the "nonconforming use" and abandonment doctrines to the facts herein.**
>
> ***
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> **Indeed, in a case involving a different open-pit mine also operated by Hardesty, we rejected his view that a "vested right" to mine under SMARA obviates the need to comply with state environmental laws …[citing to] *Hardesty v. Sacramento Met. Air Quality Management Dist.* (2011), 202 Cal.App.4th 404, 427…**

The *Hardesty* precedent (also citing *Hansen Brothers—see Evidence Objections Part 1, Attachment 1 thereto*) rejected that similar miner's vested rights claim for those reasons (and others that follow in later discussions). *Hansen* also ruled "[a]s an alternative basis for decision, [that] the Board and the trial court found any right to mine was abandoned" on such facts. The Court of Appeal agreed: "Here the evidence of abandonment was overwhelming…. Further, **a person's subjective "hope" is not enough to preserve rights; a desire to mine when a land-use law takes effect is "measured by objective manifestations and not by subjective intent."** (***Calvert***, supra, 145 Cal.App.4th at p. 623.)

At this IMM Board "trial," objections there will include overwhelming evidence of "dormancy," discontinuance," and "abandonment" defeating Rise's vested rights claims, even by Rise Petition's own Exhibit admissions. There will also be added **massive evidence of estoppel, laches, and waiver** and more (e.g., Evidence Code #623 estoppels) against Rise now trying to assert such a vested rights claim, since this mine sat dormant, closed, and flooded (i.e., abandoned) since 1956, while our community grew up around the abandoned mine in reasonable reliance on the end of that mining (and abandonment of that potential menace Rise now seeks to force on us.) **Also, as environmental, mining, and other applicable laws evolved during and after 1956, such requirements made legal compliance by any miner economically and scientifically infeasible, especially without the kind of "substantial changes," "expansion," and increased "intensity" forbidden above for any such vested rights claim. No reasonable person in 1954, 1955, or 1956 could have intended such Rise proposed IMM mining, especially as contemplated in the EIR/DEIR and especially without permits and compliance with current laws (even those in effect in 1976, or, as the Nevada County ordinances at issue in *Hansen,* in 1954). See, e.g., Evidence Objections Part 1. Again, among other things, this is an UNDERGROUND mine (not a SURFACE mine subject to SMARA), and us objecting surface owners above and around the 2585-acre underground IMM mine have competing property,**

legal, and constitutional rights that, despite Rise's efforts to ignore them, the courts must ultimately respect whatever the County decides to do. See *Keystone and Varjabedian.*

(b). The Rise Petition Incorrectly Defined The Core Disputes Both By Misperceiving/Incorrectly Defining The Vested Rights' Issues And Facts, And By Willfully Ignoring the Nature of the Competing, Constitutional, Legal, and Property Rights of Surface Owners Above And Around the 2585-Acre Underground Mine Explained Herein And, In the Companion, "Evidence Objection Part 1."

***(i)* Some Improved Focus On the Different Parcels of the "Vested Mine Property" Also Defeats Rise Petition's Erroneous Attempt To Present Vested Rights For A Unitary Mass (i.e., Incorrectly Like One Parcel, When Many Are Admitted And More Exist), Even Though the 2023 10K And DEIR/EIR Separated Many Parcels, Especially the Component Parcels of the "Centennial" Site And the 2585-Acre Mine Objectors Describe As Parcels of the "Flooded Mine" Versus the "Never Mined Parcels."**

For those and many other reasons explained herein and in other objections, such disputed Rise Petition's intolerable ambitions are especially risky and a menace to those objectors owning surface homes or property above or around the 2585-acre underground mine. E.g., the Evidence Objections Part 1 and record objections to the EIR/DEIR incorporated herein, describe many different parcels, each of which must have its own vested rights for each "use" or "component" thereon. See, e.g., *Hardesty, Calvert,* and even *Hansen.* The disputed Rise Petition calls that underground IMM part of its incorrectly named "Vested Mine Property," which also somehow now allegedly includes Centennial parcels [aka, as Rise now rebrands it, "the Idaho land"]. However, Rise makes no serious effort to attempt not only to satisfy its burden of proof as to Centennial parcels or any underground parcels, but also to clarify the basis of its disputed claims and how Rise imagines that it has proved anything material. (Rise's rhetorical trick is incorrectly to assume vested rights for everything based on general references to insufficient, noncompliant/inadmissible/objectionable, and disputed Rise Petition Exhibit "evidence" [often unauthenticated and inadmissible historical records], and then to debate about why Rise incorrectly disputes obvious abandonment.) Rise's underground mining would impact every surface owner above and around the 2585-acre underground mine, including such as because of macro effects, such as depleting all such surface owners' groundwater. There are also parcel-by-parcel impacts above and around that underground mine, such as different impacts on existing and future wells. Notice, however, that the Rise Petition's (presumably still EIR/DEIR's based) mining plan impacts all of those surface owners but now has a new and special impact on those above and around the Never Mined Parcels, since those previously less impacted parcels will now be the ones that may suffer the most activity, assuming the gold mining there ever begins.

Thus, objectors (when speaking politely) reject Rise's terms, and we instead address these disputes as about the **"IMM" plus "Centennial parcels."** Centennial remains a separate

mystery that the Rise Petition both fails to explain and, worse, compounds, adding Centennial as another dispute to be addressed later when objectors better understand the disputed Rise theories. E.g., According to the disputed EIR/DEIR, the toxic and long dormant, closed, discontinued, and abandoned Centennial parcels were separate parcels for more, planned dumping that was never part of the Rise EIR/DEIR "project" until on September 1, 2023, when the Rise Petition decided radically to change its legal theories and positions because Centennial parcels were imagined by Rise somehow (incorrectly) to be useful to Rise's never adequately explained vested rights theory about them. **More elsewhere and in other objections about that distant, long closed, and potential EPA/CalEPA superfund site known as the former Centennial mine parcels Rise previously excluded from the EIR/DEIR "project," but now somehow is added back as a disputed part of Rise's alleged "Vested Mine Property.")** Obviously, as described in the Evidence Objections Part 1, Rise (like each of its predecessors since 10/10/1954) is both (a) bound by its previous admissions in its EIR/DEIR and other County applications for permits and approvals, and (b) defeated by Rise's inconsistencies and contradictions therein and in the 2023 10K exposed in Exhibit A hereto (and also to Evidence Objection Part 1), including as to the controversial and toxic Centennial parcels.

To illustrate our confusion requiring clarity from Rise, consider some of the many disputed claims asserted by Rise in that meritless, deficiently "evidenced," and confusing Vested Rights Petition. Also, remember that **this comprehensive dispute involves more than objectors merely asserting contrary, applicable laws and admissible evidence about the true facts (especially the critical details missing from the Rise Petition!) and history –i.e., "reality"--that must protect objectors from this disputed Rise Petition. This is also a dispute about applicable "reality" itself, as well as about objectors' competing constitutional, legal, and property rights, since the disputed Rise Petition exclusively relies on surface mining laws (SMARA) and surface mining court precedents (basically** fragments of ***Hansen, because the whole Hansen case defeats Rise***). **However, the core of these disputes involves both (a) UNDERGROUND RISE MINING beneath the "surface" (generally at least 200 feet deep) owned by objectors and others above or around the 2585-acre underground "IMM" mining, and (b) the competition ignored in the disputed Rise Petition (as well as the disputed EIR/DEIR).**

Subsequent objector filings will further expose and rebut that disputed Rise Petition's attempt to rewrite applicable law and IMM/Centennial history and facts (often by Rise defying or incorrectly rewriting the law of evidence—See the Evidence Objection Part 1) for this **underground** mining. E.g., Rise misapplies and misconstrues for such underground mining both [i] **surface** mining laws, especially the Surface Mining And Reclamation Act, California Pub. Res. Code # 2710 et seq., and related regulations (collectively **"SMARA"),** and [ii] surface mining precedents [e.g., *Hansen*] as demonstrated in Attachments 2 and 1 respectively to that Evidence Objection Part 1.) Those surface laws and interpretations (even if Rise had addressed them correctly, which Rise did not do) cannot apply (even by analogy) for such a miner to create vested rights for such IMM **underground** mining. Id. **That distinction between "surface" versus "underground" mining and the jurisdictional limits of SMARA to the surface cannot be rationally contested, presumably why Rise ducks the whole subject**. E.g., *Hardesty* (and even the whole *Hansen* decision correctly explained in Attachment 1 to the Evidence Objection Part 1.) However, even if such surface mining law somehow were applicable to the Rise Petition's comprehensively disputed claims, such disputed Rise Petition would still fail**.**

In any event, having the burden of proof, Rise must be defeated by its refusal to confront such objections between (i) surface owning objectors, with our own, personal, constitutional, legal, and property rights to protect (directly and independently from the County), versus (ii) Rise's disputed claims that cannot entitle it to any vested rights, especially not either (A) to reopen the "Flooded Mine" that has been closed, discontinued, dormant, and abandoned since at least 1956, or (B) to access the "Never Mined Parcels," which can only be accessed through the Flooded Mine and Brunswick site shaft (if and when dewatered, repaired, and reconstructed at a huge, startup expense and delay before any revenue is possible) because objectors and others own the entire surface above the 2585-acre underground IMM. See, e.g., the Evidence Objection Part 1, which explains the applicable rules of evidence Rise violates and dissects and rebuts each material Rise Petition Exhibit from 1 to 307, often using Rise's own admissions, including from Exhibit A hereto (and thereto) demonstrates how Rise's SEC 2023 10K admissions also defeat Rise Petition claims, especially how in Exhibit A #II.B.25 Rise incorrectly claims the right to support its mining from objectors' surface parcels. Those circumstances (and others) give such surface-owning objectors **special, legal "standing" as full and equal due process participants, as well as rebuttal witnesses whose opportunity to testify is incorrectly limited to three minutes each.**

Lest objectors be thought as guilty as Rise is about claims of being short of correct and sufficient details, consider these teasers of coming attractions in next objections. Objectors cannot tell from the Rise Petition precisely how Rise purports to justify applying its cited fragments of **surface** mining law and authorities (many of which, like the entirety of *Hansen*, help objectors more than Rise—See Id.) to this IMM **underground** mining beneath objecting surface owners living above and around the 2585-acre underground mine. (While they are just details, Rise has not attempted to explain how and why it radically reversed its claims about Centennial, or why the EIR/DEIR describes the underground mine as "2585-acres," but the Rise Petition now without explanation uses a smaller number of acres.) Even more mystifying is how Rise imagines it could apply in this case the benefits of such SMARA, surface mining, vested rights standards, especially without Rise also having to comply with the corresponding SMARA burdens. For example, why can't objectors at least see and contest now the required SMARA/*Hansen* "**reclamation plan"** and "**financial assurances"** (that somehow Rise persuaded the County to defer from this initial vested rights dispute hearing, although any such sufficient plans and financial assurances will be impossible for Rise to accomplish)? See, e.g., the 2023 10K and other SEC filing admissions in Exhibit A hereto, demonstrating that Rise has continuously lacked the financial resources to perform or accomplish those or any of its other material proposals or obligations for protecting objectors and our community. Those deficiencies objector will offer to prove either by testimony, if permitted, or, if not, by equivalent declarations and offers of proof, once objectors understand "what in the world" Rise is claiming about that subject. Like many other problems for Rise's claims in the Rise Petition, the Rise Petition just ignores such critical and disputed issues, as Rise and its enablers ignored most of our EIR/DEIR objections. See, e.g., Evidence Code #'s 400-413.

(ii) **Although the Rise Petition Is Based On *Hansen Fragments,* That Petition Lacks Essential "Clarity," And Rise Ignores Many Key *Hansen* Rulings, Such As The Court Approving *Paramount Rock***

And Requiring Vested Rights For Any "Component" (Such As Rise's Water Treatment Plant) On Any Parcel.

Moreover, Rise admits in its EIR/DEIR that this "expansion" of underground mining would require a new, high-tech, massive dewatering system (too "intensely") operating 24/7/365 for 80 years that the 1954 Rise predecessors could have never planned to duplicate. **As Attachment 1 to the Evidence Objections Part 1 demonstrates, *HANSEN* DISCUSSED A "Component" CASE DENYING SUCH VESTED RIGHTS CLAIM (**at 566, emphasis added**) THAT THE MAJORITY SAID "ILLUSTRATED" ITS "APPROACH": *PARAMOUNT ROCK CO. V COUNTY OF SAN DIEGO* (1960), 180 CAL.APP.2D 217, 230, WHERE THE READY-MIX CONCRETE BUSINESS ADDED FOR THE FIRST TIME AFTER THE VESTING REZONING DATE A NEW "ROCK CRUSHING PLANT ON THE SITE" (REPLACING PRECIOUSLY OFFSITE CRUSHING), REJECTING THE ARGUMENT THAT SUCH A CRUSHER ADDITION WAS "AN INTEGRAL PART OF THE BUSINESS THAT THE [OWNER] PLAINTIFF HAD BEEN OPERATING," SINCE THAT CRUSHER WAS "NOT PART OF THE NONCONFORMING USE TO WHICH THE PROPERTY WAS BEING PUT AT THE TIME THE ZONING ORDINANCE WAS ADOPTED." STATED ANOTHER WAY, *HANSEN* (at 566, emphasis added), IN EFFECT, STILL REQUIRED THAT SUCH "A COMPONENT OF A BUSINESS" MUST "ITSELF HA[VE] A VESTED RIGHT TO CONTINUE USING THE LAND ON WHICH IT IS LOCATED FOR OPERATION OF THE BUSINESS."**

That means Rise cannot now add that water treatment plant that it has already admitted in its disputed EIR/DEIR is essential for its 24/7/365 dewatering of groundwater drained from objecting and competing surface owners' property and existing and future wells above and around the 2585-acre underground mine. There must be many more (and more "intense") components and uses added as part of any "reclamation plan" that need their own vested rights, but the County's bifurcation of such reclamation plan and financial assurances issues from the vested rights dispute (plus Rise not presenting them yet) disable objectors from presently proving that point besides exposing the contradiction and inconsistencies, including in from the 2023 10K analyzed in Exhibit A.

Among other relief requested by objectors in this counter petition, that Rise Petition must be clarified for objectors, both for this dispute process that Rise has triggered and, more importantly, for the expected court proceedings to follow. While objectors do not wish to delay the elimination of the Rise IMM threats, from which objectors are already suffering depressed property values (that will consequently impact County property taxes), at least basic clarity should be achieved before the Board hearing. For example, Rise's burden of proof includes proving precisely what **underground** mining "uses," "components," and related activities Rise claims that its disputed vested rights from 10/10/1954 will allow on each parcel or sub parcel in disregard of otherwise applicable laws and regulations (and in disregard of objectors' competing constitutional, legal, and property rights). That is essential to know now, since **it is legally impossible for some new things (e.g., like Rise's proposed water treatment system) to be considered for vested rights**, even under Rise's favorite *Hansen* **surface** mining case (citing *Paramount Rock*), which objectors' comprehensive analyses in Exhibit A and the Evidence Objection Part 1 reveal to hurt Rise's disputed theories more than help Rise.

Also, to what extent are we disputing the same, objectionable Rise mining and related plans (and the same "reclamation plan," still lacking the required "financial assurances" that

Rise cannot possibly satisfy, as proven in Exhibit A and other SEC filing admissions) as what was described on the current record long before Rise's disputed EIR/DEIR changed the "project" in material ways to which that reclamation plan has not adjusted? Does Rise now contemplate doing anything different? Rise's disputed petition reads like Rise incorrectly imagines it can do whatever it wants, free of otherwise applicable legal "limitations," just by chanting "vested rights" "without limitation or restriction" like they were some magic spells. Objectors presume Rise must be revising its planned "IMM" vested acts and omissions, because, if objectors only have to dispute Rise's existing (also defective) EIR/DEIR plans, the courts must (and the County should) grant our dismissal motions long before any Rise Petition trial (or adjudicatory hearing), especially considering Rise's contradictory and conflicting admissions from its 2023 10K and other documents cited by objectors.

Those and other confusions from such repeated Rise "hide the ball" tactics (as likewise exposed in incorporated record objections to the EIR/DEIR) arise because Rise's apparent (and disputed) goal is to evade/override some (not yet clear which) laws and regulations, despite the 2023 10K admissions that they still apply in Exhibit A. While the Rise Petition and some parts of the 2023 10K speak about evading use permits, Exhibit A reveals contrary admissions in other parts of that 2023 10K that discuss continuing to seek use permits. To what extent does Rise claim a vested right to proceed without obtaining the use permit (and perhaps other normally required permits or approvals) for which Rise previously applied and without the still required CEQA and other legal and regulatory compliance protecting objectors? But again, see Exhibit A inconsistent admissions. What contemplated underground mining and related "IMM" activities, infrastructure, and equipment is the Rise Petition claiming the right to do, or use, or allow (or excuse) on each parcel (and applicable sub parcel) of such "Vested Mine Property" (or any broader scope IMM) without the normally required use permit and other compliance with applicable legal requirements? Such required clarity about such disputed excuses for Rise's evasion of IMM legal compliance should begin on an item-by-item basis for each such act, omission, infrastructure, equipment, dangerous material or substance (e.g., blasting explosives and newly added hexavalent chromium mine cement paste for the new techniques for constructing underground shoring pillars from mine waste), and other relevant things that were revealed (or should have been) in the disputed EIR/DEIR or other Rise documentation for permits or applications or in 2023 10K or other Rise SEC filings (Exhibit A).

(iii) **Consider the Difference As A Matter of the Law of Evidence Between the Realities On Which Objectors Insist And the "Alternate Realities" Alleged in the Supposedly "Indisputable" Rise Petition That "Hides the Ball" And Evades Meritorious Objections. Indeed, the Rise Petition Cannot Even Be Reconciled with Either Rise's Previously Disputed EIR/DEIR And Other Governmental Applications for Permits And Approvals Or With Rise's New 2023 10K Or Other SEC Filings.**

Rise has other credibility problems, besides Rise's "alternate reality" problems with its deficient and objectionable evidence, the cases, laws, and facts Rise ignores, and the contradictions and inconsistencies between the disputed Rise Petition and Rise's admissions in

previous County filings and SEC filings, as well as now in Rise's latest 2023 10K (Exhibit A.) Consider this example, among the many such "hide the ball" problems from which the Rise Petition suffers, where Rise incorrectly proclaims the fragment of the key quote with its unsubstantiated conviction (citing *Hansen* at 556. But notice that **the actual *Hansen* quote wasn't fully included there by Rise to support its exaggerated and disputed claim** that was further qualified and limited in *Hansen [emphasis added]* to **"a vested right to quarry or excavate [surface mining/not underground mining terms] the entire area OF A PARCEL…**" The key words were about the **"parcel," not "the entire area."** Remember in this context, the correct law is all about use-by-use, component-by-component, **and parcel-by-parcel.** See, e.g., *Hardesty, Calvert, Hansen,* Exhibit A, and Evidence Objection Part 1, especially Attachment 1 (comprehensively analyzing *Hansen* in careful detail and exposing how many parts Rise ignored or evaded as "inconvenient truths.") Still, Rise persists in overgeneralizing, incorrectly asserting Rise's incorrect "unitary theory of vested rights" that any kind of operation or "use" is sufficient somehow for vested rights as to all uses, operations, and parcels. Yes, *Hansen* at 556 used the words "the entire area" for such "vested right to quarry or excavate" "more than the use of a part of the property." **Still, *Hansen* (like the courts it cited) limited that to "areas" "IN A PARCEL." Nowhere does Rise escape Hansen's parcel-by-parcel analysis because, as demonstrated (at Id.), the *Hansen* majority itself allowed some parcels, but not others in that mining area, to have vested rights, which would have been legally impossible if *Hansen* had agreed with Rise.** (Note: the powerful dissents would have entirely rejected vested rights, like everyone else in the process below that court.") Id.

Further, to avoid any doubt about the required parcel-by-parcel and use-by-use analysis in *Hansen,* and to emphasize the importance of **EVIDENCE** (contrary to Rise's disputed claim that somehow, we must trust its erroneous legal opinion "as a matter of law," which hundreds of objectors refuse to do, for good cause shown in all their meritorious objections), the *Hansen* court also stated (at 561-64, emphasis added):

> Some of those parcels were conveyed to Hansen Brothers after 1954, however. **The record does not confirm that all of the parcels, over which Hansen Brothers claimed vested rights in its SMARA application, were part of the Bear's Elbow Mine in 1946 or 1954. The record is also devoid of evidence that the owners of those parcels themselves held vested mining rights in the transferred property at the time they were deeded to Hansen Brothers.** Examination of the record reveals that [the County's related admissions, including one obvious mistake that it could not correct in time]… encompassed only the parcel that was the original site of the …Mine and one of the three parcels conveyed to Hansen Brothers after 1954.
>
> ***
>
> Hansen Brothers does not dispute the absence of evidence in the record that the after-acquired properties were being used for mining purposes in 1954. Instead, it argues that its SMARA reclamation plan …[was sufficient and the County was estopped to object from subsequent use].
>
> ….**The court must make its own decision as to the legal impact of those facts and is not bound by any concessions of law that a party may have made.**

> **[citations]… Indeed, the county lacks the power to waive or consent to violations of zoning law. [citations]**
>
> ***
>
> [After analysis that is even more powerful here because IMM objectors here make no admissions or concessions of any kind to Rise, the court concluded:] **Hansen Brothers has failed to carry that burden insofar as its SMARA reclamation plan asserted a vested right to quarry a 60 plus acre parcel…The evidence is insufficient to support a finding that Hansen Brothers is entitled to a writ of mandate… [therefore referring to a further] determin[ation] by the superior court on remand.**

Consider also, for example, this *Hansen* quote against such Rise's disputed cross-parcel/unitary operations claims (none of which disputed Rise theories apply to UNDERGROUND mining at all, as *Hardesty* demonstrates and SMARA itself states in Attachment 2 to the Evidence Objections Part 1. *Hansen* stated (at 558, emphasis added):

> **EVEN WHERE MULTIPLE PARCELS ARE IN THE SAME OWNERSHIP AT THE TIME A ZONING LAW RENDERS MINING USE NONCONFORMING, EXTENSION OF THE USE INTO PARCELS NOT BEING MINED AT THE TIME IS ALLOWED ONLY IF THE PARCELS HAD BEEN PART OF THE MINING OPERATION.** (*Dolomite Products Company v. Kipers* (1965), 23 A.D.2d. 339…affd 19 N.Y.2d 739 [279 N.Y.S.2d 192]…[**OWNER MAY NOT "TACK" A NONCONFORMING USE ON ONE PARCEL USED FOR QUARRYING ONTO OTHERS OWNED AND HELD FOR FUTURE USE WHEN THE ZONING LAW BECAME EFFECTIVE**]; *Smart v. Dane County Bd. Of Adjustments*…501 N.W.2d 782; *Stephan & Sons v. Municipality of Anchorage*…685 P.2D at p.102 fn.6 ["**THE DIMINISHING ASSET DOCTRINE NORMALLY WILL NOT COUNTENANCE THE EXTENSION OF A USE BEYOND THE BOUNDARIES OF THE TRACT ON WHICH THE USE WAS INITIATED WHEN THE APPLICABLE ZONING LAW WENT INTO EFFECT….]** see also *Midland Park Coal & Lumber Co. v. Terhune*, 56 A.2d 717 (N.J. 1948); *Syracuse Aggregate Corp. v. Weiss*, 51 N.Y.2d 278, 434 N.Y.S.2d 150 *…; Davis v. Miller*, 163 Ohio.St. 91, 126 N.E.2d 49 (1955).].) (emphasis added)

Rise also created more confusion by ignoring the more important rulings quoted herein, when Rise incorrectly insisted (at Rise Petition 58, emphasis added):

> Therefore, **as a matter of law,** Rise is entitled to engage in mining operations **throughout the whole of the Vested Mine Property** [defined to include Centennial parcels] **pursuant to** the California Supreme Court's holding in **Hansen Brothers**, as mineral rights that have been vested **necessarily encompass, "without limitation or restriction" the entirety of the Vested Mine Property** due to the nature of mining as an extractive enterprise **under the diminishing asset doctrine.**

But see Exhibit A as to the 2023 10K and other SEC filing admissions where Rise contradicts such Rise Petition claims. That false Rise claim is also comprehensively rebutted herein and especially in the Evidence Objection Part 1, including Attachment 1, comprehensively analyzing *Hansen. Hansen,* for example, did NOT so apply vested rights for that exclusively surface mine either (i) to the "ENTIRETY" of that mine or "AS A MATTER OF LAW" (but, instead, REMANDED some such issues, in effect, because of the LACK OF EVIDENCE as to various of the SEPARATE PARCELS as to the application of certain LEGAL AND FACTUAL ISSUES ignored by Rise), (ii) *Hansen* was grounded on SMARA, which the Evidence Objection Part 1 in Attachment 2 SHOWS TO BE LIMITED TO SURFACE MINING AND ALSO TO CONTAIN MANY REGULATORY "LIMITATIONS OR RESTRICTIONS" (MANY ALSO ADMITTED IN RISE'S 2023 10K AS EXPOSED IN EXHIBIT A), ESPECIALLY AS TO THE NEED FOR AN APPROVED "RECLAMATION PLAN" AND RELATED "FINANCIAL ASSURANCES" for which Rise could never qualify or afford as illustrated by Rise SEC financial admissions in Exhibits A, and (iii) even more importantly, see many ways that Attachment 1 to the Evidence Objections Part 1 demonstrates that the actual, complete *Hansen* decision destroys the disputed Rise Petition claims citing fragments of *Hansen*. Id.

There are many reasons for launching these two related objections (i.e., this Petition requesting relief and the Evidence Objection Part 1), but among them are the following. **First,** as the court decisions cited herein and therein demonstrate, much of the purported "evidence" material to Rise Petition's claims is neither (a) "evidence" at all (as distinguished from disputed "opinions," "assumptions," "inferences," wishful thinking, or worse (e.g., mere "alternative reality" impressions or guesses), which, if allowed, can be rebutted by thousands of impacted objectors with opposite such opinions etc. according to whatever standard is applied to Rise's disputed such "proof"), nor (b) admissible (nor credible) under the rules of evidence that the courts will apply even if the County were to tolerate less rigorous legal compliance, as Rise apparently hopes. Rise's contradictory and inconsistent admissions from such different Rise documents and communications must be self-defeating, especially those admissions in Exhibit A that are irreconcilable with the disputed Rise Petition. See *Calvert, Hardesty,* and even *Hansen*, each of which insisted on better evidence than was offered by miners in those administrative processes or lower courts. (Objectors seek more clarity before the hearing so that we can be sure our objections are sufficiently comprehensive by whatever standard is applicable from time to time for a "level playing field." The disputed Rise Petition asserted [at 55] incorrectly that its claims are "indisputable," but objectors contend the opposite and demonstrate why our meritorious objections are comprehensive in this objection and in the Evidence Objection Part 1.) **Second,** when Rise realizes its disputed, "hide-the-ball" and "insist-on-'alternative realities'" tactics have been exposed (e.g., like what *Hardesty* rejected as a "muddle"), Rise may again attempt re-do the record at the Board hearing with Rise's new supplements, changes, and other additions, incorrectly calling them mere "clarifications" or "embellishments," as Rise incorrectly did with its disputed DEIR/EIR. However, even such Rise attempts to rewrite its "stories" cannot evade the consequences of its previous, inconsistent admissions. **Third,** objectors need greater clarity about the details and substance of Rise's conclusory, vague, and ambiguous "stories," so that objectors can suggest to the County more hard, detailed, and fatal questions that objectors would ask themselves if permitted by the County to do so (as objectors will be entitled to ask when the following court process recognizes objectors as equal participants in a multi-party

dispute in which objectors' are entitled to full due process participation to assert our own, competing, constitutional, legal, and property rights and counters, including to enforce the rules of evidence entitling objectors to dismissal of most of the deficient, self-contradictory, and objectionable "evidence" offered by Rise. In any case, Rise will be unable to satisfy its burdens of proof (which Rise has already failed to do so far, even if the County incorrectly were to allow Rise's disputed Rise Petition Exhibits into evidence.)

Consider some illustrative, further of disputed Rise Petition claims on which Rise has crafted its **disputed, "alternative reality," asserting without merit: (a) [starting at 55] "The facts surrounding the Vested Mine Property are indisputable"; and (b) [summarizing for disputed conclusions beginning at 74-75] "The facts relating to the history and operation of the Vested Mine Property are both extensive and indisputable, and conclusively establish that the Vested Mine Property carries a vested right to mine." The reverse is true in reality, as objectors' "fact-checking" and counter legal objections' briefing and evidence will demonstrate further before the Board hearing. However, this Petition (and particularly in its Exhibits and the Evidence Objection Part 1) itself illustrates sufficient objector rebuttals both to justify this requested pre-trial relief and to defeat the Rise Petition.**

To reduce any chance of denial by Rise of "inconvenient truths," THIS OBJECTION AND THE EVIDENCE OBJECTION PART 1 BOTH FOCUS ON THE USE OF RISE ADMISSIONS TO ESTOP RISE PETITION CLAIMS PURSUANT TO EVIDENCE CODE #623 AND OTHERWISE, ESPECIALLY AS PROVEN IN THE EXHIBIT A ADMISSIONS FROM RISE'S 2023 10K AND FROM RISE'S EIR/DEIR AND THE HUNDREDS OF MERITORIOUS OBJECTIONS THERETO. Part of the reason there are so many contradictions and inconsistencies is that, after years of Rise crafting different "alternative reality" stories for its EIR/DEIR and permits (following the path of every one of its predecessors), Rise has abruptly now changed its prior case to this new legal theory and vested rights "story" that cannot be reconciled with Rise's such previous record or with reality.

Not only are Rise's authorities are easily distinguished and rebutted (e.g., *Hansen* in that Attachment 1, and SMARA in Attachment 2 to that companion Evidence Objection Part 1), but Rise also continues to ignore entirely the contrary authorities cited both here, in the Evidence Objection Part 1, and previously in many EIR/DEIR objections. See, e.g., Evidence Code ("EC") # 412: "if weaker and less satisfactory evidence is offered when it was within the power of the party to produce stronger and more satisfactory evidence, the evidence offered should be viewed with distrust;" # 413: "In determining what inferences to draw from the evidence or facts in the case against a party, the trier of fact may consider, among other things, the party's failure to explain or to deny by his testimony such evidence or facts in the case against him or his willful suppression of evidence relating thereto, if such be the case." This much should be indisputable: nothing Rise or its predecessors did on the surface can ever create any vested right for any underground use or component, especially when that surface use is on a different parcel, because objectors and others own the whole surface above or around that underground mine. Yet, that is the whole Rise Petition theory, because the whole underground IMM was winding down on 10/10/1954 to a close, discontinuance, and abandonment by 1956. There has been no mining on any of those underground parcels since then. See, e.g., the Evidence Objection rebutting each relevant Rise Petition Exhibit allegedly

proving or supporting any vested rights by any Rise predecessor, which means Rise itself could not inherit/succeed to any vested rights when it began in 2017.

2. Rise Cannot Satisfy Its Burden of Proof For Vested Rights To Such UNDERGROUND Mining By Ignoring The Constitutional, Legal, And Property Rights of Objecting Surface Owners Above And Around the 2585-Acre UNDERGROUND IMM. See *Keystone* And *Varjabedian. However, Even If Rise Were Somehow Allowed To* Focus Exclusively (As It Does) on Deficient Fragments of SMARA and SURFACE Mining Facts And Case Law, the Rise Petition Still Fails *By Ignoring Hardesty, Calvert, (the whole of) Hansen,* And Other Key Cases And By Rise's Self-Defeating Admissions (E.g., Exhibit A) And Objectionable, Purported "Evidence."

Nowhere does the disputed Rise Petition ever even attempt to explain how its incorrect **surface** mining-based theories and fragmented legal authorities either [i] apply to this IMM **underground** mining, especially on "dormant," "discontinued," and "abandoned" these underground parcels of the 2585-acre IMM that have never yet been mined (the **"Never Mined Parcels"**) or such parcels that have been closed and flooded since 1956 (the **"Flooded Mine"),** and [ii] are supported by *Hansen if (unlike Rise) one bothered to read the entirety of the* court's own words and citations that have been strategically omitted by Rise or matched with incorrect, deficiently proven, or unsubstantiated "facts" (often really just incorrect opinions, inferences, or assumptions) or with other inadmissible or non-credible so-called "evidence." See Evidence Objection Part 1, especially Attachments 1 (as the Hansen) and 2 (as to SMARA and surface mining limitations that cannot be applied to underground mining). Thus, **exposing the following, worst falsehood in the disputed Rise Petition (at 58, emphasis added) is the focus of much of this Objectors Petition's rebuttals and the best illustration of the need for greater clarity and pre-hearing relief. Rise incorrectly claims:**

> **Therefore, as a matter of law, Rise is entitled to engage in mining operations throughout the whole of the Vested Mine Property [which Rise now claims includes Centennial parcels] pursuant to the California Supreme Court's holding in *Hanson* [sic] *Brothers*, as mineral rights that have been vested necessarily encompass 'without limitation or restriction' the entirety of the Vested Mine Property…"**

See more such disputed Rise Petition claims in the Evidence Objection Part 1 and Exhibit A, using Rise's 2023 10K and other SEC filing admissions to expose and rebut the inconsistencies and contradictions in the Rise Petition.

Such disputed Rise Petition's claims translate to objectors owning the surface above and around the 2585-acre underground mine parcels as risks or threats to objectors competing constitutional, legal, and property rights and standing, such as to deplete our existing and future wells and groundwater "without limitation or restriction," which is not just wrong, but also intolerable, especially when Rise also wrongly claims the right to invade our surface properties to support its underground mining as admitted by Rise in Exhibit A #

II.B.25. Since the Rise Petition entirely ignores such competing and objecting surface owners' rights and defenses, despite specific prior EIR/DEIR objections on that dispute with compelling authorities (some cited again below), objectors continue to insist that the County allow us our competing due process rights fully to protect our surface properties at the hearing, including our existing and future wells and groundwater. See the Hardesty quotes above that defeat such vested rights claims by requiring separate vested rights treatment of IMM **underground** mining and other realities. Again, **each type of mining (e.g., surface versus underground or gold versus gravel) is a different vested rights "use." Any vested rights for one such type of mining use does not create any vested rights for any other type of mining use.**) Specifically, *Hardesty* ruled in part:

> [T]he italicized portion of the statute [SMARA #2776] speaks of vested rights to ***surface*** mining, **not *any* mining**. "Surface mining involves stripping off the top of an area to reach the minerals, in contrast to boring down through tunnels or shafts to extract them." ([People v.] *Rinehart*, supra, 1 Cal. 5th [652] at p. 671, fn. 10 …) (emphasis added)
>
> ***
>
> To the extent Hardesty contends he has a vested right to surface mine under section 2776, he simply **failed to carry his burden to prove any substantial *surface* mining on the property** had been conducted by that date. As the trial court found, substantial evidence shows that **prior mining had been hydraulic, tunnel, and drift mining, not surface mining,** which began in the 1990's, and **which represented a SUBSTANTIAL CHANGE,** contrary to former section 2778's requirement that no substantial changes may be made in any such operation except" according to SMARA's terms…. (emphasis added)
>
> ***
>
> … Hardesty failed to prove any mining was occurring on or even reasonably before the date SMARA took effect. **SMARA was designed to allow existing, operating surface mines to continue operating** after its effective date without the need to obtain local permits. **SMARA's grandfather provision does not extend to dormant mines.**
>
> ***Hansen** Brother Enterprises, Inc. v. Board of Supervisors* (1996), 12 Cal. 4th 533…*(Hansen Brothers*)—**consistent with a long line of zoning cases—holds that A USE MUST BE PRESENT AT THE TIME A NEW LAW TAKES EFFECT, TO BE CONSIDERED A NONCONFORMING USE…**. Communities for a Better Environment … (2010), 48 Cal.4th 310, 323 fn.8 …["the traditional protections for nonconforming uses established *at the time* zoning restrictions become effective"]…; *McCoslin v. City of Monterey Park* (1958), 163 Cal. App.2d 339, 346…["A nonconforming use is **a lawful use existing *on the effective date* of the zoning restriction and continuing since that time** in nonconformance to the ordinance."] … ***NEITHER A DORMANT NOR AN ABANDONED USE IS A NONCONFORMING USE.* (*HANSEN BROTHERS,* AT PL 552…*["NONUSE IS NOT A NONCONFORMING USE."])* As stated by our Supreme Court, "The ultimate purpose of zoning is … to reduce all nonconforming uses within the zone to**

conformity as speedily as is consistent with proper safeguards for the interests of those affected." We have recognized that, given this purpose, courts should FOLLOW A STRICT POLICY AGAINST EXPANSION OF THOSE USES…

That policy necessarily applies to attempts to continue nonconforming uses which have ceased operation." *(Hansen Brothers*, at 568 …) (emphasis added)

***

Further, **the record shows a proposed significant change in use since pre-1976 [SMARA's effective date] times. THE CONTINUANCE OF A NONCONFORMING USE "IS A CONTINUANCE OF THE SAME USE AND NOT SOME OTHER KIND OF USE." …[citing McClurkin, Edmonds, and Goldring, where, FOR EXAMPLE, EDMONDS V. COUNTY OF LA (1953), 40 CAL. 2D 642 HELD "ENLARGEMENT OF PLAINTIFF'S TRAILER COURT TO ACCOMMODATE 30 MORE TRAILERS IS CLEARLY A DIFFERENT USE."] SURFACE MINING IS A CHANGED USE ON HARDESTY'S PROPERTY, WHEN CONTRASTED WITH THE PRE-SMARA USE [FOR UNDERGROUND ETC. MINING NOTED ABOVE]. Nor can Hardesty persuasively rely on post-1976 unpermitted surface mining –twice halted by the government— to show that surface mining was extant before 1976.** (emphasis added)

Hardesty v. State Mining And Geology Bd. (2017), 11 Cal. App.5th 790, 799-812.

More importantly, in setting up that decision, wherein ***Hardesty*** **forbids the kind of mining and use changes Rise tries to ignore between such different types of mining (or exploration vs. mining) in incorrectly claiming vested rights for "everything" (i.e., rejecting what objectors here dispute as Rise's unprecedented "unitary theory of vested rights"), the** ***Hardesty*** **court stated (Id.):**

> **The trial court found that in the 1990's unpermitted surface (open pit) aggregate and gold mining began different in nature from the 'hydraulic, drift, and tunnel' [i.e., underground] mining that historically had been conducted on the land.** The RFD alleged the new proposed open-pit mining was safer and better for the environment. *** As an alternative to the finding of no vested right based on the lack of mining [in the right way and at the required time] … the trial court **found that any right to mine had been abandoned**." (emphasis added)

Consider also, for example, this *Hansen* quote against such Rise's disputed cross-parcel/unitary operations claims (none of which disputed Rise theories apply to UNDERGROUND mining at all, as *Hardesty* demonstrates and SMARA itself states in Attachment 2 to the Evidence Objections Part 1. *Hansen* stated (at 558, emphasis added):

EVEN WHERE MULTIPLE PARCELS ARE IN THE SAME OWNERSHIP AT THE TIME A ZONING LAW RENDERS MINING USE NONCONFORMING, EXTENSION OF THE USE

> **INTO PARCELS NOT BEING MINED AT THE TIME IS ALLOWED ONLY IF THE PARCELS HAD BEEN PART OF THE MINING OPERATION.** (*Dolomite Products Company v. Kipers* (1965), 23 A.D.2d. 339…affd 19 N.Y.2d 739 [279 N.Y.S.2d 192]…[**OWNER MAY NOT "TACK" A NONCONFORMING USE ON ONE PARCEL USED FOR QUARRYING ONTO OTHERS OWNED AND HELD FOR FUTURE USE WHEN THE ZONING LAW BECAME EFFECTIVE**]; *Smart v. Dane County Bd. Of Adjustments*…501 N.W.2d 782; *Stephan & Sons v. Municipality of Anchorage*…685 P.2D at p.102 fn.6 ["**THE DIMINISHING ASSET DOCTRINE NORMALLY WILL NOT COUNTENANCE THE EXTENSION OF A USE BEYOND THE BOUNDARIES OF THE TRACT ON WHICH THE USE WAS INITIATED WHEN THE APPLICABLE ZONING LAW WENT INTO EFFECT….]** see also *Midland Park Coal & Lumber Co. v. Terhune*, 56 A.2d 717 (N.J. 1948); *Syracuse Aggregate Corp. v. Weiss*, 51 N.Y.2d 278, 434 N.Y.S.2d 150 *…; Davis v. Miller*, 163 Ohio.St. 91, 126 N.E.2d 49 (1955).].) (emphasis added)

Furthermore, to avoid any doubt about that required parcel-by-parcel and use-by-use analysis in *Hansen* and to emphasize the importance of **EVIDENCE** (contrary to Rise's disputed claim that somehow, we must trust its erroneous legal opinion "as a matter of law"), the *Hansen* court also stated (at 561-64, emphasis added):

> Some of those parcels were conveyed to Hansen Brothers after 1954, however. **The record does not confirm that all of the parcels, over which Hansen Brothers claimed vested rights in its SMARA application, were part of the Bear's Elbow Mine in 1946 or 1954. The record is also devoid of evidence that the owners of those parcels themselves held vested mining rights in the transferred property at the time they were deeded to Hansen Brothers.** Examination of the record reveals that [the County's related admissions, including one obvious mistake that it could not correct in time]… encompassed only the parcel that was the original site of the …Mine and one of the three parcels conveyed to Hansen Brothers after 1954.
>
> ***
>
> Hansen Brothers does not dispute the absence of evidence in the record that the after-acquired properties were being used for mining purposes in 1954. Instead, it argues that its SMARA reclamation plan …[was sufficient and the County was estopped to object from subsequent use].
>
> ….**The court must make its own decision as to the legal impact of those facts and is not bound by any concessions of law that a party may have made. [citations]… Indeed, the county lacks the power to waive or consent to violations of zoning law. [citations]**
>
> ***
>
> [After analysis that is even more powerful here because IMM objectors here make no admissions or concessions of any kind to Rise, the court concluded:] **Hansen Brothers has failed to carry that burden insofar as its SMARA reclamation plan asserted a vested right to quarry a 60 plus acre parcel…The evidence is insufficient to support a finding that Hansen Brothers**

> **is entitled to a writ of mandate… [therefore referring to a further] determin[ation] by the superior court on remand.**

II. The Disputed Rise Petition Cannot Achieve Any Vested Rights By Making Incorrect Claims That Are Inconsistent With, Or Contradictory To, Rise Admissions in Either (i) the 2023 10K and Other SEC Filings (See Exhibit A), Or (ii) the EIR/DEIR Or Permit Applications. Court Decisions Ignored By Rise, Like *Calvert* And *Hardesty, Also* Support Such Objectors' Reasons For Rejecting the Rise Petition.

The County must require Rise to be clearer and more detailed for objectors about what Rise is claiming. For example, Rise creates massive confusion by its many admissions contrary to its Rise Petition, especially from Rise's 2023 10K and other SEC filings exposed in Exhibit A. At present, we confront a disputed Rise Petition (i) that is legally deficient for failure sufficiently to state a cause of action for vested rights (especially for Rise's disputed claims for operating "without limitation or restriction"), (ii) that claims relief beyond what vested rights would allow (even if sufficiently pleaded and compliant with applicable standards for vested rights under the actual and applicable law, facts, and circumstances; i.e., reality), such as disputed claims to use objectors' surface parcels to mine underground beneath us (e.g., Exhibit A #II.B.25), and (iii) that asserts rights to relief that are not pleaded with sufficient clarity either (A) as to the legal basis of Rise's disputed claims, or (B) as to the factual foundation and authenticated and admissible proof alleged for each disputed claim. See Evidence Objection Part 1. Rise's demanded relief is not supported by sufficient admissible and credible proof in such cases (i) because such Rise contradictions and conflicts are mutually defeating, (ii) because due process and applicable law require consistent clarity, and (iii) because Rise cannot ever prove such false and inconsistent things to different audiences. Id., including Exhibit A for such contrary and inconsistent admissions in Rise's 2023 10K and other SEC filings. Stated another way, hundreds of "filler" Exhibits for the Rise Petition are rarely self-evident, especially because Rise has not mated them to the actual requirements for vested rights, especially on the required use-by-use, component-by-component, and parcel-by-parcel basis. Id.

That need for greater Rise Petition clarity is also enhanced by the confusion created by Rise's own contrary and conflicting admissions in Rise's 2023 10K and other SEC filings discussed in Exhibit A (and also some EIR/DEIR admissions), which each defeat or estop Rise's claims. See, e.g., Evidence Code # 623 and other Evidence Objection Part 1 authorities. If the parties were in court, this case would be ended quickly by the pretrial motions defeating the Rise Petition, such as those that will be coming in the court phase of this process, including, among other things, because Rise has created excessive and impermissible confusion by its contradictory and conflicting claims and admissions in its key documents (especially the 2023 10K) that create what the *Hardesty* court called a disqualifying "muddle." Therefore, the courts in this case must reject the Rise Petition under Evidence Code # 623 and otherwise.

Clarity is always an essential part of any due process for objectors, such as what the ***Calvert*** court has assured for such objectors, especially for directly impacted owners of the surface above and around the 2585-acre underground mine. See also Keystone, *Hardesty, Calvert, Hansen, Varjabedian,* and Evidence Objection Part 1, addressing Rise's burdens of proof

and evidentiary deficiencies. The Board must particularly focus on shocking Rise omissions, contradictions, and inconsistencies, such as are obvious from any serious comparison of the disputed Rise Petition with Rise's 2023 10K (as proven in Exhibit A) and even with the EIR/DEIR (as proven in the record objections thereto also incorporated herein, especially in the incorporated "Engel Objections" (i.e., DEIR objections Ind. # 254 and 255, and related follow up EIR objections dated April 25 and May 5, 2023) at Id.

III. The County Should Resolve For Objectors Before the Hearing To What Extent, If Any, The County Will Consider Rise's Disputed "Evidence" That Does Not Satisfy The Legal Requirements For Admissibility Or That Is Otherwise Legally Objectionable. While Objectors Dispute Such Objectionable Rise "Evidence" That Should Be So Disallowed, For Comprehensive Rebuttals, Objectors Must Be Able To Counter Using the Same Standards That The County Tolerates For Rise. The Problem, Again, Is a Lack of Clarity About What the County Standard Will Tolerate If (And To The Extent That) The Law of Evidence Is Disregarded For Rise.

The incorporated Evidentiary Objection Part 1 addresses these legal and evidence issues in more detail, but this dispute is not only about excluding objectionable Rise evidence. This is also about some objection process either to accomplish that goal for clarity and rebuttals or to free objectors to match and counter with whatever lesser "evidence" standard the County tolerates for Rise, so that objectors can fight Rise "fire with fire." ***Calvert, Hardesty,*** **and other courts (even *Hansen*) have emphasized allowing "evidence"** in its technical legal meaning, and **much of what Rise cites as "evidence" is not competent, admissible, or credible "evidence" at all**. Id. Too often Rise merely just presents incorrect, unauthenticated, and unsubstantiated opinions, assumptions, inferences, or other baseless claims, often from an unqualified source (e.g., inadmissible hearsay from persons lacking personal knowledge, purported expert opinions from non-experts or experts with insufficient bases for such opinions, etc.), lacking sufficient foundation, authentication, and other bases to be admissible, or otherwise being inadmissible or objectionable. See Evidence Objection Part 1, especially Attachment 1, where even *Hansen* insisted on sufficient admissible and credible evidence, rejecting the vested rights claims regarding certain parcels for lack of such evidence. Since objectors are incorrectly excluded from the hearing process (except for limited three-minute comments), how can objectors make such evidentiary objections to what Rise corrects, supplements, or otherwise adds either at the hearing or shortly before the hearing? At present, all objectors can do is object here, guess about anticipatory offers of proof to file before the Board hearing, and insist on a more proper rebuttal opportunity in the court process to follow.

As *Calvert* explained (at 625):

> SMARA's policy is to assure that adverse environmental effects are prevented or minimized; that mined lands are reclaimed to a usable condition; that the production and conservation of minerals are encouraged while giving consideration to recreational, ecological, and aesthetic values; and that residual hazards to the public health and safety are eliminated. (# 2712) **A PUBLIC ADJUDICATORY HEARING THAT EXAMINES ALL THE EVIDENCE REGARDING A**

CLAIM OF VESTED RIGHTS TO SURFACE MINE IN THE DIMINISHING ASSET CONTEXT WILL PROMOTE THESE GOALS MUCH MORE THAN WILL A MINING OWNER'S ONE-SIDED PRESENTATION THAT TAKES PLACE BEHIND AN AGENCY'S CLOSED DOORS. (emphasis added)

Here the County's "door is not closed" but the result is almost the same, since silent observation (apart from three minutes) is not any sufficient due process opportunity for objectors to present "all the evidence" in rebuttals to Rise, especially as to its likely additions to its record before or at the hearing.

IV. Some Additional Data And Issues For Such Status Conference Clarifications And Relief, Besides Applying As Rebuttal Questions Each of the "Risk Factors" Admitted by Rise's 2023 10K Contradicting Or Conflicting with the Rise Petition. See Exhibit A.

A. Consider Some of What Surface Owners Should Be Allowed To Accomplish Before Or At The Hearing. Rise Cannot Keep Evading The Hard Questions That Defeat The Rise Petition.

Before the coming Board hearing, objectors wish to understand (and "pin Rise down" to) something that objectors can systematically deconstruct from this amorphous "alternate reality" of the Rise Petition, as such requested relief is further explained in **Exhibit B** hereto. See, e.g., more (beyond those cited above) Rise's 2023 10K admissions (as proven in Exhibit A, also in the attachment thereto for earlier SEC filing, to counter Rise Petition claims with admitted inconsistencies and contradictions) and additional record objections to the EIR/DEIR demonstrating conflicts and contradictions with the Rise Petition. In at least 25 material "Risk Factors" exposed in Exhibit A Rise admits to its investors in its 2023 10K, for example, facts contrary to or inconsistent with the Rise Petition. Many of Rise's vulnerable illusions become obvious errors when they are so exposed, as the County investigators will discover if they cross-examine Rise about its such inconsistent and contradictory admissions. One basic, starting question for the County is: what procedural options can and should the County itself execute to require timely clarity and truths from Rise, even just about such inconsistent and contradictory Rise admissions?

Objectors propose an all-party, pre-hearing status conference for such purposes. However, the County counsel and team can do such things themselves, if objectors cannot persuade the County to allow objectors to question Rise as equal participants (not just as three-minute public commenters) in what *Calvert* ruled must be a multi-party, due process procedure among equals, but without delaying the County schedule. One of many corollary questions is: how could the County even know what to ask Rise about even the most obvious and important legal and factual issues and unanswered questions that objectors would ask if objectors were allowed by the County to do so as equal, due process parties in these disputes? Perhaps, the County should start asking Rise such hard questions from Exhibit A, from our ignored EIR/DEIR objections, and from our companion Evidence Objection Part 1 exposing the flaws and admissions in Rise Exhibits 1-307.

(As far as we can tell because Rise continues to ignore them) those hard questions still have not been asked of Rise by the County staff or EIR/DEIR enablers. It is time for the County to insist that Rise sufficiently confront its opposition, if not directly then at least indirectly through the County. When Calvert and other authorities describe this as an adjudicatory process, that does not mean it cannot be one in which the County team is somehow precluded from questioning such obvious Rise obstacles to truth and clarity about what is at issue or to make sure everyone understands the confusion or inconsistencies in a party's claims. That is why appellate judges spend all their time asking such hard questions instead of just listening to the suspect party's prepared speeches. The best trial judges follow that same approach with even greater persistence because they have a greater opportunity to question the key details, which, when the judge exposes them, reveal the truth with the clarity required by due process for a fair hearing. There is no due process for objectors, especially those owning the surface above and around the 2585-acre underground IMM, if the County team just investigates on its own as an imagined "neutral" and hears the irreconcilable opposite sides present their cases in a dispute process radically favoring the miner. This is not about deciding "if some fruit is an apple or an orange," but rather the County must understand why each side thinks the other is wrong or worse. Why? Because our legal system requires an adversary process in which objecting adversaries are allowed to expose the errors and omissions in the claimant's case. That is especially important when, as here, the miner can present whatever it wants at the hearing without any meaningful opportunity for rebuttal and so often contradicts itself with inconsistent admissions. Compare the Rise Petition to Exhibit A and the rest of Evidence Objection Part 1.

In any case, it is not feasible in such disputes for the County fairly to represent all of the interests in this dispute of the objecting parties living above and around the 2585-acre underground IMM. Among other things, the County may not share those personal, objector interests and issues, and (so far) the County has not examined or joined any such objector arguments or claims, even though they were raised before in many objections to the EIR/DEIR, the County Staff Report, and the County Economic Report. (The universal experience reported by objectors in their EIR objections is that the EIR responses to the DEIR objections were generally nonresponsive or even more objectionable.) Unless the County is advancing (on a fully informed basis) the same rebuttal arguments and evidence objectors are doing, due process requires that the objecting parties must be able fully to defend their own constitutional, legal, and property rights at risk from the Rise Petition harms to them. The most important issues for constitutional due process rights in a fair proceeding are (i) comprehensive clarity in the Rise Petition (now lacking) for everything that is in dispute, so that comprehensive counters for all such things may be prepared timely for dispute and rebuttal by objectors, and (ii) objectors must have an equal opportunity (not three minutes each) for presenting their such fully informed disputes and rebuttal comprehensively; i.e., Rise may not ever be permitted to present any evidence or argument to which objectors are not permitted to respond or to counter effectively. At present, neither of those due process requirements exist, and, if the County were to mistakenly allow any such disputed vested rights, objectors expect the next court proceeding to require them as we have requested here. As proven in the many record objections and this one, objectors and Rise do not share the same reality. Objectors' experience

is that these are disputes about "apples versus oranges" (or, less politely, reality vs alternative reality) in which there can be little common ground.

That *Calvert* court also rejected as without merit many issues raised by that miner that would also defeat Rise's IMM vested rights claims. **For example, the usual claim by miners that the aggrieved public objectors failed to exhaust their administrative remedies was inapplicable in that case because (citing CA Supreme Court authority in *Horn v. County of Ventura*) the court held (at 622): "[o]ne need not exhaust inadequate remedies in order to challenge their sufficiency."** However, in the IMM mine case, we expect the hundreds of EIR/DEIR objectors also to be even more comprehensive in resisting Rise, making such exhaustion of administrative remedies claims by Rise inapplicable, as objectors had prepared to prove if the disputed EIR had been approved. Nevertheless, *Calvert* is instructive for the County as to its need to upgrade its rules and procedures as noted in the aforementioned IMM status conference topics (see **Exhibit B),** especially as explained in one of the concluding sections below about preserving objectors rights to prevent Rise's lengthy "last words" at the Board hearing from evading the "fact checking" needed to expose Rise incorrect or worse additions to its disputed "alternative reality," especially by rebutting them with Rise's own admissions (see Exhibit A) and inconsistencies between what Rise then claims versus its (or the EIR/DEIR's or enabler statements' based on Rise claims) prior record positions. E.g., Evidence Objection Part 1. That Exhibit B below suggests how the County can best deal with that in the suggested Summary Due Process Proceeding before the Board hearing.

So, what possible benefit does Rise imagine for its radical, mid-stream switch to these disputed vested rights claims, even from *Hansen* (which hurts more than helps Rise's disputed claims, as demonstrated in Attachment 1 to Evidence Objection Part 1, as much as from other authorities like *Calvert and Hardesty,* where the miners lost badly on many grounds to comparable objectors)? Apparently, besides Rise's desperation and habit of gambling on meritless, "long shot" theories, Rise seeks somehow to shout "vested rights" for doing whatever the disputed Rise Petition may want (still a mystery as to critical issues) as if those words (i.e., "vested rights") were a magic spell that needed nothing more justification or substantiation to evade the contrary applicable law. Id.

B. Consider Some Improved Approaches To Pre-Hearing Relief Suggested in Exhibit B.

In any event, experience shows the wisdom of beginning such multi-party disputes with such a quick status conference for **clarity about such missing or obscured details, inconsistencies, and contradictions in the Rise Petition about its disputed claims and theories. E.g., Exhibit B. See also Exhibit A, which admissions the County cannot ignore because they defeat the Rise Petition; Evidence Objection Part 1.** Because Rise has made no effort in the Rise Petition to reconcile any of its contradictions or inconsistencies with Rise admissions (or vice versa), perhaps counting on objectors not being permitted timely to hold Rise accountable for such evasions and worse, the County must reject the Rise Petition as a *Hardesty* style "muddle." See also the *City of Richmond* case, where Chevron's SEC filing inconsistencies and contradictions defeated Chevron's EIR; EC # 623. And, if the County does not do so, then the following court must allow objectors fully to present their such comprehensive dispute case in rebuttal or to remand (which is the objectors' last resort, because we do not want delay, just

finality to end the mining risks and harms.) **Objectors are confident that the courts will not tolerate what we've seen so far as targets for (the administrative equivalent of) EC # 623 or judicial estoppels and more powerful relief to come in the next court process to hold Rise accountable for "contradictions," "inconsistencies," and worse admissions, such as (i) between Rise's disputed EIR/DEIR versus its 2023 10K and other SEC filings (Exhibit A), which such SEC filings the *City of Richmond* court decision cited herein defeated Chevron's EIR, and (ii) between real versus alternative realities that the *Hardesty* court refused to tolerate as a "muddle" in defeating a vested rights mining claim on grounds applicable here. See Evidence Objection Part 1 and Exhibit A.**

V. The Rise Petition Ignores The Realities of Underground Mining, Which Include Surface Owners Above And Around Those Miners With No Less And Often Greater Rights. See *Keystone*; Varjabedian.

The County should also allow objectors even more procedural and rule protections and clarity than provided to objectors in *Calvert, when that court so required such* procedural due process, because, without SMARA's ***surface*** mining, statutory compromises' blending of benefits and burdens into a comprehensive, integrated regime (see Evidence Objection Part 1, Attachment 2), Rise is (in effect) insisting that the County and courts craft piecemeal a new, comprehensive, common law, ***underground*** mining vested rights law through issue-by-issue litigation where the County would have no right (incorrectly) to accommodate Rise without creating problems for itself for harming such surface owners' own constitutional, legal, and property rights. (This attack on objectors' personal constitutional, legal, and property rights must allow objectors' full self-defense and counter processes because the County cannot give Rise what Rise wants without wrongly "taking" such rights and interests away from objecting surface owners. E.g., *Id.;* ***Keystone Bituminous Coal Assn v. DeBeneditis,*** **480 U.S. 470 (!987) ("Keystone)** *(discussed and quoted below in section II.)* See ***Varjabedian v. Madera*** (1977), 20 Cal.3d 285 (allowing nuisance, inverse condemnation, and other claims for homeowners suffering downwind of the new sewer plant project) ("***Varjabedian").*** Besides being legally and factual incorrect on the merits, for the County to so side with Rise on reopening the IMM would be a practical and policy mistake, because such legal and political conflicts would be perpetual. No locals can afford ever to have or tolerate this utterly incompatible mining beneath or around them. Such conflicts between the surface owners versus such underground miners could evolve beyond the conventional land use disputes assumed by Rise and its County sympathizers into complex and continuous constitutional litigation, such as over impacted surface owners also exercising their voting rights for stronger and more comprehensive political and law reforms, perhaps inspiring Rise or successors to test each new law they consider inconvenient. E.g., DEIR/EIR objections opposing its 24/7/365 dewatering for 80 years and other such round-the-clock continuous operations that the DEIR at 6-14 admitted was necessary in order for this mine to be economically feasible, which would be an unprecedented level of "intensity" and "expansion" of "mining uses" that vested rights cases consistently prohibit and which new local laws will also prohibit. See the discussion of Rise's reciprocal threats against surface owners in the 2023 10K addressed in Exhibit A, especially Rise's such threat to use our surface property for Rise's underground mining in #II.B.25, for which there are no possible vested rights because

there is no Rise proof whatsoever of such residential or non-mining commercial businesses uses on the surface above the supporting any mining (which flooded mine has been closed, dormant, discontinued, and abandoned since 1956, in any event).

Remember it is such objectors' owned groundwater and existing and future wells Rise is proposing to "dewater" and flush away down Wolf Creek. See record objections to the disputed EIR/DEIR. Not only are such objectors' harms (and legal standing) personal and independent of the County, but, for example, even the existing, record EIR/DEIR and other objections protest Rise's disputed "mitigation" for such dewatered groundwater flushed down the Wolf Creek (after purported "treatment" by disputed new facilities and systems for which there can be no Rise "vested rights, even under *Hansen,* following *Paramount Rock above*), where Rise's EIR mining would wrongfully (i) take the top 10% of surface owner wells without any mitigation replacement, (ii) ignore (i.e., exclude from any fair or accurate count) many existing wells, all future surface wells, and even whole surface areas depleted by Rise's 24/7/365 dewatering impacts for 80 years, and (iii) otherwise violate surface owner rights with deficient mitigation as a matter of law, applying the "well water standard" set by ***Gray v. Madera County*** *(2008), 167 Cal.App.4th 1099 ("**Gray**")* (rejecting an EIR surface miner's plan for similar, purported groundwater/well mitigation that was even superior, to Rise's disputed EIR mitigation plan, especially considering that Rise's admitted lack of financial resources makes any meaningful mitigation or reclamation illusory. See Exhibit A analyzing the 2023 10K.) Now that Rise appears to be trying to escape even more applicable laws and regulations with its disputed vested rights excuse, how much more surface owners' groundwater and existing and future wells will Rise, operating "without limitation or restriction" (under disputed Rise Petition at 58), now dare to deplete without even its such illusory mitigation? See, e.g., the Engel Objections and others cited therein (e.g., the Wells Coalition, CEA, Rudder Group, and more) to the disputed EIR/DEIR reserving the rights of such surface owning objectors to compete also in the future for access their own groundwater with new wells. See the discussion below of how *Keystone, Varjabedian,* and other property rights authorities cannot be defeated in any Rise process that continues to ignore such surface owners' constitutional, legal, and property rights. See Evidence Objection Part 1.

Unlike Rise in the 2023 10K and elsewhere (see, e.g., Risk Factor # II.B.25 in Exhibit A, where Rise makes meritless threats of pressure on the government and litigation in the courts to take control of our surface property for greater surface access to the 2585-acre mine beneath objectors), this Petition does not threaten claims against the County (or anyone else). However, objectors note the existence of any such claims proves the truth of objectors' standing and rights, thus entitling objectors to the relief we seek in this Petition. Moreover**, nothing in this Petition could be any presently such asserted claim by any objector (as distinct from proof of rights that, when and if violated, could result in claims), but rather, instead, objectors just warn the County of the predictable consequences of tolerating or suffering the Rise Petition if such claims were to become "ripe."** (Until such actual harms become "ripe," the foreseeable threats of such potential harms may be too "theoretical" as far as the law is concerned to give rise to any such current causes of action for such threats of causing such harms.) However, objectors want to end all of these threats as quickly and cost-effectively as possible and before any mining related activity starts. Therefore, objectors will resist this IMM threat while the disputed vested rights mining is still just a toxic theory, leaving to an unlikely

future what objectors may do about rights and claims if and when any become "ripe" if actual mining activities ever were allowed to begin to harm them.

Among other relief requested by objectors in this counter petition, that Rise Petition must be clarified for objectors, both for this dispute process that Rise has triggered and, more importantly, for the expected court proceedings to follow. While objectors do not wish to delay the elimination of the Rise IMM threats, from which objectors are already suffering depressed property values (that will consequently impact County property taxes), at least basic clarity should be achieved before the Board hearing. For example, precisely what **underground** mining "uses," "components," and related activities does Rise claim that its disputed vested rights from 10/10/1954 will allow on each parcel or sub parcel in disregard of otherwise applicable laws and regulations (and in disregard of objectors' competing constitutional, legal, and property rights)? That is essential to know now, since **it is legally impossible for some new things (e.g., like Rise's proposed water treatment system) to be considered for vested rights**, even under Rise's favorite *Hansen* **surface** mining case (citing *Paramount Rock*), which objectors' comprehensive analysis in Exhibit A and the Evidence Objection Part 1 reveals to hurt Rise's disputed theories more than help Rise.

Also, to what extent are we disputing the same, disputed Rise mining and related plans (and the same "reclamation plan," still lacking the required "financial assurances" that Rise cannot possibly satisfy) as what was described on the current record long before Rise's disputed EIR/DEIR changed the project in material ways to which that reclamation plan has not adjusted? Does Rise now contemplate doing anything different? Rise's disputed petition reads like Rise incorrectly imagines it can do whatever it wants, free of otherwise applicable legal limitations, just by chanting "vested rights" "without limitation or restriction" like they were some magic spells. Objectors presume Rise must be revising its planned "IMM" vested acts and omissions, because, if objectors only have to dispute Rise's existing (also defective) EIR/DEIR plans, the courts must (and the County should) grant our dismissal motions long before any Rise Petition trial (or adjudicatory hearing), especially considering Rise's contradictory and conflicting admissions from its 2023 10K and other documents.

Those and other confusions from such repeated Rise "hide the ball" tactics (as likewise exposed in incorporated record objections to the EIR/DEIR) arise because Rise's apparent (and disputed) goal is to evade/override some (not yet clear which) laws and regulations, despite the 2023 10K admissions that they still apply in Exhibit A. While the Rise Petition and some parts of the 2023 10K speak about evading use permits, Exhibit A reveals contrary admissions in other parts of that 2023 10K that discuss continuing to seek use permits. To what extent does Rise claim a vested right to proceed without obtaining the use permit (and perhaps other normally required permits or approvals) for which Rise previously applied and without the still required CEQA and other legal and regulatory compliance protecting objectors? What Rise contemplated underground mining and related "IMM" activities, infrastructure, and equipment is the Rise Petition claiming the right to do, or use, or allow (or excuse) on each parcel (and applicable sub parcel) of such "Vested Mine Property" (or any broader scope IMM) without the normally required use permit and other compliance with applicable legal requirements? Such required clarity about such disputed excuses for Rise's evasion of IMM legal compliance should begin on an item-by-item basis for each such act, omission, infrastructure, equipment, dangerous material or substance (e.g., blasting explosives and newly added hexavalent chromium mine

cement paste for the new techniques for constructing underground shoring pillars from mine waste), and other relevant things that were revealed (or should have been) in the disputed EIR/DEIR or other Rise documentation for permits or applications or in 2023 10K or other Rise SEC filings (Exhibit A).

What are each of the laws and regulations and rights of others with which the Rise Petition claims to be entitled to disregard "without limitation or restriction" by its such disputed "vested rights" "incantation," including as to those listed in the EIR/DEIR related inventory or listed in the **"County Staff Report"** dated on or about April 26, 2023, addressed to the County Planning Commission and reciting some regulatory IMM history and applicable laws and regulations. See also Exhibit A where the 2023 10K admits some "limitations or restrictions" to the contrary. (For objectors, those are maps to Rise admissions and inconsistencies that contradict the Rise Petition and Rise's disputed vested rights claims.) See also Exhibit A, quoting additional Rise admissions and inconsistencies from the 2023 10K and other Rise's SEC filings, which, despite being incorrectly disregarded by the County staff and EIR/DEIR team, are not just admissible evidence, but in many cases (e.g., the *City of Richmond* case discussed below) are also outcome determinative, even in this context, as *Hardesty* demonstrated in likewise rejecting that miner's similar attempt at imposing its "alternative reality" the court rejected as a "muddle."

Fortunately, applicable law does not require objectors to guess what laws, regulations, permits, and other governmental approvals Rise incorrectly claims no longer apply for Rise's contemplated "IMM" reopening and related activities (and omissions) for its uncertain but clearly massively expanded, more intense, and comprehensively disputed underground mining and related activities on or from what Rise Petition calls the "**Vested Mine Property,"** somehow now also including the toxic Centennial site that Rise had previously insisted in the disputed EIR/DEIR was a separate "project." That is just one of many examples of many inconsistencies and contradictory admissions that will defeat the Rise Petition, as Rise struggles radically to so change its legal and factual theories from the basis of Rise's prior records. See Exhibit A. In any event, **Objectors decline to accept that uncertain Rise project definition for whatever Rise imagines doing (or failing to do) at and around the Idaho-Maryland Mine, all of which objectors will herein collectively call the "IMM," because objectors prefer a fully comprehensive and functional definition and Vested Mine Property covertly includes Centennial without any explanation for that radical change from the EIR/DEIR.** In other words, **(as objectors will demonstrate, even by using Rise's favorite *Hansen* case in Attachment 1 to the Evidence Objection Part 1, Attachment 1) vested rights law is a legal parcel-by-legal parcel or sub-parcel as and when acquired and used analysis, that vested rights claim for including Centennial is not only incorrect, but (like the new water treatment facility and other new component and use additions after 1954) it dooms the Rise Petition, among other things, because vested rights must include both an approved "reclamation plan" and matching "financial assurances" neither of which is affordable, feasible, or proven now in this vested rights dispute. See Exhibit A and Rise's 2023 10K and other SEC filing admissions exposing Rise's inability to afford to accomplish much of anything material that Rise proposes, much less the many greater requirements that Rise does not yet acknowledge.**

VI. Who Is Objecting? Objectors Include Those With the Special, Legal "Standing" as Surface Owners Living Above And Around the 2585-Acre Underground IMM With Competing Constitutional, Legal, And Property Rights, Including As To the Groundwater And Existing And Future Wells That Surface Objectors' Own And That the Rise Petition (at 58) Claims A Vested Right To Take Away.

A. The Objectors Are Not Just Impacted Members of the Public With Standing, But We Also Have Been Objecting Throughout Each IMM Dispute Process, And Objectors Incorporate Our EIR/DEIR Objections That We Will Supplement With Further Briefing Once Rise Is Compelled To Clarify Its Disputed Claims.

This Petition (and the companion "Evidence Objection Part 1") is submitted by G. Larry Engel, the undersigned, semi-retired bankruptcy lawyer with vast experience on many issues and disputes associated with failed, abandoned, and bankrupt mines. He retired in 2016 (with his wife of 52 years) to his IMM-impacted home on lower Banner Mountain in Nevada City. He located one property above Wolf Creek and two above Idaho Maryland Road at issue in these disputes. His standing, therefore, preceded the Rise risks and the fire and other risks that have changed the opinion of *Sunset* magazine at that time that this was then one of the best places to retire in California. Engel Law, PC, is his post-semi-retirement professional corporation with its office on that property. Objectors Larry Engel/Engel Law, PC have previously filed four extensive objections (collectively the "Engel Objections") (i) to the disputed EIR/DEIR (i.e., two DEIR objections labeled by the County's DEIR record as Ind. 254 and Ind. 255, respectively, plus two follow-up objections to the EIR dated April 25 and May 5, 2023, respectively, including comprehensive objections therein both to the deficient EIR disputed "Responses" and "Master Responses" to their such DEIR objections, as well as including incorporations of and from: (a) many other parties' EIR/DEIR objections, (b) third party data bases (e.g., the EPA, CalEPA, and SEC Edgar files [e.g., Exhibit A]), and (c) others (e.g., www.hinkleygroundwater.com, evidencing after all these years, despite ample settlement money, the inability of that ghost town from the *Erin Brockovich* movie to remediate its toxic hexavalent chromium in the groundwater, a deficiently discussed menace that Rise has proposed to inject into the IMM in cement paste to make underground support shoring from mine waste to save money by not removing such waste from the underground IMM, as well as to (d) the partly disputed County Staff Report and County Economic Report (to which such objectors also filed a separate incorporated objections.) Those "Engel Objections" are incorporated for such Engel and Engel Law objections herein because they demonstrate many inconsistent and contradictory Rise Petition statements and claims for rebutting that petition and Rise's incorrect vested rights claims. (Those objections also explain some of the reasons why the DEIR/EIR are fundamentally incomplete, deficient, and otherwise flawed, as full errors, omissions, and other objectionable content or evasions, meaning that such disputed EIR/DEIR cannot support, or be empowered by, any such Rise vested rights claims.) More importantly for this dispute, Rise's admissions in the EIR/DEIR and other Rise permit and other applications (like those in the 2023 10K and other SEC filings-See Exhibit A) are powerful evidence against this disputed Rise Petition. Those conflicts, contradictions, and inconsistencies between that prior existing record and the new Rise Petition will doom all of them, as illustrated in *Hardesty* and the *City of Richmond* cases discussed above.

As noted in an Engel Objections, there is also a nonexclusive group in formation called the "Ad Hoc Mine Opposition Group," which was initially contemplated for use in the coming court phase of these disputes, following the patterns and practices of such ad hoc groups in major bankruptcy cases throughout the US, as well as in Canada and other compatible countries. The concept was not to compete or conflict with any other opposition groups participating in the current, more political process, but instead as a means to facilitate technical compliance with court procedural rules for interventions and to facilitate joiners by parties with common interests on special issues of less interest to the established groups. In any case, the many disaggregated objectors have ample record resources to use or incorporate as they may choose. Depending on how this new Petition versus Rise Petition process evolves, that ad hoc group may be activated sooner. The primary motivation for this in-process group is that, among the many specialized opposition groups in these mine disputes, few were sufficiently focused on some of the unique concerns of those of us surface owners above or around the 2585-acre underground IMM. Some of those few who shared some of that surface owner focus, such as the well and groundwater-focused mine opposition groups, were less comprehensive in scope than these objections on a wider range of subjects.

Moreover, **given the need for speed in this process from objectors' perspective to eliminate the Rise IMM threats once and for all, any such inappropriate limitations on objectors' participation at least require mitigations to be discussed at the status conference, which will include the County asking our suggested questions to Rise and at least accommodating offers of proof from objectors on a basis sufficient to protect the record for the next stage court process.** In that regard, the County should note the importance of Rise's massive evidentiary problems, especially considering Rise's burdens of proof versus objectors' rights, including as party **witnesses** with no less right and standing to testify at length than Rise or its enablers, especially since many such surface versus mining dispute cases turn on such objecting witnesses testimony, plus the fact that many of us objectors have the professional qualifications and experience to testify as experts on a wide variety of issues to rebut the Rise Petition (as many did with offers of proof against the disputed EIR/DEIR). See Evidence Objection Part 1. For example, as a witness the undersigned could rebut many of Rise's witnesses on particular issues, such as, for example, dispute Rise's vested rights "reclamation plan" and "financial assurances," based not only on his experiences with bankrupt or abandoned mines but also from his experiences, for example, as lead counsel in liquidating the nation's once market leading AAA rated insurer in issuing mining reclamation bonds as "financial assurances" for such reclamation bonds. The undersigned also dealt with those issues in the Lloyds of London restructuring as Equitas, and as the Chair of the American Bar Association (Business Law Section) Task Force on Insurance Insolvency. Once the County requires Rise to clarify its proposed reclamation plan and financial assurances, which should be a condition to any such disputed vested rights claim, how would the County like to address such rebuttal testimony? The same is true for many other objector witnesses with various specific and relevant experiences and expertise.

B. What Makes Such Impacted Surface Owners' Rights And Interests Unique, Including Competing Constitutional, Legal, And Property Rights (e.g., *Keystone,*

***Varjabedian*) And The Fact That It Is Our Groundwater And Existing And Future Wells Being Depleted By Rise 24/7/365 For 80 Years?**

1. **Consider The Status of Surface Owners Above And Around the Underground IMM, Who Are Largely Ignored But Who Rise Nevertheless Apparently Plans To "Sandbag" With Inapplicable Vested Rights, Such As Threatened in 2023 10K And Exposed In Exhibit A at # II.B.25.**

As demonstrated below, **all of us objecting to the IMM mine in our impacted community have their own, sufficient legal standing and personal rights to object to the Rise Petition, with an even stronger basis than such impacted objectors have against the disputed EIR/DEIR. See *Calvert, Hardesty, and even Hansen*. See *Keystone, Varjabedian*, and Evidence Objection Part 1. However, some objectors also have even more powerful special standing and rights, such as those of us living on the "surface" (generally down 200 feet plus deeper except for mineral rights that do not include groundwater) above or around the 2585-acre underground IMM. Id and as admitted in certain Rise Petition Exhibits and Rise's SEC filings/Exhibit A. Those surface property rights include not only rights to "lateral and subjacent support" to avoid "subsidence" (defined by law to include our groundwater support and existing and future wells) as discussed below for surface owners' benefit, for example, in the US Supreme Court's *Keystone* decision. That special standing extends as well to any property owners who are disproportionately harmed by any such project, as demonstrated in the California Supreme Court's *Varjabedian* decision, recognizing inverse condemnation, nuisance, and other claims accruing to that portion of the public living downwind from the new sewer plant project. What matters here is that Rise does not (and cannot cite) any legal authority for Rise's disputed vested rights being applied against surface owners above or around its underground mine, especially to take our groundwater and existing and future well water. See, e.g., *Gray v. County of Madera,* where the court rejected well mitigation plans by that surface miner in a precedent that also defeats Rise's EIR/DEIR mitigation proposals. The difference is that government has powers that miners do not have, but when Rise claims vested rights, it is defying the power of the government (i.e., asserting an excuse for not getting a use permit), not using government power.**

There can be no doubt that such impacted surface owners objecting here must be treated with equal due process to Rise or even to the County in any such vested rights dispute, since Rise is incorrectly claiming property and personal legal rights in competition with objectors such personal constitutional, legal, and property rights that Rise seeks the County to confirm, which the County does not ever have the right to do. See 2023 10K at # II.B.25 (where Rise incorrectly threatens to cause the government and courts to force surface owners to accommodate Rise, which they lack the power or right to do.) The County could try condemning our surface property and assume that liability and other consequences. But no government has any right or power to give away our property to a competing miner by purporting incorrectly to confirm that in such a vested rights decision demanded by Rise, since vested rights do not so apply against competing owners. Id. See *Keystone, Varjabedian*, *Calvert,* and *Hardesty.* As discussed elsewhere, due process requires more for such objectors than a chance (if they arrive before the speaking cut-off number) for a three-minute comment

and to file something (so far generally ignored, as illustrated in the EIR objections disputing the EIR "Responses" and "Master Responses" and much of the County Staff Report) before Rise (and the County) have their long, last words that such objectors have no chance to rebut, even as a fact checker using Rise's own admissions, conflicting or inconsistent claims, or incorrect allegations to rebut Rise and its enablers.

2. *Keystone* And Other Authorities Illustrate Various Ways How Competing Constitutional, Legal, And Property Rights of Objecting Surface Owners Above And Around the 2585-acre Underground Mine Can Defeat Rise's Vested Rights Threats, Especially By Exposing Rise's Inability To Satisfy Realistic Reclamation Plan And Financial Assurances Requirements. See Exhibit A and other Rise SEC filings admitting Rise's lack of financial resources reliably to accomplish anything material.

As admitted in the 2023 10K and Rise's other SEC 10K filings (see Exhibit A), objecting owners' "surface" constitutional, legal, and other property rights are comprehensive for at least the first 200 feet down, plus forever deeper as to anything not part of deeded "mineral" mining (e.g., such as our surface owner groundwater and existing and future wells). Even then, subject to many other legal rights of such surface owners, such as for "lateral and subjacent support," including by surface owners' groundwater that must support our surface legal estate. See, e.g., *Keystone Bituminous Coal Assn v. DeBenedictis,* 480 U.S. 470 (!987) ("Keystone".) That leading Supreme Court decision upheld against coal miner challenges the Bituminous Subsidence And Land Preservation Act (the "Subsidence Act" as it's called in Pennsylvania and many places where it has been replicated), where mining was limited to prevent "subsidence" ignored by Rise (i.e., the loss of surface lateral and subjacent support and loss of groundwater or depletion of surface water, which are competing legal and property rights objecting surface residents already have here, although Rise may inspire others here to cause even more protective new laws (presumably triggering more, meritless, vested rights claims by Rise for objectors to defeat and creating incentives for test case litigation that prevents that not just for Rise, but for all its successors, since the modern speculators' greed for this imagined gold seems endless.) That *Keystone* decision defined (at 474-475) such objectors' "subsidence" concerns (also at issue here for this IMM project, which legally prohibited subsidence does not necessarily require cave-ins, but includes merely sinking the level of the surface or depleting groundwater), especially because of the massive and objectionable groundwater depletion (24/7/365 for 80 years. Consider the EIR/DEIR admissions of plans to dewater along and off 76 miles of proposed new tunnels in Rise's disputed, new, deeper, and expanded vested rights claims for blasting, tunneling, rock removal, and other mining activities in new, unexplored IMM underground areas, plus the 72 miles of existing tunnels and mined areas (the "Flooded Mine") where the known gold supply was too exhausted by the time the IMM was abandoned in 1956 for Rise to excite its investors, so Rise promoted instead the imagined riches in the adjacent, underground Never Mined Parcels. But see the 2023 10K admitting in Exhibit A that there are still no "proven reserves" or "probable reserves" of gold confirmed anywhere. Consider this summary, as applicable to gold mining here as to coal mining in *Keystone:*

> Coal mine **subsidence** is the lowering of the strata overlying a coal mine, including the land surface, caused by extraction of underground coal. This lowering of the strata can have devastating effects. It often causes substantial damage to foundations, walls, and other structural members, and the integrity of houses and buildings. Subsidence frequently causes sinkholes or troughs in land which make the land difficult or impossible to develop. Its effect on farming has been well documented—many subsided areas cannot be plowed or properly prepared. **Subsidence can also cause the loss of groundwater and surface ponds.** In short, it presents the type of environmental concern that has been the focus of so much federal, state, and local regulation in recent decades. (Emphasis added). [That conclusion about groundwater has a fn. 2, which states:]
>
> Fn2. "Whenever [subsidence effects] extend, damage can occur to buildings, roads, pipelines, cables, streams, water impoundments, wells, and aquifers. Buildings can be cracked or titled; roads can be lowered or cracked, **streams, water impoundments, and aquifers can all be drained into the underground excavations**. Oil and gas wells can be severed, causing contents to migrate into underground mines into aquifers, and even into residential basements. Sewage lines, gas lines, and water lines can all be severed, as can telephone and electric cables. … (emphasis added).

While that *Keystone,* subsidence law generally required 50% of the coal to remain for support in strategic places, it did many other things to protect the surface and limit the mining, explaining that **the government was entitled to so act "to protect the public interest in health, the environment, and the fiscal integrity of the area," such as by "exercising its police powers to abate activity akin to a public nuisance," although the court made clear that the police power was broader than nuisances. (**At 488**,** emphasis added**)** See SMARA # 2715 and 2714 and discussions below, explaining how even valid vested rights to be excused from a use permit do not excuse Rise from other laws, and how the Rise Petition claim (at 58) to entitlement to operate "without limitation or restriction" cannot ever survive the challenges it will inspire. See contrary 2023 10K Rise admissions of such "limitations" and "restrictions" as exposed in Exhibit A. The actual laws that Rise ignores (see Id.) will govern as the applicable laws "limiting or restricting" Rise uses of the IMM, whether objecting voters achieve such protections from such nuisances and worse by electing responsive officials, by initiatives/referendums or, if necessary, when ripe, by test case litigation.) Of special note, the *Keystone* Court (at 493-94) explained that this challenge was to the enactment of the law before it was enforced, meaning that it was premature to complain about how the law might be abused, since the facts of that surface and underground mining competition of rights were not yet established; citing its own precedent in *Hodel v. Virginia Surface Mining & Reclamation Ass'n Inc*, 452 U.S, 264 (1981), the Court explained:

> [The] court ignored this Court's oft-repeated admonition that the constitutionality of statutes ought not be decided except in an actual

> factual setting that makes such a decision necessary. [citations omitted] Adherence to this rule is particularly important in cases raising allegations of an unconstitutional taking of private property. *** (at 497): **[W]here an owner possesses a full 'bundle' of property rights, the destruction of one 'strand' is not a taking because the aggregate must be viewed in its entirety. [The Court then followed that discussion how valid zoning laws always affect without any "taking" property uses with things like setbacks, lot size vs building size, etc.]** (emphasis added)

Objectors cite that proposition because, without a use permit, Rise does not have the protection existing land use laws, but is, instead, bound by them and other constitutional, legal, and property rights of competing surface owners, especially all the police power, nuisance, inverse condemnation, environmental, and other laws that will constrain Rise's mining. See Evidence Objection Part 1, Attachment 2.

3. Besides the Need for Early And Effective Reclamation Plans And Financial Assurances, the County Must Also Plan For Significant Law Reforms To Protect Our Community, Especially Locals Above Or Around the 2585-Acre Underground IMM, From Such Incompatible Mining Activities.

Consider this simple and noncontroversial example raised in the earlier EIR/DEIR objections, reacting to the DEIR at 6-14 admission that the whole IMM project was economically infeasible unless Rise could operate 24/7/365 for 80 years. Rise has no vested rights excuse for noncompliance with many such new laws of "general application" (so that there is no Rise defense that such laws just discriminated against Rise) to prevent others from exploiting Rise's bad examples as wise public policy generally, and Rise is just the inspiration, not the sole focus. For example, what if a new law restricted certain problematic business operations after certain hours, on weekends, or by continuous hours of operation to protect the surrounding community? Rise could complain, but such laws are common and valid. Rise's disputed claims of discrimination are defeated by the fact that Rise was the inspiration to avoid the spread of more Rise-like abuses of the public and surface owners (see the hundreds of record EIR/DEIR objections) by new, "me too" miners (i.e., those many who are expected to argue that they should be allowed to do whatever Rise was allowed to do.) Consider this case study. When Richmond allowed construction of the Chevron refinery to pollute the area's air, soon there were more, new, neighboring refineries (i.e., in Benicia and Martinez) plus other such undesirable, related businesses exploiting that perceived opportunity to pollute in an environment where they perceived "tolerant" (i.e., lax) law enforcement against pollution, if only from confusion about which polluter was guilty of the constant problems that still continue. However, wise governments in other area cities stopped the spread of such polluting businesses to their jurisdictions with a variety of valid laws that polluters found inconvenient or burdensome, which is why that part of the Bay Area mainly focuses on three city areas to blame when their citizens periodically suffer from harmful air pollution.

Objecting owners have such a *Keystone* "full bundle of property rights" to so defend and enforce by all legally appropriate means, and laws can protect each objector even from claims

of vested rights by miners and other disruptive, exploitive, or worse businesses. What the County must consider as it plans for our future is that this present dispute about meritless vested rights may not be the end of these battles in which objectors must ultimately prevail to save our health and welfare, our environment, property rights and values, and our community way of life. Even if somehow Rise were to do the impossible (on the merits) and win mistaken approval in this first vested rights process, such new and more protective laws would then be enacted to counter such harmful IMM impacts, with every useful *Keystone* "strand" in objectors' "bundle of property rights." Then Rise would have to bring more vested rights claims that objectors would again dispute and counter and so on until the IMM menaces cease. Does the County really want to begin such avoidable and perpetual conflicts between our community and a "no net benefit" mine that so many locals reasonably consider intolerable?

Therefore, in considering arguments about vested rights, reclamation plans, and financial assurances (see, e.g., *Hardesty* and Evidence Objection Part 1), the County should not just assume that those reclamation and financial assurances disputes are only about that distant future 80 years from now. Instead, what happens in the most likely case when the courts stop the disputed mining during its several pre-revenue phase years when investors are speculating against the risks that even Rise admits in its 2023 10K, analyzed in Exhibit A. For example, consider our community's fate, if Rise were (incorrectly) to be allowed to begin its mining activities and then the courts (correctly) stopped them, for instance when Rise began its disputed dewatering processes to drain the flooded mine and other startup work, much Rise harm may have been done by the time Rise is stopped. Id. Yet, Rise will then still have nothing to impress its speculative investors about the prospects for imagined gold still obscured (at best for Rise) in that unexplored new underground area in which Rise has not even yet begun to mine. Id. That is an insufficiently discussed problem for Rise, because even in Rise's SEC filings exposed in Exhibit A [and that the EIR/DEIR incorrectly has ignored] Rise admits it still lacks the financial resources to do much of anything it proposes. Id, including the 2023 10K risk factors. See also DEIR at 6-14. Apparently, Rise's speculator investors just dole out money from time to time for what they consider Rise's current project need and according to Rise's 2023 10K, those investors can stop funding whenever they wish and more than 25 major risk factors give such investors ample reasons to "bail out." See Exhibit A.

What then happens when Rise has exhausted those insufficient funds, when the courts stop the mining, and when Rise's investors no long like their odds on that Rise gamble? How is Rise going to remediate and cure the messes that Rise has already made when the courts stop Rise and the speculators cut off funding? Evidence will reveal that to be an old and too often repeated dilemma, and the reason there are more than 40,000 abandoned or bankrupt California mines on the EPA and CalEPA lists, like this IMM could seem destined to be again. **That is also the reason Rise needs a realistic reclamation plan backed by sufficient and credible "financial assurances," not just at the theoretical 80 years end, but also continuously for whenever Rise's investors "bail out" (Exhibit A) or the courts (as they eventually must) agree with objectors and stop the IMM mining once and for all. Objectors doubt that Rise speculators will ever "go all in" and fund what would be legally required in cash and sufficient "financial assurances" (i.e., surety bonds or letters of credit, for which Rise is insufficiently credit-worthy ever to qualify)**. Presumably, that is why this Rise Petition incorrectly neglects to address the required "reclamation plan" and "financial assurances," apparently somehow

claiming without authority that Rise Petition's claim (at 58) to operate "without limitation or restriction" somehow also means Rise can get the benefits of SMARA and *Hansen* without the burdens they both require for such an approved "reclamation plan" and "financial assurances." By analogy, early demand for such financial assurances and working capital from Rise is like the poker game movie scene when the good player (hopefully the County, but, if not, the courts backing the objectors) "calls" and pushes "all in" that player's chips into the bet, and then the villain lacks the chips to match and loses his or her bluff. That is the quick and easy way to end this menace. If the County cannot "just say no" for some reason, demanding adequate reclamation plans and financial assurances "up front" should "call Rise's bluff."

Although Rise has the burden of proof, despite its contrary claims (see Evidence Objection Part 1), nothing in the disputed EIR/DEIR or Rise Petition sufficiently explains why surface residents above or around the 2585-acre underground mine need not worry about Rise's disputed mining contrary to our constitutional, legal, and property rights to insist on our "subjacent and lateral support and protection" or from "subsidence" either (a) from defective repair and restoration of the closed and flooded 2585-acre mine that has been abandoned since 1956 and that is in at best uncertain condition, or (b) from new and deeper expansion therefrom into unexplored Never Minded Parcels that would now be blasted, tunneled, waste cleared (except for new shoring using toxic hexavalent chromium cement paste to create support pillars from mine waste in that place), and otherwise mined 24/7/365 for 80 years. Without permits, credible inspections, and other regulations (i.e., Rise Petition's claim at 58 to operate without "limitation or restriction") that Rise seeks to evade with its disputed vested rights claims, how can objectors judge such risks, when Rise acknowledges no clear and credible standards and timely and effective monitors to protect surface owners? That is why, even if Rise were able to somehow succeed with its disputed, vested rights claims, the law still allows surface owners many legal self-defense remedies, including both legal and political law reforms (e.g., initiatives), which *Keystone* shows can be powerful counters to underground mining. See Evidence Objection Part 1, Exhibit A, and herein.

VII. Concluding Comments.

Objectors contend that Rise cannot have any meritorious vested rights claim, for those reasons and others soon to be further briefed and proven in legally appropriate, multi-party constitutional proceedings consistent with *Calvert, Hardesty,* and other authorities asserted in Evidence Objection Part 1 that is incorporated herein to reduce duplication. Unlike the models the County is using for this proceeding from other contexts, this vested rights process must be different, both (i) because it involves **underground** mining plans by Rise, instead of the inapplicable and disputed **SMARA/surface** mining theories on which Rise exclusively relies, and (ii) because Rise seeks to use bogus vested rights claims not only to evade land use laws, but also to violate the competing constitutional, legal, and property rights of the owners of the surface above and around the 2585-acre underground IMM. See, e.g., Rise's 2023 10K false claims to use government officials and courts to impose Rise on our surface in support of its underground mine, as admitted by Rise in Exhibit A #II.B.25. Objectors contend that Rise cannot have any meritorious vested rights claim to manufacture any such competing property rights to use objectors' surface properties to support its Rise Petition (at 58) described underground

mining “without limitation or restriction,” whether by false analogy to inapplicable SMARA or by any other law.

Rise has again (as with the disputed EIR/DEIR, where Rise exceeded limitations that the EIR/DEIR team continued incorrectly to impose on objector rebuttals) gone far outside the County’s imposed boundary limitations on objections to these vested rights. Because Rise itself has exceeded those County limits in many ways (see Exhibit A exposing how Rise’s disputed 2023 10K has misinterpreted its disputed vested rights claims), such as by covertly so disregarding surface owners’ competing rights that are personal and not represented or managed by the County, but which would be harmed by any County support for Rise’s incorrect and excessive claims. Due process and applicable law require the County to allow such surface owners to respond fully, such as by rebutting comprehensively not only the parts of the disputed Rise Petition common to our whole community, but also for objectors directly to contest Rise’s improper attempts covertly to expand its imaginary vested rights into violations of their surface property rights (to quote the Rise Petition at 58) “without limitation or restriction.” (That is “covert” because Rise too often misuses such overbroad claims to encompass such obscured “sneak attacks” on competing parties’ rights.) See, e.g., Exhibit A #II.B.25, exposing Rise plans to support its disputed underground mining from the surface owned by objectors. For example, recall also that such surface objectors’ ownership rights include the groundwater and existing and future well water that Rise is proposing to dewater 24/7/365 for 80 years from their property. When Rise itself breaks the County hearing scope limitations and so covertly attacks private property rights in the guise of a vested rights to do as it wishes “without limitation or restriction,” the County cannot tolerate that Rise conduct while simultaneously denying objecting surface owners’ equal party, due process rights to counter Rise comprehensively, especially while claiming that the County is just being “neutral.”

Thus, if the County nevertheless insists on considering such meritless Rise Petition claims, then the County should allow such objections on an equal basis all competing constitutional, legal, and property rights of objectors owning the surface above and around the 2585-acre underground mine. That would include, for example, for those rebuttals, that Rise needs **now** (not later) an acceptable “reclamation plan” (especially because any such plan reclamation work would also require its own such vested rights or permits) that must include remediating the harms Rise may cause to such surface owners above and around the underground mine, as well as sufficient, **current** “financial assurances” to ensure performance fully of any such plans, regardless of when the disputed mining stops for any reason. See Exhibit A, proving by Rise admissions in the 2023 10K and other SEC filings that Rise is incapable of providing any such financial assurances. Note that by bifurcating and separating the vested rights disputes for reopening the mine from any vested rights required for such reclamation plan and financial assurances disputes, the County will be litigating similar vested rights disputes twice in succession, and not just with the Rise, but possibly (depending on the County’s positions and theories in such disputes) also with such objectors in a multi-sided dispute. Since such disputes involve a parcel-by-parcel, component-by-component, and use-by-use analysis on which the County and even other governments (like the objecting State Department of Parks And Recreation defending the adjacent Empire Mine) may have different interests from objectors defending their own impacted properties, this must be a multi-party dispute where

each impacted objector must be allowed unrestricted due process and rights to protect his or her property, regardless of what the County may do.

Objectors urge the County properly to address such disputes as best they can within the time constraints, consistent with full due process and equal protection for objectors in the kind of constitutional process mandated by the *Calvert and Hardesty* decisions and other authorities. This is, and will continue to be, a multi-party dispute in which objectors defend our families' health and welfare, our groundwater, environment, and properties, and our community's way of life from the IMM menace, applying their personal, legal rights and property interests that the County cannot control or concede on behalf of objectors. Objectors will be no less resolute in such defenses than Rise is in its intruding impacts, and the County should recognize that reality in its planning as suggested herein. Thank you for considering the objectors' views.

The undersigned execute this Petition as of this 22d day of November 2023, for themselves and on behalf of any groups they choose to represent for this process from time to time, which groups may evolve during these dispute processes. As with respect to the "Ad Hoc Mine Opposition Group" (in formation) announced in the Engel Objections, some groups may focus on particular disputes from time to time as the issues of greatest concern to them arise, in some cases planning, like the Ad Hoc Mining Group, to join in when these disputes, whether in the court processes to come or this or successive, administrative processes, raise some special issue sooner where that group's support could be useful. In any event, the execution of this Petition by the leader or founder of such groups includes a placeholder reservation for his or her such group to join in the dispute if, as, and when desired from time to time. (That group reservation is intended to reduce any technical "intervention" complications later in such court or other process.)

Engel Law, PC November 22, 2023

____
By G. Larry Engel

____
G. Larry Engel

[Others May Sign Counterparts or Submit Joinders]

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Exhibit A: Selected Admissions From Rise Gold Corp SEC Filings (With Some Related Admissions From the EIR/DEIR), Countering And Rebutting the Rise Vested Rights Petition And Related Rise Claims.

I. Introductory Highlights Illustrating Rise Admissions of Facts That Defeat Vested Rights Claims, Including How Rise Cannot Satisfy Its Burden of Proof Using "Alternative Realities" About Historical And Other Facts.

A. Some Initial Comments On Rise SEC Filings, Particularly Rise's Current SEC Form 10K Dated October 30, 2023, for the fiscal year ending July 31, 2023 (the "2023 10K" and, together with previous 10K filings, collectively called the "10K's"), And Rise's Most Recent Form 10Q Dated June 14, 2023, for April (the "2023 10Q" and, together with the previous 10Q filings, collectively called the "10Q's").

1. Rise Admissions Addressed In Rise SEC Filings Cannot Be Disregarded As Objector Evidence, Both (a) Because They Are Allowed By the Evidence Code As Rebuttals To Counter Specific Contrary And Conflicting Rise Petition Claims, And (b) Because They Counter Any Rise Financial Assurance And Reclamation Plans And Other Requirements Essential To the Existence of Any Vested Rights.

In the past, objectors' rebuttal evidence from Rise admissions in SEC filings and otherwise was incorrectly excluded from the EIR/DEIR disputes, despite objectors' citation of ample authorities and justifications for the admissibility of such Rise admissions. Therefore, objectors begin with this proof supporting objectors' use of such admissions as evidence to defeat this Rise Petition. However, whatever the County may decide about such evidentiary disputes, the courts in the following processes will agree that admission of such rebuttal evidence is mandatory, especially because objectors are directly proving by Rise admissions facts that are directly contrary to, or in conflict with, what vested rights require**.** See objectors' **"Initial Evidentiary Objection"** and the companion **"Objectors Petition For Pre-Trial Relief, Etc."** described below to which this Exhibit is designed to be attached. For example, such rebuttals and refutations in objectors' Initial Evidentiary Objection rebuts each material Rise Petition Exhibit, while also explaining the legal and evidentiary bases for objectors' use of these SEC admissions to refute any possibility of any Rise vested rights. That companion "Objectors Petition For Pre-Trial Relief, Etc." adds more law and evidence in support of such rebuttals through these admissions to justify requested relief and greater clarity before the Board hearing. In other words, objectors are not just refuting Rise's purported "evidence" with its own words but also proving with Rise admissions that such vested rights cannot exist as the courts correctly define such vested rights.

As demonstrated in many court decisions, such as ***Communities for a Better Environment v. City of Richmond*** (2010), 184 Cal. App.4th 70 (where objectors' use of Chevron's inconsistent SEC filing admissions defeated Chevron's EIR) (sometimes called "**Richmond v. Chevron**"), such admissions are indisputably admissible and powerful rebuttal evidence. Moreover, the disputed EIR/DEIR itself (as well as Rise's related project permit and approval

applications, which objectors include here in the collective term **"EIR/DEIR"** for convenience), also add admissions contrary to, or inconsistent with, the Rise Petition seeking vested rights. Those may also be referenced herein, although the disputed "ambiguities," "hide the ball" and "bait and switch" tactics," and other objectionable features of the Rise Petition create uncertainty about what the disputed Rise Petition is actually claiming. Rather than be at risk from such Rise conduct, objectors may assume the "most likely worst case" from Rise to be "safe." Objectors also insist on **Evidence Code ("EC") # 623** and other laws to estop or otherwise prevent Rise from exploiting any such inconsistencies in the Rise Petition. See the many applications of the EC rules in objectors' Initial Evidentiary Objection, such as EC #356 (the right to use the whole "story" to rebut the claimant's cherry-picked parts), 413 (contesting claimant's failure to explain or deny evidence), and 412 (contesting claimant's failure to produce better evidence that it could have presented if it wished to be accurate).

In any event, the Board needs to appreciate how inconsistent and contradictory the Rise Petition "story" is from the "story" Rise has told its investors in Rise's new "2023 10K," even after Rise radically changed its incorrect legal theory to assert instead its disputed vested rights' claims. The new, October 30, 2023, SEC Form 10K (the "**2023 10K**") filed by Rise after its September 1, 2023, (the "**Rise Petition")** should be at least consistent with each other. Instead, this rebuttal proves by Rise admissions that those stories are inconsistent or contradictory in many respects. For example, that 2023 10K admits to at least 25 major "Risk Factors" as warnings to its investors that cannot be reconciled with the Rise Petition or what Rise claims in or about its Exhibits thereto. This objection discusses each such conflict below and explains how such admissions impact the disputed Rise Petition. Objectors also note that these periodic SEC filings make Rise's admissions something of a "moving target." However, because this recent 2023 10K has been filed after the Rise Petition dated September 1, 2023, we focus on that as most impactful on the disputed Rise Petition, with some pre-vested rights claim illustrations to follow in an Attachment for comparison.

Correcting such Rise "errors" (or whatever is the correct characterization) is critical for the "clarity" to which objectors are entitled from the disputed Rise Petition and which the Board (or, if necessary, the court) needs about any such material Rise inconsistencies or worse to reconcile and resolve between (a) the stories Rise is telling the SEC and its investors (with a few additions from Rise admissions in the disputed EIR/DEIR or related Rise filings and presentations), versus (b) the disputed Rise Petition. That is an example of what the **"Objectors Petition for Pre-Trial Relief, Etc."** seeks before the Board hearing or, in any case, in the court proceedings to follow because objectors have made such requests to enhance our record. Because our current objection deadline is at the start of that Board hearing, while Rise continues to have an opportunity again to change and supplement its story during the hearing without objectors having any meaningful rebuttal opportunity (as we previously suffered at the EIR/DEIR hearings), objectors seek to inspire the County to require greater clarity from Rise before the hearing. Everyone should be able to anticipate (as best as we can) what disputed additions Rise may make during the hearing for which a three-minute rebuttal is grossly insufficient. Because many such Rise inconsistencies, contradictions, and worse are already addressed in the objectors' EIR/DEIR record (also including objections to much of the County Economic Report and County Staff Report), objectors again incorporate them into this and each other Rise Petition objection for such rebuttals.

Also, the base objections in the "Initial Evidentiary Objection" (including the incorporated EIR/DEIR objections), including use of Rise admissions against itself, are also incorporated by reference herein to avoid repetition. (However, some may be summarized to support arguments against Rise's vested rights claims.) Those objections include the more than 1000 pages in four "Engel Objections" to the EIR/DEIR and the more than two score of other objectors' filings cross-referenced and incorporated therein. See what the County labeled as DEIR objection Letters Ind. #'s 254 and 255 and related EIR objections dated April 25, 2023, and May 5, 2023, respectively (including each exhibit and incorporation, collectively called the "Engel Objections.") While the disputed EIR/DEIR process so far have incorrectly declined to consider such economic feasibility objections and other rebuttals, in effect obstructing objectors' counters to Rise claims (even though Rise itself violated those incorrect "boundaries"), that CEQA dispute cannot be allowed to interfere in this vested rights process with such evidence from SEC filing admissions on those subjects and others. See, e.g., *Communities for a Better Environment v. City of Richmond* (2010), 184 Cal. App.4th 70, where objectors' use of Chevron SEC filing admissions and inconsistencies defeated Chevron's EIR in correctly demonstrating the law of evidence, as further illustrated in the Initial Evidentiary Objection.

2. Consider, For Example, Rise's Admission (2023 10K at 13-14) That Its Mining Plan Is Conditional On the Results of Its Exploration, Thereby Defeating Its Vested Rights.

Rise admits in various ways in this 10K discussed below that, if Rise's further "exploration" does not produce satisfactory results, Rise will not mine and, even if Rise wished to mine, Rise would not be able to continue any mining plan unless such exploration results convince Rise's money sources to fund further operations. (This was admitted in terms of Rise lacking the capacity to mine (or even unconditionally to commit to mine) unless it was able continuously to find the needed financial and other support from its investors.) For example, Rise states (Id. emphasis added): **"Our long-term success depends on our ability to identify mineral deposits on our I-M Mine Property … that we can then develop into commercially viable mining operations." Furthermore, Rise admits that:**

> **Mineral exploration is highly speculative in nature, involves many risks, and is frequently non-productive. These risks include unusual or unexpected geologic formations and …[listing various risks already admitted by Rise, including the need for "capital available for exploration and development work."]**
>
> **Substantial expenditures are required to establish proven and probable reserves through drilling and analysis to develop …[listing again what is needed for mining and how they determine "whether a mineral deposit will be commercially viable]. WE MAY INVEST SIGNIFICANT CAPITAL AND RESOURCES IN EXPLORATION ACTIVITIES AND FIND IT NECESSARY TO ABANDON SUCH INVESTMENTS IF WE ARE UNABLE TO IDENTIFY**

> **COMMERCIALLY EXPLOITABLE MINERAL RESERVES. THE DECISION TO ABANDON A PROJECT MAY HAVE AN ADVERSE EFFECT ON THE MARKET VALUE OF OUR SECURITIES AND THE ABILITY TO RAISE FUTURE FINANCING. Id. (emphasis added)**

Moreover, Rise admits these losses and problems are expected to continue:

> **THE COMPANY EXPECTS TO OPERATE AT A LOSS FOR AT LEAST THE NEXT 12 MONTHS. IT HAS NO AGREEMENTS FOR ADDITIONAL FINANCING AND CANNOT PROVIDE ANY ASSURANCE THAT ADDITIONAL FUNDING WILL BE AVAILABLE TO FINANCE ITS OPERATIONS ON ACCEPTABLE TERMS IN ORDER TO ENABLE IT TO CARRY OUT ITS BUSINESS PLAN. THERE ARE NO ASSURANCES THAT THE COMPANY WILL BE ABLE TO COMPLETE FURTHER SALES OF ITS COMMON STOCK OR ANY OTHER FORM OF ADDITIONAL FINANCING. HOWEVER, THE COMPANY HAS BEEN ABLE TO OBTAIN SUCH FINANCINGS IN THE PAST. IF THE COMPANY IS UNABLE TO ACHIEVE THE FINANCING NECESSARY TO CONTINUE ITS PLAN OF OPERATION, THEN IT WILL NOT BE ABLE TO CARRY OUT ANY EXPLORATION WORK ON THE I-M MINE PROPERTY OR THE OTHER PROPERTIES IN WHICH IT OWNS AN INTEREST AND ITS BUSINESS MAY FAIL. ID. AT**

But again, nowhere in the disputed EIR/DEIR, Rise Petition, or other Rise filings does Rise ever explain what happens to the mine and our community, especially those of us living on the surface above or around the mine when Rise ceases operations for any reason (including because the investors stop funding the money required continuously for years before Rise admits it could possibly produce any revenue.) Thus, everyone is at continual risk for years before the best case (for Rise) when (and, even Rise admits, if) break-even revenue is achieved. Rise admits it may be unable to perform (or credibly commit to perform) anything material in its disputed plan. At any time, Rise or its money source could decide that the results of such future explorations are unsatisfactory and "abandon the project." Who cleans up the mess Rise leaves behind? That is both why reclamation plans and financial assurances are essential to any vested rights and why it is a legal and policy mistake to separate the adequacy of such reclamation plans and financial assurances from the dispute over the existence of vested rights.

3. **Consider, For Example, Some of the Many Adverse Rise's 2023 10K Admissions About Its "Vested Mine Property" That Rise Calls the "I-M Mine Property" in These SEC Filings And Objectors Call the "IMM" (with special treatment regarding the toxic Centennial site which the Rise Petition has hopelessly confused with irreconcilable contradictions with the EIR/DEIR.)**

As one calculates the disputed reliability of Rise's comments, especially when Rise's plans appear illusory because of chronic, economic infeasibility (plus the substantial uncommitted financing Rise admits below that it continuously needs for years and which seems speculative considering the huge exploration and startup costs before Rise admits anyone can even make an informed guess if and to what extent there is any commercially viable gold there), the Board should focus on the Rise admissions in the 2023 10K (at 11 emphasis added) section about "Risk Related to Mining and Exploration." There Rise stated: "WE HAVE NOT ESTABLISHED THAT ANY OF OUR MINERAL PROPERTIES CONTAIN ANY MINERAL RESERVE ACCORDING TO RECOGNIZED RESERVE GUIDELINES, NOR CAN THERE BE ANY ASSURANCE THAT WE WILL BE ABLE TO DO SO." Also consider (at Id., emphasis added) :

> **The I-M Mine Property is in the exploration stage. There is no assurance that we can establish the existence of any mineral reserve on the I-M Mine Property … in commercially exploitable quantities. Unless and until we do so, we cannot earn any revenues from these properties and if we do not do so we will lose all of the funds that we have expended on exploration, If we do not establish the existence of any mineral reserve in a commercially exploitable quantity, the exploration component of our business could fail.**

As objectors' following analyses of Rise admitted "Risk Factors" demonstrate, among other things and contrary to the disputed Rise Petition, Rise is just speculating and slowly doing minor exploration when money to do so is available. Rise is not planning or acting to mine in a way that creates or preserves any vested right to any mining "uses," especially those in the 2585-acre underground IMM that neither Rise nor any predecessor has even "explored" (apart from trivial, occasional drilling) since that dormant mine closed, discontinued, flooded, and was abandoned by at least 1956. Rise has no current or objective intent or commitment to execute any mining "use" plan on any schedule or to commit to any such startup mining activities beyond the separate exploration" use" (that does not create any vested right for any mining "use"), unless and until Rise believes that it has raised the funds for sufficient further such "exploration" and Rise and its speculator- financiers/investors each find those exploration results to be "successful" in demonstrating WHAT RISE ADMITS DOES NOT NOW EXIST: SUFFICIENT, PROVEN GOLD RESERVES IN CONDITIONS THAT CAN BE MINED PROFITABLY AND SUFFICIENT FINANCING ON ACCEPTABLE TERMS AND CONDITIONS TO CARRY THE MINE OPERATIONS TO POSITIVE CASH FLOW. Under the circumstances that cannot create vested rights for mining any parcel of the 2585-acre underground mine, and particularly the "Never Mined Parcels" that required not only such exploration, but, first, also all the startup work in the Brunswick shaft and the Flooded Mine (e.g., dewatering the flooded mine and reconstructing 72 miles of flooded tunnel and infrastructure) even to be able to reach those Never Mined Parcels to begin any exploration or gold production there. (Remember the surface above the 2585-acre underground mine is owned by objectors and others and not available to Rise for exploration or access, as admitted by Rise in its previous 10K.)

This is not a meritorious vested rights case, but more like this analogy. A Texas holdem poker-playing gambler puts in his ante (buying the IMM cheap) and matches the bets on the

initial round (e.g., the preliminary exploration, initial permitting application work, and then the recent vested rights litigation work) waiting to see the "common cards" dealt out face up on the table one by one to decide whether or not to stay in the game or fold. Rise admits (to its investors and the SEC) throughout this 2023 10K that it may fold. That conditional, wait-and-see approach, especially when Rise is entirely dependent on discretionary funding from money sources who may be more risk adverse, is the opposite of what the Rise Petition claims as a continuous commitment to mine sufficient for preserving vested rights that Rise incorrectly imagines Rise inherited from each previous predecessor. Because there needs to be a continuous, unconditional commitment to mining for vested rights (perhaps under different circumstances allowing short term delays for "market conditions"), such speculators like Rise cannot qualify with such conditional intentions. Such conditional interest in possible mining is not the kind of commitment required by applicable law, because Rise is only "in the game" as long as both Rise and its money source like their odds and as long as their investors keep handing Rise the money to continue their bets.

But, as explained in existing record objections**, once Rise starts any actual work at the IMM (e.g., prolonged dewatering work in particular as an early starter), our community will be much worse off when Rise stops than we are now, one way or another.** Of course, the more Rise does to execute its disputed mining plan will also make our community and, especially objecting local surface owners worse off. Therefore, this objectionable activity cannot ever be allowed to start.

But consider it from this alternative perspective of the impacted local objectors. Rise admits that any intent to actually mine is dependent on many pre-conditions, such as successful future exploration and related fundraising, meaning that Rise does not have the required objective, continuous, and unconditional intent to mine required for vested rights. But suppose (as the law requires and objectors contend) the Rise reclamation plan and financial assurance plans are decided at the same time as the vested rights. In that case, it will become clear that there can be no such vested rights, because no such Rise investors are going to go "all in" by funding at this admittedly early exploration stage the required financial assurances in advance to Rise for the massive reclamation plan that will be required for any such mining. By reference to the gambler analogy above, even if Rise were willing and intending to push all its chips on the table at the start before seeing the next open face cards (e.g., certainly before starting to dewater the IMM and begin depleting groundwater and existing and future well water), it is hard to imagine the investor holding back the chips needed by Rise to commit "to go all in" would prematurely commit to that gamble. That is especially considering all the risks not just admitted by Rise here, but also those demonstrated by record objections to the disputed EIR/DEIR and Rise Petition. Even the more aggressive money players backing such gamblers wait to see all (or at least most all) of the cards face up before they go all in. Stated another way, the objective test of any vested rights intent to mine is proven or disproven by whether or not the miner's money source is willing to go all in now, i.e., at the time the vested rights questions are to be decided. Otherwise, what Rise Petition is incorrectly claiming (without any precedent) is that such miners can have an OPTION TO MINE IF THEY WISH AFTER THEY PROCEED WITH INDEFINITE EXPLORATION ACTIVITIES WHILE TRYING TO RAISE THE REQUIRED FUNDING AND WHILE US SURFACE OWNERS AND OUR COMMUNITY INDEFINITELY SUFFER THE STIGMAS DEPRESSING OUR

PROPERTY VALUES. No applicable law gives such an indefinite option to Rise at objectors' prejudice, as the property values of objecting surface owners above and around the 2585-acre underground IMM remain eroding indefinitely while Rise gambles to our harm.

Consider, for example, how the unprecedented, disputed, and incorrect Rise Petition's "unitary theory of vested rights" is not just inconsistent with EIR/DEIR admissions and with applicable law requiring continuous vested rights for each "use" and "component" on each "parcel" (even in Rise's favorite *Hansen* case). Still, the Rise Petition's failure to so distinguish between "mining" versus "exploration" "uses" and between SURFACE mining "uses" versus UNDERGROUND mining "uses" as required in *Hardesty* is contradicted in Rise's 2023 10K at 29 (and earlier 10K and 10Q filings) as follows:

> **"Mineral exploration, however, is distinct from the definitions of 'subsurface mining' [aka underground mining] and 'surface mining.' Exploration involves the search for economic minerals through the use of geological surveys, geophysical prospecting, bore holes and trial pits, and surface or underground headings, drifts, or tunnels (NCC #L-II 3.22(B)(5)." (emphasis added)**

For another example, consider how Rise is claiming inconsistently that at the same time: (a) the toxic **Centennial** site is (and has been, as admitted, including in the EIR/DEIR contradicting the Rise Petition) physically, legally, and operationally separate in all material respects from the Brunswick IMM project, including the 2585-acre underground mine, so that they are separate projects for CEQA, as explained at length in the disputed EIR/DEIR admissions (a position that Rise incorrectly contends provides it both legal immunity from the environmental liabilities associated with the Centennial pollution and CERCLA etc. clean up, as well as evading adequate CEQA disclosures about Centennial), but also (b) somehow for Rise Petition's vested rights claims, massive and prolonged dumping of Rise mine waste from the new underground mining (and the related repairing of the old "Flooded Mine" for access) in the 2585-acre new Never Mined parcels allegedly are not an "expansion" or a "new operation" or a new "intensity" that would contradict and defeat Rise's vested rights "story." Also, the 2023 10K (and earlier versions) admit that Rise purchased the Centennial site parcels in 2018, separately from Rise's 2017 purchase of the IMM. As stated, Rise cannot have both CEQA exclusion for Centennial and vested rights for including Centennial in the new, separate, underground mining project in the "Vested Mine Property." Among other things, the disputed Rise Petition's "unitary theory of vested rights" is legally incorrect and inapplicable. See the discussion below of Rise's SEC 10K admissions on this topic versus both the disputed EIR/DEIR and many record objections and others thereto. See, e.g., 2023 10K at 32 admitting that the CalEPA has not yet approved (and may never approve) the Final RAP dated 6/12/2020, and the massive record objections to the disputed EIR/DEIR also dispute any such Centennial approvals.

Also consider the Rise admission in the 2023 10K (at 29) that "the planned land use designation for the Brunswick land remains 'M-1' Manufacturing Industrial, while the planned land use designation for the "Idaho land" (Centennial) is 'BP' Business Park (CoGV-CDD, 2009)." How can Rise possibly imagine any "continuous" vested rights for mining "uses" for either (i) the toxic "Centennial" mine that for many years no one could possibly "use" 'legally" for mining (see, e.g., the EIR/DEIR admissions and record objections to the EIR/DEIR) or other

related uses, or (ii) such Idaho land as rezoned "Business Park" (on which no mining has been attempted or contemplated for many years) and as to which every relevant predecessor before Rise believed would have again required rezoning that seems not only legally infeasible, but also economically infeasible, considering even just the environmental compliance and cleanup costs. While under certain circumstances and conditions (not applicable here) vested rights could perhaps evade certain use permit requirements for continuous "legal" uses on a parcel, Rise has not even attempted to overcome its burden of proof for vested rights for any such continuous mining uses when Centennial must first be legally remediated before anyone could even begin to think about mining there. Indeed, the EIR/DEIR did not even contemplate mining on Centennial, perceiving it just as a potential surface dump for mining waste from other parcels, and no such dump uses (or, if remediated, business park uses, could ever create in basis for expanding the long abandoned and legally prohibited mining uses from Centennial to other parcels as contemplated by the disputed Rise Petition. Also, as admitted in the 2023 10K and even in the EIR/DEIR, Centennial is disconnected from the rest of the IMM or Vested Mine Property in what must be a separate parcel, so that under *Hansen, Hardesty,* and other applicable cases nothing on any separate parcel creates any vested rights "uses" for any other such parcel that did not have the same such continuous "uses."

Because of such inconsistencies, contradictions, and all the other lacks of required "good faith" and objectionable conduct described in the hundreds of existing objections and those additional objections to come against Rise's new vested rights claims, Rise has created what the *Hardesty* court called a "muddle." That "muddle" creates massive disabilities for Rise's burden of proof on all of its critical vested rights claims, as well as adding many new defenses for objectors to the vested rights, such as "unclean hands," "bad faith," "estoppels," "waivers," evidentiary bars and exclusions, and many more in particular issues. See objectors' Initial Evidentiary Objection incorporated herein. (For example, under these circumstances and in this kind of administrative process, there cannot now be "substantial evidence" to support either Rise Petition's vested rights claims or Rise's EIR/DEIR claims. Also, in the court process to come objectors will have extra time and opportunity even more fully to contest and rebut Rise so-called evidence, such as by motions in limine to exclude most of Rise's self-contradictory evidence.) Id. Whenever the law of evidence is allowed to apply, Rise cannot prevail, and (while avoiding any delays in rejecting the Rise Petition) the County should insist that Rise provide BEFORE THE HEARING a comprehensive, consistent, sufficiently detailed, admissible, compliant, and evidentiary appropriate presentation of the reality to litigate with objectors in a full, due process proceeding as equal participants. While it may be possible (in different situations no applicable here) to litigate alternative legal theories, Rise cannot expect the County to approve (and objectors to litigate) more than one of such "alternate realities" inconsistently asserted by Rise to suit each of Rise's disputed, alternative legal theories.

Unfortunately, the County has bifurcated the consideration of the existence of Rise Petition's vested rights from the "reclamation plan" and "financial assurances" that should be essential to any vested rights contest. For example, how can there be any vested rights at all, if (as here) Rise is incapable of providing any adequate "financial assurance?" Even worse, any tolerable "reclamation plan" would itself violate the requirements for vested rights to exist; i.e., such reclamation actions themselves must have vested rights, or else implementation of

that reclamation plan needs its own use permit. See, e.g., discussion in the Initial Evidentiary Objection authorities and other objections regarding how the addition of the Rise water treatment plant on the Brunswick site would be a prohibited "expansion," "intensification," and new, unprecedented "component" (see, e.g., *Hansen* citing *Paramount Rock*) that cannot have any vested rights. The same is true about Rise's unprecedented plan to pipe cement paste with toxic hexavalent chromium into the underground mine to create shoring columns of mine waste, exposing locals to the fate of Hinkley, CA, which died with many of its residents from such hexavalent chromium water pollution as shown in the movie *Erin Brockovich*, and which survivors (despite massive funding from the culpable utility) still are unable to remediate such toxic groundwater (e.g., www.hinkleygroundwater.com).

4. Rise's Vested Rights Cannot Exist Without A Sufficient "Reclamation Plan" With Adequate "Financial Assurances." Still, Rise's SEC Filings All Admit That Rise Lacks The Resources To Provide Any Meaningful Such Financial Assurances, And The Kinds of Reclamation Plans That Would Be Essential Require Their Own Vested Rights, Which Cannot Exist For Them In This Case, Resulting In Rise's Need For Objectionable Use Permits That Should Be Impossible To Obtain.

Any adequate "reclamation plan" for the many vested rights requirements demonstrated in this Exhibit and many other record objections would also require their own vested rights, especially when assessed (as they must be) on a parcel-by-parcel, use-by-use, and component-by-component basis. Id. That means Rise would need permits that should be impossible to achieve over the massive and meritorious objections that those applications would inspire. Whatever the Rise reclamation requirements will be determined to be in these disputes from objectors, the related mine work and improvements must be considered new, expanded, and more intense "uses" compared to the historical 1954 mine on which Rise purports to base its vested rights claims. This is not just about changes in science, equipment/infrastructure/materials, and modern technology/practices, but also simply both by the massive scale of the "expansion" and "intensity" of the impacts, measured not just by ore, or by waste rock removed from the underground mine, but, more importantly, by the scale and impacts on the local community, especially on those objectors owning the surface above and around the 2585-acre underground mine. Id. As the EIR/DEIR and earlier SEC filings admit (see, e.g., the Attachment to this Exhibit explaining more from previous 10K's than now revealed in the 2023 10K), the mining expansion from 1954 is massive in scope and intensity, increasing far beyond vested rights tolerance standards from (a) the 72 miles of underground tunnels with 150 miles of drifts and crosscuts in the Flooded Mine that existed in October 1954 and discontinued, flooded, and closed by 1956, to (b) after 24/7/365 dewatering and other startup work for more than a year, adding another 76 miles of new tunnel in the Never Mined Parcels beneath and around our objecting surface owners and others, plus whatever drifts, cross-cuts, and other lateral adventures the miner may pursue. This is relevant to disputing vested rights because Rise's new and unprecedented "components" for which no vested rights could exist (e.g., *Hansen* citing *Paramount Rock*) would have to include not only a water treatment plant, but also a new water replacement system (that Rise's SEC filings demonstrate it could not

afford) as the court required under similar circumstances in the controlling case of ***Gray v. County of Madera (2008), 167 Cal.App.4th 1099 ("Gray")*** **(rejecting the miner's mitigation proposals similar to those proposed by Rise's disputed EIR/DEIR for a tiny fraction of the impacted surface owners), applying legal standards that could only be satisfied by an equivalent water delivery system for each impacted local.**

More fundamentally, as demonstrated in such record objections and others to come, Rise's disputed EIR/DEIR are themselves full of errors, omissions, and worse, compounding, and conflicting with those in the Rise Petition, as well as creating more conflicts and contradictions with Rise's SEC filing admissions. This Exhibit reveals how (as in *Richmond v. Chevron)* much other evidence, authorities, and rules, such as EC #'s 623, 413, and 356, apply not just to rebuttals to Rise's disputed CEQA claims, but even more so to these vested rights disputes. That is especially true since those surface owners above and around the 2585-acre underground mine have their own competing constitutional, legal, and property rights at issue, entitling us to even more standing and due process than provided in *Calvert* and *Hardesty*. Besides Rise failing by application of the normal rules of evidence within the correct legal framework explained in the foregoing objection, the Rise Petition also fails the standard of what *Gray v. County of Madera* calls "common sense," and what *Vineyard, Banning, and Costa Mesa* call "good faith reasoned analysis." Thus, any vested rights dispute must allow both rebuttals of what Rise admits and deficiently reveals, plus all the other realities that are exposed regarding the merits of the disputes.

That means the essential comparison for Rise's vested rights claims is not just (i) what Rise choose to reveal about the "Flooded Mine" (the 1954 underground working mine) versus the "Never Mined Parcels" (the new underground expansion mine) and related disputes against alleged "Vested Mine Parcels," but also (ii) what Rise should have revealed in each case that makes the gap between the old and new impossible for Rise to bridge for its disputed, vested rights claims. One example demonstrated in the foregoing objection (and in many EIR/DEIR and other objections) is that the depleting impacts of proposed dewatering of surface owners' groundwater (and existing and future wells) 24/7/365 for 80 years are grossly understated by Rise and far more "expansive" and "intense" than permitted by any applicable authority defining the boundaries of vested rights. Indeed, the 1954 Flooded Mine did not have surface owners above or around it, but because of surface sales by Rise predecessors over time, Rise inherited a massive community above and around that 2585-acre underground mine whose interests can only be protected by many new uses, components, and other things for which there was no 1854 precedent and for which no vested rights are possible now. Note how Rise and its predecessors (e.g., Emgold) proved nothing by the deficient number and locations of test sites and massively undercounted, impacted existing wells. Also, Rise does not consider the rights of us objecting surface owners living above and around the 2585-acre mine to create new, additional, and deeper competing wells to deal with both the climate change impacts Rise incorrectly denies as "speculative," and to mitigate Rise's wrongs in depleting groundwater and existing and future well water owned by surface owners above and around the 2585-acre undergrounds mine. See the Supreme Court ruling in *Keystone Bituminous Coal Assn v. DeBeneditis, 480 U.S 470 (1987)* ***("Keystone"),*** discussed in the foregoing objection and in such EIR/DEIR and other objections; i.e., Rise cites no authority for any vested rights to deplete any water owned by such objecting surface owners. See also *Varjabedian* (where that court

confirmed that those living downwind of a new sewer treatment plant and so disproportionately impacted by such projects have powerful constitutional rights and other claims.)

B. The Disputed Rise Petition (Like the Disputed EIR/DEIR) Primarily Focuses On the Older, Wholly Owned Portion of the "Vested Mine Property" In Objectionable And Deficient Ways That Too Often Ignore The Disputed Issues Regarding the 2585-Acre Underground Mine Contested by Impacted Objectors Owning The Surface Above And Around That Underground Mine, Especially It's Expansion from the 1954 "Flooded Mine" to What Objectors Call the "Never Mined Parcels" That Have Been Dormant, Closed, Discontinued, And Abandoned Since At Least 1956.

As discussed in this and other objections, the Rise Petition asserts what objectors call Rise's unitary theory of vested rights as to the whole of its so-called "Vested Mine Property," failing to make any serious effort to prove vested rights for each "use" and "component" as continuous on each parcel on the required parcel-by-parcel, use-by-use, and component-by-component bases. Instead, Rise asserts its deficient and insufficient "evidence" to attempt to prove its unprecedented unitary theory of vested rights that seems to claim that anything it does anywhere on the "Vested Mine Property" is sufficient for any "use" or "component" anywhere there, even when Rise's cited *Hansen* decision rejects such an idea, as do the other authorities cited in the foregoing and other objections. While subsequent objections on this subject will demonstrate more errors in that Rise claim and will debate the relevant "parcels" in dispute, objectors frame those issues below in terms of Rise's latest (and only such post-Rise Petition) SEC filing. **Rise's recent SEC 10K for the fiscal year ending July 31, 2023 (at 30) again admits** (as did the previous 10K filings) what the Rise Petition and other communications obscured to "hide the ball" to avoid undercutting their incorrect "unitary theory" excuse (emphasis added):

> "Mineral Rights. The I-M Mine Property consists of **mineral rights on 10 parcels, including 55 sub parcels, totaling 2,560 acres … of full or partial interest**, as detailed in Table 2 and displayed in Figure 4. The mineral rights encompass the past producing I-M Mine Property, which includes the Idaho and Brunswick underground gold mines.
> ***
> The Quitclaim Deed [Rise identifies Document # 20170001985 from Idaho Maryland Industries Inc., to William Ghidotti and Marian Ghidotti in County Records vol. 337, pp.175-196 recorded on 6/12/1963] describes the mineral rights as follows:
>
> The I-M mine Property consists of all rights to minerals within, on, and under the land shown upon the **Subdivision Map of BET ACRES No. 85-7,** filed in the Office of the County Records, Nevada County, California, on February 24, 1987, in Book 7 of Subdivisions, at Page 75 et seq. [See **Rise Petition Exhibit 263** dated Feb. 23, 1987]

> The I-M Mine Property consists of all rights to minerals within, on, and under the land located in portions of Sections 23, 24, 25, 26, 35, and 36 in Township 16 North- Range 8 East MDM, Section 19, 29, 30, and 31 in Township 16 North- Range 9 East MDM, and Section 6 in Township 15 North- Range 9 East MDM and all other mineral rights associated with the Idaho-Maryland Mine.
> ***
> Mineral rights pertain to all minerals, gas, oil, and mineral deposits of every kind and nature beneath the surface of all such real property … subject to the express limitation that the foregoing exception and reservation shall not include any right of entry upon the surface of said land without the consent of the owner of such surface of said land… [and] Mineral rights are severed from surface rights at a depth of 200 ft. (61 m) below surface …. (emphasis added)

Notice that Rise admitted that there are at least 10 parcels and (what Rise calls 55 sub parcels), and objectors will address in a later objection how many more parcels actually may exist. See, e.g., the 2023 10K Table 1 (at 27) describing 12 APN legal parcels just on the Rise-owned surface, without considering any underground mine parcels. Moreover, the color-coded, separate units in SEC 2023 10K Figure 4 show more than 90 parcels. Rise must prove continuous vested rights uses and components at least for each such parcel and sub-parcel, and Rise has not even attempted to satisfy its burden of proof by doing so. Moreover, the vested rights rules prohibit expanding or transferring "uses" or "components" from (i) one parcel (or what Rise calls a "sub parcel") with a vested use or component to (ii) another parcel (or what Rise calls a sub parcel) without such a continuous vested use or component. Thus, even if Rise had vested rights to the Flooded Mine parcels (which objectors' dispute) that would not result in any vested rights for any Never Mined Parcel. Also, having so admitted such parcels (and sub-parcels), Rise should be estopped from asserting its disputed and unprecedented unitary theory of vested rights as if the Vested Mine Property were just one big parcel (which objectors dispute.) See objectors' Initial Evidentiary Objection, addressing various Evidence Code requirements for Rise (e.g., EC #623, 413, 356, etc.) and various other rebuttal opportunities for objectors.

C. Some General, Property Description And Related Issues From the SEC 2023 10K Filings Compared To the Rise Petition And Other Rise Filings With the County, And Related Contradictions For Rebuttals And Objections.

"Item 2. Properties" (beginning at p. 21) of the 2023 10K still uses the general term "I-M Mine Property" to describe (i) what objectors call the "IMM" plus the separate "**Centennial"** site, and (ii) what the disputed Rise Petition calls the "Vested Mine Property." (Note that objectors plan a separate objection for the Centennial site and related issues, and that the limited discussion of that topic here does not mean it is not important in objectors' comprehensive objections to the Rise Petition, but rather only that we are just addressing some such issues sequentially.) That "I-M Mine Property" is described by Rise (in that 20233 10K at 24) as "approximately 175 acres …[of] surface land and 2560 acres … of mineral rights," without

any attempt to make any easy comparisons with the EIR/DEIR terms, data, or other contents or to explain inconsistencies, such as, for example, why the EIR/DEIR described **2585-**acres of underground mineral rights but here only **2560**. (Objectors use the larger number for "safety" [i.e., to avoid omitting anything in objections], but, in due course, objectors will address whatever answers we discover for such needless and inconsistent mysteries.) For example, (apart from the 2585-acre underground mining rights) instead of addressing the issues like the EIR/DEIR as to the Brunswick site surface versus the separated Centennial site surface, the 2023 10K identifies in Table 1 (at p. 27) 12 APN legal parcels (contrary to describing 10 in the above subsection quote) called (1) "Idaho land" representing 56 acres …, (2) "Brunswick land" representing 17 acres, and the "Mill Site" property representing 82 acres … as displayed in Figure 3" [a useless map lacking needed landmarks for needed precision.] For convenience (e.g., to avoid confusion in SEC filing quotes herein) this Exhibit generally will use the SEC terms with some additional objector terms for ease of application to our other objection documents. (Why the Rise Petition uses different terms than that 2023 10K in discussing such vested rights issues is another suspicious curiosity.)

Note, however, that the 202310K separately identifies such legal descriptions of Rise's "Surface Rights" as separate from the underground "Mineral Rights." Id. 24-34. Notice how Rise brags (at 32) about how "environmental studies" were "completed on all the surface holdings owned by Rise," ignoring the 2585-acre underground mine where many problems exist as addressed in the record objections to the disputed EIR/DEIR. However, those studies are disputed on many grounds in objections to the EIR/DEIR. The absence of proof of environmental safety in and from the 2585-acre underground mine is a bigger concern not satisfactorily addressed anywhere by Rise, especially as to the addition of admitted use of cement paste with toxic hexavalent chromium pumped down into the underground mine to create shoring columns from mine waste (but obscured without any disclosure, much less reasoned analysis as required in the "Hazards And Hazardous Materials" section of the disputed DEIR or in the obscure and disputed EIR Response 1 to Ind. #254 to that disputed DEIR). See, e.g., the descriptions of hexavalent chromium menaces in the EPA and CalEPA websites and the case study of the hexavalent chromium groundwater pollution in Hinkley, Ca. at www.hinkleygroundwater.com (the story shown in the movie *Erin Brockovich*).

D. Of Course, the Rise SEC Filings Themselves Are Disputed In Many Respects, And Objectors Are Not Accepting Anything In Those Filings As True. Nevertheless, Our Objections Address Them as Admissions That Contradict And Rebut the Rise Petition's Purported Claims. See EC #623.

The Initial Evidence Objection both disputes the Rise Petition and contradicts some of the purported "History" in the 2023 10K and other Rise filings, citing the many ways the laws of evidence defeat Rise claims. See, e.g., *Hardesty* describing how the alternative reality "muddle" of mutually inconsistent and incorrect miner claims cancels all of them out. Objectors will not repeat all those many rebuttals here. However, objectors' rebuttals in that objection also refute the similar Rise Petition claims, for example, alleging evidence that (202310K at 35) Del Norte Ventures, Inc. (Emgold's predecessor) "rediscovered" in 1990" a "comprehensive collection of original documents" for the IMM (presumably pre-1956,

"unauthenticated" documents from before the mine closed and flooded and the miner moved to LA to become an aerospace contractor ending in bankruptcy and a cheap auction sale of the IMM to William Ghidotti.) Part of the more comprehensive problem is that Rise is trying to recreate records from Idaho-Maryland Mines Corporation that closed and abandoned its flooded and dormant mine by 1956, due in large part to the fact that the cost of gold mining increasingly exceeded the indefinite $35 legal cap on gold prices, in effect also abandoning hope of resuming mining unless and until that $35 legal cap was lifted, which did not occur for another decade. That abandonment of the mine and the mining business is proven by Rise Petition's own Exhibit records that prove how that miner liquidated its moveable mining assets and after that1956 abandonment of the dormant and discontinued mine and mining business changed its name and trademark to Idaho Maryland Industries, Inc., moved to LA to become an aerospace contractor, filed Chapter XI under the Bankruptcy Act, and liquidated the mine cheap in an auction sale to William Ghidotti in 1962. Another objection to follow will counter Rise's disputed history in more detail by going beyond the fragmentary and disputed Rise Petition Exhibits that noncontinuous "snapshots" and are by no means adequately "authenticated," admissible evidence, or a "comprehensive collection of original documents" demonstrating vested rights. Many such Rise Petition Exhibits are just "filler," and Rise's failure to produce such alleged records relevant to the vested rights disputes created an inference and presumption that Rise has no such evidence. See the Initial Evidentiary Objection and EC #412, 413, 356, and 403.

Many records referred to in such Rise filings and admissions are production and gold mining process related records that don't prove vested rights and ceased when the dormant and abandoned IMM closed and flooded by 1956. Stated another way, there is no objective intent evidence to prove continuous use (or even continuous intent to resume mining) on a parcel-by-parcel, use-by-use, and component-by-component basis as required by the applicable case law (e.g., *Hardesty, Calvert, Hansen*, etc.). That Initial Evidentiary Objection also exposed errors and omissions in the SEC filings' description (at pp. 35-36) of the Emgold (and predecessor) activities on certain parcels for drilling exploration in 2003-2004 [(not on all parcels and just "exploration" "uses," **not** mining or other relevant mining related "uses"). For example, the 2023 10K admits (at 36): "Exploratory drilling was mainly conducted from tow sites: 1) west of the Eureka shaft, and 2) west of the Idaho shaft, both targeting near surface mineralization around historic working. See Figure 6." That admits no exploration (much less anything relevant to mining "uses" for vested rights) on the critical "Never Mined Parcels" or even most of the "Flooded Mine" parcels in the 2585-acre underground mine where the gold is supposed to be below or near objecting surface owners. The same is true as to what Rise describes (at pp.42-43) as drilling 17 holes in 2019. None of that occasional, noncontinuous activity satisfies any requirement for any vested rights by either Emgold or Rise, even if all their predecessors had vested rights, which none of them did, especially that initial miner-owner in 1954-1962.

Furthermore, contrary to the Rise Petition's confidence about its mining plan and incorrect insistence on its objective intent to reopen the mine and execute its disputed plan, the 2023 10K (like the earlier SEC filings, addressing some in an Attachment) admissions contradict Rise's disputed factual foundation for vested rights. See, e.g., the Initial Evidentiary Objection addresses EC #'s 401-405 (establishing the preliminary facts for admissibility) and 1400-1454

(authenticating evidence). For example, the entire Rise 2023 10K "Risk Factors" discussion below proves that Rise is just a speculator seeking to create a mere, indefinite, and conditional option to mine if the future conditions and explorations are sufficiently attractive both to Rise and to the uncommitted investors from whom Rise continuously needs funds to be able to afford to do much of anything. For example, consider this such admission (at 9) contrary to Rise's claims for continuous activity it incorrectly describes as sufficient for vested rights to mine, which are disproven by objectors from Rise's own exhibit admissions and only involve occasional and limited "drilling explorations" on only a few parcels with no actual "gold mining" uses anywhere in the IMM since at least 1956:

> Our Idaho-Maryland Mine Project is a historic, past-producing mine which, apart from the exploration work that we have completed since 2016, has had very little recent exploration work since 1956. **We would require further exploration work in order to reach the development stage. Advancing our I-M Mine Property into the development stage will require significant capital and time, and successful commercial production from the I-M Mine Property will be subject to completing feasibility studies, permitting and re-commissioning of the mine, constructing processing plants, and other related work and infrastructure. As a result, we are subject to all of the risks associated with developing and establishing new mining operations and business enterprises,** including …[see continued discussion of these issues in the Risk Factor rebuttals below] (emphasis added)

The point here is that vested rights are about continuous prosecution on each parcel of a prior "nonconforming" "use-by-use" and "component-by-component" basis (or enough objective intent to qualify to do so under required facts and circumstances that are not present here), always on a parcel-by-parcel basis. What Rise admits to here is not only contrary to such requirements for vested rights, but such admissions are also contrary to the whole concept of vested rights as based on continuing on a parcel the prior mining activity as a nonconforming use or component. Exploration is the only mining related "use" activity since 1956 that the Rise Petition claims or that is even affordable or physically feasible by Rise. Now, even after the Rise Petition filing, this new, 2023 10K not only admits the reality that during that long period there has been little (and deficient for vested rights purposes) exploration "uses" on the Vested Mine Property, but also that basically Rise is starting a new mine on the ruins of just part of the older "Flooded Mine" with the impermissible goal of expanding that long abandoned and discontinued 1954 use to the Never Mined Parcels. (Note that, in any event, exploration is a different "use" than any underground mining "use" and, therefore, would not create any vested rights for mining in any event.)

II. Some "Risk Factor" And Compliance Admissions by Rise From the 2023 10K, Including Conflicts With the Rise Petition Or Related Rise, Vested Rights Claims.

A. Some Legal Compliance Concerns And Objectors' Requests For The County To Decline To Tolerate Any Rise Petition (Incorrect) Interpretations of What Vested Rights Would Allow Rise To Do (Or Not To Do) As To Any "Use" Or "Component" On Any "Parcel."

As explained in the companion objections referencing this Exhibit, **objectors are confused by the Rise Petition claiming (at 58) that, in effect, Rise can mine and conduct itself generally as it wishes anywhere on the Vested Mine Property "without limitation or restriction."** In contrast with that incorrect and massive overstatement of the disputed effect of Rise vested rights, Rise asserts in the 2023 10K much narrower (though still incorrect) statements of what Rise could accomplish and do, recognizing (e.g., at p.8) "environmental risks" and how (i) Rise "will be subject to extensive federal, state and local laws, regulations, and permits governing protection of the environment," and (ii) "Our plan is to conduct our operations in a way that safeguard public health and the environment." One key issue for the County in reconciling those inconsistent claims is whether (and to what extent) Rise is asserting (a) what it claims the legal right to do in the Rise Petition "without limitation or restriction" versus (b) an aspirational, public relations statement of goals Rise can violate whenever it wishes, or, more likely, "interpret" from the perspective of an aggressive miner so as to make those legal standards of little practical consequence by exaggerated and otherwise incorrect interpretations. Granting the Rise Petition as written is perilous not just for the County but also for objectors, since such an acknowledgment in SEC filings of the need for legal compliance is not a legally enforceable equivalent to the required use permit conditions or a commitment that can be readily enforced by impacted objectors living above and around the 2585-acre underground mine with our own competing, constitutional, legal, and property rights (e.g., it's objectors groundwater and existing and future well water that would be depleted 24/7/365 for 80 years).

Stated another way, objectors take little comfort in such Rise public relations "reassurances" in such SEC filings and other public relations statements, and it is simply too risky to trust Rise (and any successor who may be "hiding behind the curtain", since Rise admits in these 2023 10K financials that Rise lacks the financial resources to accomplish much of anything material that it is asserting it will do.) Indeed, Rise also admits (at 8) that it cannot "predict with any certainty" the "costs associated with implementing and complying with environmental requirements," which Rise acknowledges "could be substantial" and "possible future legislation and regulations" could "cause us to incur additional operating expenses, capital expenditures, and delays." That uncharacteristic realism is appropriate, especially because impacted locals not only have their own legal rights, but also the power to create, directly or indirectly, such protective law reforms to prevent harms to our large community above and around the IMM, such as those predicted in the hundreds of meritorious objections already in the record in opposition to the disputed EIR/DEIR with more to come in opposition to the Rise Petition. However, such aspirational realism in Rise's SEC filings does not seem to be included in the Rise Petition. That means if the County were (incorrectly) to approve any disputed vested rights for any "use" or "component" on any "parcel" of the disputed Vested Mine Property, the County should not accept any of what the Rise Petition claims vested rights mean (e.g., don't gamble on whatever "without limitation or restriction" may mean in the Rise

Petition, but define clearly and correctly what any vested rights would mean.) In particular, the County should follow the guidance of all the many applicable laws and court decisions that the Rise Petition ignores by asserting its incorrect "without limitation or restriction" claim (e.g., instead follow *Hardesty, Calvert, Gray,* and even the whole of *Hansen*, as distinct from merely the fragments Rise that misinterprets.) See the Table of Cases And Comments attached to the Initial Evidentiary Objection and other objections cited legal authorities demonstrating what the applicable law actually is, as distinct from what Rise wishes the law were.

B. Risk Factors Admitted by Rise In Its 2023 10K, But Generally Ignored In the Rise Petition, the EIR/DEIR, And Other Applications And Requests Approval For Benefits From the County. But Also See Those Not Addressed By Rise Anywhere, Such As The Correct, Applicable Law And Facts Supporting The Competing Constitutional, Legal, And Property Rights of Objectors Owing the Surface Above And Around the 2585-Acre Underground Mine.

1. Rise Incorrectly Describes Its Disputed Vested Rights In All of Its Disputed Filings With the SEC Or the County.

As described above and throughout the foregoing and companion objections, as well as in the incorporated record EIR/DEIR and other objections, Rise has incorrectly described (e.g., pp. 4-6) what is required for acquiring and maintaining any vested rights and what the results are of having any vested right for any use or component on any parcel. See, e.g., the Table Of Cases And Commentaries…at the end of the Initial Evidentiary Objection and others. Of relevance here is that the so disputed 2023 10K is not only inconsistent with, or contrary to, the disputed Rise Petition (and the disputed EIR/DEIR) [and vice versa], but also with itself. **For example, the 2023 10K (at 34) states: "Subsurface mining, including ancillary surface uses, would require the following permits and approvals under a Use Permit process [citing many County, State, and Federal approvals, although fewer than in the County Staff Report for the EIR/DEIR]. However, the Rise Petition appears to claim (incorrectly) it can evade many of such requirements. Indeed, that 10K itself is not as clear in other commentaries since it only (at p.6) contemplates a use permit if the Board rejects Rise's vested rights claim.**

In addition, the following Rise admitted "Risk Factors" demonstrate that, among other things and contrary to the disputed Rise Petition, Rise is just engaged in occasional, limited exploration, and speculating; not planning to mine. Rise has no current or objective commitment or committed funding to execute any mining plan at any time or to commit to any other such mining activities, unless and until Rise has raised the funds for sufficient *further* "exploration" and Rise and its speculator- financiers/investors each subjectively finds those exploration results to be "successful" in demonstrating what Rise admits does not now exist: both sufficient, viable, proven or probable gold reserves in conditions that can be mined profitably, plus sufficient financing on acceptable terms and conditions to carry the mine operations to positive cash flow sometime in the distant future. Under the circumstances that intent to speculate and decide what to do in that indefinite future cannot create vested rights for any mining "use" or "component" on any parcel of the 2585-acre underground mine, and, particularly, the "Never Mined Parcels" that require not only such exploration but also all the

startup work in the Brunswick shaft and the Flooded Mine (e.g., dewatering the flooded mine and reconstructing 72 miles of flooded tunnel and infrastructure) even to be able to reach those Never Mined Parcels to begin any exploration or gold mining uses there. (Remember: the surface above the 2585-acre underground mine is owned by objectors and others and is not available to Rise for exploration or access, a Rise "Risk Factor" discussed below.)

This is not a meritorious vested rights case, but rather is more like this analogy: A Texas holdem poker-playing gambler puts in his ante (buying the IMM cheap) and matches the bets on the initial round (limited, preliminary exploration on some parcels), waiting to see the common cards dealt out one-by-one face up on the table to decide each time whether or not to stay in the game or fold. Since there needs to be a continuous commitment to mining uses on each applicable parcel for any vested rights, such speculators like Rise cannot qualify. Such conditional interest in possible mining is not the kind of commitment required by applicable law, because Rise is only "in the game" as long as they like their odds on each "card" and as long as their investors keep doling out the money to continue their bets. But as explained in record objections, once Rise starts any work at the IMM, our community will be much worse off when it stops than we are now, one way or another.

As one calculates the reliability of Rise's economic feasibility and the substantial financing Rise admits below it continuously needs for years before any possible revenue, focus on the Rise admissions in the 2023 10K section about "Risk Related to Mining and Exploration," where Rise stated (at 11, emphasis added): "WE HAVE NOT ESTABLISHED THAT ANY OF OUR MINERAL PROPERTIES CONTAIN ANY MINERAL RESERVE ACCORDING TO RECOGNIZED RESERVE GUIDELINES, NOR CAN THERE BE ANY ASSURANCE THAT WE WILL BE ABLE TO DO SO." Also consider (at Id.) :

> **THE I-M MINE PROPERTY IS IN THE EXPLORATION STAGE. THERE IS NO ASSURANCE THAT WE CAN ESTABLISH THE EXISTENCE OF ANY MINERAL RESERVE ON THE I-M MINE PROPERTY … IN COMMERCIALLY EXPLOITABLE QUANTITIES. UNLESS AND UNTIL WE DO SO, WE CANNOT EARN ANY REVENUES FROM THESE PROPERTIES AND IF WE DO NOT DO SO WE WILL LOSE ALL OF THE FUNDS THAT WE HAVE EXPENDED ON EXPLORATION, IF WE DO NOT ESTABLISH THE EXISTENCE OF ANY MINERAL RESERVE IN A COMMERCIALLY EXPLOITABLE QUANTITY, THE EXPLORATION COMPONENT OF OUR BUSINESS COULD FAIL. (emphasis added)**

[THE FOLLOWING COMMENTS ARE PRESENTED IN ORDER OF THEIR PRESENTATION IN THE 2023 10K "ITEM 1A. RISK FACTORS: RISKS RELATED TO OUR BUSINESS" SECTION (since those risk items are not numbered).]

2. Rise Admits (Its Vulnerability To Increased Levels of "Volatility" or "Rapid Destabilization" That Can Create "Material Adverse Impacts" On Rise.

For reasons Rise admits in its financial statements and comments below, and as confirmed by its own accountants' concerns about Rise as a "going concern" and other risks, many Rise critics regard Rise's mining plans to be financially infeasible with good cause. While

some at the County may have incorrectly regarded such concerns about economic feasibility to have been irrelevant to them in respect of the disputed EIR/DEIR, those concerns must be fully relevant for the "financial assurances" required for any "reclamation plan" required for any vested rights claimed under the Rise Petition. As future objections will explain in more detail, all Rise's proposed safety and protection assurances are meaningless if they are unaffordable by Rise, as seems to be the case based on its own admitted financial condition. Moreover, since reclamation plans themselves may block vested rights by requiring new "uses" and "components" (e.g., not just an unprecedented water treatment plant on the Brunswick site but also a whole water replacement supply system for impacted owners of existing and future depleted wells, as required by ***Gray v. County of Madera***). Those feasibility issues will be much larger than Rise admits, even in the disputed EIR/DEIR. Of course, the obvious risk that has not been addressed by Rise, but which is obvious from reading all the Rise SEC filings since its 2017 IMM acquisitions began, is this: Rise (both the parent and its shell subsidiary) owns limited assets besides the Vested Mine Property, whose disputed value (and which is subject to liens for a large secured loan) crashes when and if its investors cease to continue to dole out the periodic funded needed to continue. Rise will quickly lack working capital for operations, as Rise admits in the following subsection of the 2023 10K and discussed next below. Suppose investors stop funding before any profitable gold is recovered and generating revenue, which the EIR/DEIR admits will first require years of start-up work. In that case, unless there are fully adequate financial assurances for a quality reclamation plan, our community will suffer the fate of many others with the misfortune to endure the more than 40,000 abandoned or bankrupt mines in California on the EPA and CalEPA lists, none of whose financial assurances proved sufficient for adequate reclamation.

3. Rise Admits (at 8-9, emphasis added): "OUR ABILITY TO CONTINUE TO OPERATE AS A GOING CONCERN DEPENDS ON OUR ABILITY TO OBTAIN ADEQUATE FINANCING IN THE FUTURE."

As discussed in the prior paragraphs and demonstrated in Rise's financial statements and comments below, Rise can only continue operating if, as, and when its investors continue to fund those operations in their discretion. Rise has consistently admitted (see discussion below) that there are no "proven [gold] reserves" to value the mine in excess of its secured debt or other, positive, admitted financial data. Thus, Rise is not creditworthy for expecting to attract any asset-based debt financing. (Any credit extensions would be based on warrants or equity kickers, such as being convertible into equity or supported by cheap warrants for stock, thus making another type of equity bet rather than a credit decision based on Rise having any financial resources capable of repaying the debt.) Thus, Rise's hope for attracting funding is fundamentally about the speculator-investors' gamble that Rise can somehow overcome all the current, and foreseeably perpetual: (i) local legal and political opposition to reopening the mine and whatever defensive law reform results locals would cause for protecting their health, welfare, environment, property, and community way of life, if somehow Rise were allowed to start mining; (ii) other risks admitted in the 2023 10K discussed herein; (iii) the business and market risks that could make mining uneconomic or non-viable, even if Rise found merchantable amounts of gold, such as if the all-in mining costs exceeded their revenue; (iv) the

natural physical risks of mining, for which there is long history, such as floods, earthquakes, etc., as well as mining accidents from negligence or get-rich-quick gambles causing cave-ins etc.; (v) the danger of environmental sciences impacting their operations, such as, for example, finding no cost-effective and legal way to dump mine waste [e.g., exposing the disputed theory of Rise selling mine waste as so-called "engineered fill"], or outlawing Rise's planned use of cement paste with toxic hexavalent chromium to shore up mine waste into bracing columns to avoid the cost of removing the waste from the mine; or (vi) many other risks that would concern such a speculator-investor, including the fact that the investor might find more attractive and less risky alternative investments, especially because there could likely be no liquidity from this mine investment (e.g., no one to buy their Rise stock), unless and until somehow in some future year Rise has overcome all the risks and challenges and is finally producing profitable gold revenue from this disputed mine.

While Rise there admits (at 8-9) that there is **"no assurance that the Company will be able to obtain adequate financing in the future or that such financing will be on terms advantageous to the Company," "management believes that the Company can raise sufficient working capital to meet its projected minimum financial obligations for the fiscal year." What about beyond that year? Is our community supposed to endure indefinitely the risk of a failed mine on a year to years basis unless and until in some distant year the Vested Mine Property becomes self-sufficient? What happens if Rise were to get approval to drain the flooded mine, makes other start-up messes, and then discovers that "management" was wrong about costs or other risks or no longer has sufficient working capital? In effect, Rise is demanding (incorrectly, in the name of its disputed version of "vested rights") that not just the County share those speculator risks, but that the County assist Rise in forcing those risks on local objectors, especially those most impacted objectors owning the surface above or around the 2585-acre underground mine who have our own competing constitutional, legal, and property rights independent of the County. Objectors decline to accept any of these admitted risks that should not be ignored by the County and will not be ignored by the courts.**

4. Rise Admits (at 9) That "We will require significant additional capital to fund our business."

This is more about the same concerns objectors have noted from the previous Rise admissions above, but Rise adds more confirmation here to what objectors stated as grounds for rejecting Rise Petition or for any other permissions for its mining goals in the EIR/DEIR or otherwise. For example, **Rise admits that: (i) "We will be required to expend significant funds to determine whether proven and probable mineral reserves exist at our properties," i.e., again admitting that no such proof of such gold reserves now exists, thereby confirming that our community, especially those owning the surface above and around the 2585-acre underground mine, will be suffering all the problems identified in hundreds of objections to the EIR/DEIR and more coming to the Rise Petition so that this Rise-speculator can gamble at our expense (without any net benefit or reason to suffer to facilitate such speculation);** (ii) "**We will be required to expend significant funds to… continue exploration and, if warranted, to develop our existing, properties," i.e., confirming that Rise has no sufficient objective intent to mine, as required for vested rights, but rather only a conditional and speculative desire to**

mine if all the conditions are "right" for such speculation, such as, for example, as admitted throughout the 2023 10K that Rise raises sufficient money to conduct sufficient exploration to determine that it is worth beginning to mine, and, if so, that it can raise sufficient money to do so in the context of all the risks that Rise admits to exist, as discussed herein; (iii) "We will be required to expend significant funds to… identify and acquire additional properties to diversify our portfolio," i.e., demonstrating that not only is Rise demanding that the County and its citizens suffer all the problems demonstrated in our many referenced objections as to this local mine, but that **our misery is also to be suffered in order to enable Rise and its investor speculators to double its gambling bet somewhere else, reducing those speculators' risks but increasing our risks (e.g., instead of using money locally as a reserve for all these admitted risks and more, Rise would spend such fund somewhere else of no possible benefit to us suffering locals whose sacrifices enabled the speculators to double their bets;** (iv) "We anticipate that we will be required to make substantial capital expenditures for the continued exploration and, if warranted, development of our I-M Mine Property…[but] We may not benefit from some of these investments if we are unable to identify commercially exploitable reserves" [from "continued exploration and, if warranted, development…"]; i.e., the reality here, and the difficulty for speculators, is that Rise is admitting the risk that, for example, its investors could fund years of legal and political conflicts with local objectors while doing the expensive start-up work (e.g., chronically disputed permitting, dewatering the mine, constructing a water treatment plant and drainage system, repairing the Flooded Mine infrastructure shaft and 72 miles of existing tunnels in order to begin exploring the Never Mined Parcels through 76 miles of new tunnels, only then to learn whether the IMM could become a profitable gold mine or whether it's a total write-off; (v) again, "We may not be successful in obtaining the required financing, or, if we can obtain such financing, such financing may not be on terms favorable to us" for such work, beyond the merits of the mine on account of factors, including the status of the national and worldwide economy [citing the example of the financial crisis 'caused by investments in asset-backed securities] and the price of metal;" (vi) **"Our inability to access sufficient capital for our operations could have a material adverse effect on our financial condition, results of operations, or prospects," i.e., that is the obvious and understated reality, but what matters are the consequences for our community and especially objectors owning the surface above and around the 2585-acre underground mine, because once the disputed mining work starts, we will all be worse off when the mining stops than we already are now,** even if there were adequate reclamation plans with sufficient financial assurances; (vii) **"We have not yet commenced commercial production at any of our properties and, therefore, have not generated positive cash flow to date and have no reasonable prospects of doing so unless successful production can be achieved at our I-M Mine Property," and "expect to continue to incur negative investing and operating cash flows until such time as we enter into successful commercial production," which Rise admits in its disputed EIR/DEIR could take years and likely considering the unknown condition of the closed and flooded 2585-acre underground mine, and all the legal and political opposition to the IMM, could take much longer;** and (viii) again, "There is no assurance that any such financing sources will be available or sufficient to meet our requirements," and "There is no assurance that we will be able to continue to raise equity capital or to secure additional debt financing, or that we will not continue to incur losses," i.e., **this is an all or nothing bet by the Rise speculators at the**

unwilling risk and prejudice of our whole community, but especially objectors owning the surface above and around the 2585-acre underground mine.

5. Rise Admits (at 9-10) That It Has "a limited operating history on which to base an evaluation of our business and prospect," thus admitting that objectors' impacted community has no less reason to be skeptical about Rise's performance and credibility than the speculating investors Rise is warning to beware in Rise's SEC filings.

Rise admits that "since our inception" it has had "no revenue from operations" and "no history of producing products from any of our properties." More importantly, consider the following admissions (at 9, emphasis added) **AFTER THE RISE PETITION FILING and contrary to Rise's claims for continuous activity** that Rise incorrectly describes as sufficient for vested rights to mine. (Objectors prove from Rise Petition's own Exhibit admissions the only possibly relevant work at the IMM since 1956 involved occasional and limited "drilling explorations" on only a few parcels with no actual "gold mining" uses anywhere in the IMM since at least 1956.) None of these Rise admissions support vested rights, but, to the contrary, defeat them:

> **Our Idaho-Maryland Mine Project is a historic, past-producing mine which, apart from the exploration work that we have completed since 2016, has had very little recent exploration work since 1956. We would require further exploration work in order to reach the development stage. Advancing our I-M Mine Property into the development stage will require significant capital and time, and successful commercial production from the I-M Mine Property will be subject to completing feasibility studies, permitting and re-commissioning of the mine, constructing processing plants, and other related work and infrastructure. As a result, we are subject to all of the risks associated with developing and establishing new mining operations and business enterprises, including *completion of feasibility studies to verify reserves and commercial viability, including the ability to find sufficient ore reserves to support a commercial mining operation; * …further exploration, preparing feasibility studies, permitting and construction of infrastructure, mining and processing facilities; * the availability and costs of drill equipment, exploration personnel, skilled labor, and mining and processing equipment, if required; * the availability and cost of appropriate smelting and/or refining arrangements, if required; * compliance with stringent environmental and other governmental approval and permit requirements; * the availability of funds to finance exploration, development, and construction activities, as warranted, * potential opposition from non-governmental organizations, local groups, or local inhabitant…* potential increases in …costs [for various reasons]…* potential shortages of …related supplies.**
> *******

> **…Accordingly, our activities may not result in profitable mining operations, and we may not succeed in establishing mining operations or profitably producing metals … including [at] our I-M Mine Property [for those and other stated reasons].**

As explained above, this "starting over" admission that Rise is not just planning to reopen the IMM as a continuation of anything that preexisted. Rise also admits to starting over as if it were "developing and establishing new mining operations and business enterprises." That is the opposite of vested rights and rebuts any claim to the required continuity. Rise is admitting the obvious reality that was clear to all its predecessors: reopening the mine is, in effect, starting over on the ruins of part of the old mine that has been dormant, discontinued, abandoned, closed, and flooded since at least 1956. That is NOT engaging in a continuing, nonconforming use through all those predecessors of Rise, none of whom claimed vested rights, but instead (like Rise itself until 9/1/2023) applied for permits for each such activity as the law required.

6. Rise Admits (at 10) That Its "History of Losses" Is Expected To Continue In the Future.

Among the many reasons why even vested rights work requires both a "reclamation plan" and "financial assurances" is that for each of the more than 40,000 abandoned or bankrupt mines in California on the CalEPA and EPA lists the reclamation plans and financial assurances proved to be insufficient or worse. As future objections and expert evidence will prove before the hearing, the reality confirmed in Rise's SEC filings is that Rise cannot provide any sufficient "financial assurances" for any acceptable "reclamation plan," as is obvious from its financial and other admissions. Consider these admissions (at 10, emphasis added):

> ***We have a history of losses and expect to continue to incur losses in the future.***
>
> We have incurred losses since inception, have had negative cash flow from operating activities, and expect to continue to incur losses in the future. We have incurred the following losses from operations during each of the following periods:
>
> *$3,660,382 for the year ended July 31, 2023
>
> *$3,464,127 for the year ended July 31, 2022
>
> *$1,603,878 for the year ended July 31, 2021
>
> **We expect to continue to incur losses unless and until such time as one of our properties enters into commercial production and generates sufficient revenues to fund continuing operations. We recognize that if we are unable to generate significant revenues from mining operations and/or dispositions of our properties, we will not be able to earn profits or continue operations. At this early stage of our operation, we also expect to face the risks, uncertainties, expenses, and difficulties frequently encountered**

by companies at the start-up stage of their business development. We cannot be sure that we will be successful in addressing these risks and uncertainties and our failure to do so could have a materially adverse effect on our financial condition.

As noted herein, lacking any material assets besides its disputed IMM that is already subject to secured loan liens exceeding (what objectors perceive as) the mine's conventional collateral value (hence the requirements for "equity kicker" stock warrants), these admissions explain why it is infeasible to expect this uncreditworthy (by any conventional standard) Rise to find any adequate such "financial assurances." So, why isn't the Board addressing that reality and the absence of any credible reclamation plan at the hearing? See objectors many arguments on that subject in this Exhibit and other objections, but especially including the fact that any possible reclamation would require uses and components for which no vested rights can be credibly claimed, among other things, because (like the water treatment plant that had no counterpart in 1954, or the water supply system required for the whole impacted local community by Gray v. County of Madera) there can be no vested rights for those unprecedented uses and components, especially on a parcel-by-parcel basis as required even by *Hansen* (citing and discussing *Paramount Rock* for that result).

7. Rise Complains (at 11) About How Public Opposition Allegedly Could Cause Reputational Damage That Could Adversely Affect Rise's Operations And Financial Condition, But Rise Is The Problem—Not the Victim.

Objectors are astonished that this Canadian-based miner would come to our community to attempt to reopen such a massive mine menace underneath and near our homes **and dare "to play the victim**." See the hundreds of meritorious objections to the disputed EIR/DEIR and more to come to the Rise Petition. Among the many reasons that objectors living above and around the 2585-acre underground IMM remind the County of our plight and peril as the real victims in this drama, is that we have our own, competing, constitutional, legal, and property rights at stake. Objectors are not just public-spirited community residents and voters protecting our environment and community way of life by the exercise not just of our First Amendment rights, but also by exercise of our constitutional rights to petition our government for redress of our many grievances. We were here first, before Rise came to town to speculate at our prejudice. We invested in surface homes on surface lands sold by Rise predecessors with protective deed restrictions to protect surface owners from any future miners, and we reasonably assumed that that historical IMM would be no threat because we would be protected by applicable law, environmental regulators, and responsible local governments. Now, when it is disappointed by such a correct and proper Planning Commission decision (Rise's complaint letter will be rebutted in another objection), Rise somehow claims some unprecedented priority over all of us by incorrectly claiming "vested rights." Nonsense. There is no such possible thing as Rise silencing objectors' lawful exercise of competing interests explaining why Rise is wrong because somehow being wrong might harm is reputation, especially since Rise has itself harmed its reputation by its objectionable conduct and threats.

Such objectors are properly protecting our homes, families, and property values and rights from the risks and harms threatened by this mining in legally appropriate ways, as

demonstrated by the foregoing objection and by hundreds of other meritorious record objections to the EIR/DEIR with more to come to the Rise Petition. For example, such objectors' groundwater and existing and future well water would be dewatered 24/7/365 for 80 years and flushed away by Rise down the Wolf Creek. Rise came to town to speculate by seeking to reopen a dormant gold mine closed, discontinued, abandoned, and flooded since at least 1956. **That (and more) makes us existing resident surface owners above and around the 2585-acre underground IMM the victims, not Rise.** So far, contrary to many record objections, Rise has entirely ignored or disregarded objectors' issues and concerns as if this were just a dispute about how Rise uses its owned property, as distinguished from how Rise impacts objectors' own properties. Contrary to the disputed Rise Petition, Rise has no vested or other right to mine here. Objectors are not taking anything away from Rise, but, to the contrary, Rise is taking much away from objectors by 24/7/365 operations for 80 years that are utterly incompatible with our preexisting, suburban way of life and our competing property rights and values. And for what? For the profit for this Canadian-based miner and its distant speculating investors. What this Exhibit demonstrates is that Rise not only admits that speculation and the huge risks that such investors are taking. But if the County approves anything for Rise, it would be imposing all those same risks (and additional burdens) on unwilling local objectors with no net benefit, just massive risks, and harms, including the prolonged erosion of our property values as Rise "explores" and indefinitely waits for the data it and its speculator money sources to decide whether or not to proceed with the mining. Under these circumstances, there is no such thing as vested rights for such an indefinite, conditional option to mine.

Consider here in greater detail as the Board reads such Rise risk admissions in this and previous Rise SEC filings that such admissions not only describe the risks for Rise investors and for us impacted local objectors, but also for our whole community. The incompatibility of such mining with our surface community above and around the 2585-acre underground IMM is demonstrated by the negative impact our property values, which also harms the County's property tax revenue (plus declining sales tax revenue from tourists who don't come here for the miseries of a working mine). All of the local service industries also will suffer to the extent they depend, for example, on such surface owners building on their lots and residents repairing or remodeling their homes. Also consider this dilemma: what do objectors tell a prospective buyer or its mortgage lender about the IMM risks? We could hand them the thousands of pages of Rise EIR/DEIR and Rise Petition filings, plus all the meritorious rebuttals and objections, and say: "make your own decision, and buyer beware." That will guarantee the depression in our property values as much as will their brokers warning them of the risks of property value declines regardless of the merits merely because of the stigma: no buyer wants to pay top dollar for the opportunity to live in what has been a wonderful and beautiful place that now is at such risk for such mining underneath them 24-7-365 for 80 years. Even if the buyer or its lender were willing to risk trusting Rise and its enablers and to disregard the hundreds of record objections and the concerns of almost every impacted resident, wouldn't that buyer still follow his or her broker's advice that there are equivalent houses that now have become better investments at a safer distance from the IMM? Indeed, wouldn't even such a Rise trusting buyer (if such an impacted, local person exists) decide in any case that it is "better to be safe than sorry"? Also, even if the buyer were both trusting and not risk-averse, his or her mortgage lender will only lend 80 or 90% of the appraised value of a house. If the appraised value is less than the asking

price or the pre-Rise value, won't the buyer always drop his or her offer to that now lower appraised value? (Most buyers need that financing and are not eager to stretch further for a down payment.) Once one appraiser causes that predictable price drop, that lower sale price becomes the new "comparable" for all the other appraisals to follow, and the market prices begin to spiral down. Almost every broker in town recognizes that property value problem, whether or not they wish to speak candidly on that topic, proving the obvious: Such underground mining is incompatible beneath surface homes in a local community like this. Defending one's home is not about harming Rise's reputation or prejudice about mining or such speculators. Few buyers anywhere ever want to live above a working mine, regardless of the truth or falsity of Rise's public relations and other claims about the quality of its mining.

In any event, independent of the many disputes with, and objections to, Rise Petition, the EIR/DEIR, and other Rise "communications," Rise's own admissions in its SEC filings and elsewhere, such as those addressed in this Exhibit, are not reassuring to surface owners or any potential buyer or lender (or its appraisers.) Also, what does a resident seller say to a buyer who looks at the Rise financial statements and admissions and asks, why should I assume Rise can afford any of the safety and other protections Rise promises to make its mining tolerable and legally compliant? How can Rise acquire sufficient "financial assurances" for an adequate "reclamation plan?" Isn't Rise asking all of us existing and future owners to assume (for no good reason or benefit) the risks against which Rise is warning his speculator-investors? Why should any existing or future resident do that? In any case, before Rise starts accusing its resistors of causing it reputational damages, Rise should consider that it cannot possibly complain about objectors exposing Rise admissions that are contrary to its Rise Petition, EIR/DEIR, and other communications. If Rise has credible answers to our concerns, objectors have not yet seen them, leaving Rise with additional credibility problems of its own making and more reasons why, Rise should look to itself instead of at its critics.

8. Rise Admits (at 11) That "Increasing attention to environmental, social, and governance (ESG) matters may impact our business.

Objectors refer the reader to the previous response to the more specific complaint about Rise's reputation. However, the disputed EIR/DEIR demonstrated that Rise is a climate skeptic/denier, which is a cause for concern about any miner seeking to dewater the mine 24/7/365 for 80 years by draining surface owned groundwater needed not just for lateral and subjacent support to protect such owners from "subsidence," but also to save our surface forests and vegetation from the chronic droughts assured by climate change that is an undeniable part of our actual reality and cannot continue to be disregarded in Rise's "alternate reality" in which climate change issues are "too speculative" to address (e.g., where Rise's disputed EIR/DEIR incorrectly relied on prior decades of average surface rainfall to attempt to justify its 24/7/365 dewatering for 80 years as if there were no climate change/dryness/drought threat issues.) See, e.g., *Keystone, Gray v. County of Madera, and Varjabedian.*

9. Rise Admits (at 11-12) Risks Related to Mining and Exploration.

Rise admitted (Id. emphasis added): "WE HAVE NOT ESTABLISHED THAT ANY OF OUR MINERAL PROPERTIES CONTAIN ANY MINERAL RESERVE ACCORDING TO RECOGNIZED RESERVE GUIDELINES, NOR CAN THERE BE ANY ASSURANCE THAT WE WILL BE ABLE TO DO SO." Rise also admitted (at Id. emphasis added):

> **THE I-M MINE PROPERTY IS IN THE EXPLORATION STAGE. THERE IS NO ASSURANCE THAT WE CAN ESTABLISH THE EXISTENCE OF ANY MINERAL RESERVE ON THE I-M MINE PROPERTY … IN COMMERCIALLY EXPLOITABLE QUANTITIES. UNLESS AND UNTIL WE DO SO, WE CANNOT EARN ANY REVENUES FROM THESE PROPERTIES AND IF WE DO NOT DO SO WE WILL LOSE ALL OF THE FUNDS THAT WE HAVE EXPENDED ON EXPLORATION. IF WE DO NOT ESTABLISH THE EXISTENCE OF ANY MINERAL RESERVE IN A COMMERCIALLY EXPLOITABLE QUANTITY, THE EXPLORATION COMPONENT OF OUR BUSINESS COULD FAIL.**

This is why objectors describe Rise and its investors as speculators. They are making a bet that there is profitable gold that they cannot prove exists there; i.e., they are making a (presumably, perhaps, educated) guess. But this is a "heads they win, tails we lose" coin flip risk from the perspective of local surface owners above and around the 2585-acre underground mine. Suppose Rise cannot find what it seeks before its investors cut off its funding. In that case, our community will suffer the mess (absent sufficient reclamation plan "financial assurances," but still not making locals whole for the lingering losses of depressed property values and depleted groundwater or existing or future well water.) On the other hand, if Rise succeeds in its gamble, us locals suffer all the miseries that accompany living above or around a working gold mine. See, e.g., record objections to the disputed EIR/DEIR and this Rise Petition.

In addition. Rise admitted (at 12): "Even if we do eventually discover a mineral reserve on one or more of our properties, there can be no assurance that they can be developed into producing mines and that we can extract those minerals. Both mineral exploration and development involve a high degree of risk, and few mineral properties that are explored are ultimately developed into producing mines." Rise then explained (at Id.) many reasons why "an established mineral deposit" is either "commercially viable" or not, such as various factors that "could increase costs and make extraction of any identified mineral deposits unprofitable."

10. **Rise Admits (at 12, emphasis added) That "mineral exploration and production activities involve a high degree of risk and the possibility of uninsured losses."**

Rise admits (Id.) that: "EXPLORATION FOR AND THE PRODUCTION OF MINERALS IS HIGHLY SPECULATIVE AND INVOLVES GREATER RISKS THAN MANY OTHER BUSINESSES. Most exploration programs do not result in mineralization that may be of sufficient quantity or quality to be profitably mined." Rise added that: "OUR OPERATIONS ARE …SUBJECT TO ALL OF THE OPERATING HAZARDS AND RISKS NORMALLY INCIDENTAL TO EXPLORING FOR AND DEVELOPMENT OF MINERAL PROPERTIES, such as, but not limited to: … *environmental

hazards; * water conditions; * difficult surface or underground conditions; * industrial accidents; … *failure of dams, stockpiles, wastewater transportation systems, or impoundments; * unusual or unexpected rock formations; and * personal injury, fire, flooding, cave-ins, and landslides." Rise then reports the unhappy consequences of such risks for the speculator-investors, but not on the impacted victims, such as those living on the surface above or around the 2585-acre underground IMM, which is the consequence that should most concern the Board. Again, as described above, any Board support for Rise would make us objecting locals suffer from the same risks about which Rise is warning its investors, as it is required to do by the securities laws. Among the many reasons why objectors owning the surface above and around the 2585-acre underground mine are asserting their own competing constitutional, legal, and property rights is that we prefer not to be vulnerable to anyone imposing those risks on us. Our independent objection rights and standing should enable us to better protect our own interests.

11. Rise Admits (at 13) That It Is Vulnerable To Gold Commodity Prices, Because Such "Commodity price volatility could have dramatic effects on the results of operations and our ability to execute our business plans."

This obvious truth is just one more reason why Rise's admitted financial concerns and other risks (and its consequent insufficient creditworthiness) expose impacted locals to the consequent risks of Rise lacking the funds when needed to pay for the safety, mitigation, and protections it and its enablers incorrectly claim is sufficient. That is another of many risk factors that should disqualify Rise from reopening the IMM, since Rise's capacity to perform such duties may be or become illusory. All these Rise admitted risk factors demonstrate that Rise has little or no margin for surviving any such disappointments or adverse events. Yet, Rise's disputed EIR/DEIR, Rise Petition, and other filings with the County do not address those consequences to our community, especially on impacted locals living above and around the 2585-acre underground IMM, when those risks occur and Rise has exhausted its funding. Also, Rise's disputed intent for vested rights to mine cannot be so conditional and indefinite. Stated another way, neither Rise nor its predecessors can preserve vested rights to mine by an alleged future intent, if and when the conditions and circumstances it requires all exist at such future dates, such as sufficient funding, ideal market conditions, permits and approvals without burdensome conditions, the absence of any such 25 plus admitted or other foreseeable risks occurring, and the absence of all the other factors Rise admits to being possible obstacles to Rise's execution and accomplishment of its mining plans.

12. Rise Admits (at 13, emphasis added) That "evaluation uncertainties …could result in project failure" such as incorrect "[e]stimates of mineralized material and resources."

That is another example of how Rise admissions of risks for investors are likewise admissions of bigger problems for our community, especially on those objectors owning the surface above and around the 2585-acre underground IMM. For example, Rise so admits that such risks (detailed further below): "could result in uncertainties that cannot be reasonably

eliminated from the process of estimating mineralized material and resources/reserves. If these estimates were to prove to be unreliable, we could implement an exploration plan that may not lead to commercially viable operations in the future." Id. emphasis added. The Board should ask the hard, follow-up questions that objectors would ask if allowed, such as what happens then to us locals? Consider what Rise admitted (Id.) about those "risks associated with being able to accurately predict the quantity and quality of mineralized material and resources/reserves" for Rise's "exploration and future mining operations." Rise admits that all these analyses consist of **"using statistical sampling techniques,"** which is necessary because neither Rise nor its relevant predecessors have actually investigated the actual conditions in the dormant, discontinued 2585-acre underground mine that closed and flooded by 1956.

There is no sufficient data provided by Rise in any filing objectors have found that reveal the data needed to evaluate Rise's critical "statistical sampling techniques." However, judging by the disputed and massively incorrect well-testing methodology proposed by Rise in its disputed EIR/DEIR challenged in record objections, objectors have good cause not to accept Rise's such results without thoroughly re-examining its methodology and analyses. For example, Rise cannot satisfy its burden of proof by simply announcing the results from its mystery formulas from "samples obtained from appropriately placed trenches, test pits, underground workings, and intelligently designed drilling." Id. This will be disputed the same way objectors have and will dispute Rise's well sampling but adding that the surface above and around the 2585-acre underground IMM is owned by objectors or others who would not consent to Rise drilling test holes on their properties.

Also note, for example, that Rise's admitted lack of resources prevents it from "doing the job right" in all the correct and necessary places for greater accuracy. By that polling analogy, there will be a vastly higher margin of error for a poll that samples 100 people versus one that samples 10,000 people, and, here, Rise and is predecessors sampled too few locations for tolerable accuracy and for too few purposes relevant to our community's safety and well-being (as distinct from pleasing Rise's investors). See the related Rise admission in the following paragraph. Furthermore, this following Rise disclaimer may be sufficient for its willing speculator-investors, but it is legally deficient for imposing the risks and burdens of this mining on our community, especially those of us owning the surface above and around the 2585-acre underground IMM:

> **THERE IS INHERENT VARIABILITY OF ASSAYS BETWEEN CHECK AND DUPLICATE SAMPLES TAKEN ADJACENT TO EACH OTHER AND BETWEEN SAMPLING POINTS THAT CANNOT BE ELIMINATED. ADDITIONALLY, THERE ALSO MAY BE UNKNOWN GEOLOGIC DETAILS THAT HAVE NOT BEEN IDENTIFIED OR CORRECTLY APPRECIATED AT THE CURRENT LEVEL OF ACCUMULATED KNOWLEDGE ABOUT OUR PROPERTIES THIS COULD RESULT IN UNCERTAINTIES THAT CANNOT BE REASONABLY ELIMINATED FROM THE PROCESS OF ESTIMATING MINERAL MATERIAL AND RESOURCES/RESERVES. IF THESE ESTIMATES WERE TO PROVE TO BE UNRELIABLE, WE COULD IMPLEMENT AN EXPLORATION PLAN THAT MAY NOT LEAD TO**

> **COMMERCIALLY VIABLE OPERATIONS IN THE FUTURE.** Id. (emphasis added)

Again, objectors ask, and the Board should ask, what happens to us then?

13. Rise Also Admits (at 13) Its Lack of Relevant Knowledge, Creating Risks for "material changes in mineral/reserve estimates and grades of mineralization will affect the economic viability of placing a property into production and a property's return on capital."

The comments in the previous paragraph apply equally here. Indeed, in this risk comment, Rise admits to our such concerns by stating (Id. emphasis added)**: "MINERALS RECOVERED IN SMALL SCALE TESTS MIGHT NOT BE DUPLICATED IN LARGE SCALE TESTS UNDER ON-SITE CONDITIONS OR IN PRODUCTION SCALE."** Rise further confesses its lack of work to acquire necessary knowledge for it factual conditions, which are not just uninformed opinions:

> As we have not completed feasibility studies on our I-M Mine Property and have not commenced actual production, we do not have mineral resources, and any estimates may require adjustments or downward revisions. In addition, the grade of ore ultimately mined, if any, may differ from that indicated by future feasibility studies and drill results. Id.

Again, the Board should ask Rise the hard questions objectors would ask if we were allowed to do so in this stage of the process, such as: SINCE THE FATE OF US IMPACTED LOCALS OWNING THE SURFACE ABOVE AND AROUND THE 2585-ACRE UNDERGROUND MINE DEPENDS, AMONG MANY OTHER RISKS, ON THE ACCURACY OF SUCH RISE "STATISTICAL SAMPLING TECHNIQUES," WHAT IS THE MARGIN OF ERROR IN ITS PREDICTIONS, AND WHAT ARE THOSE SAMPLING TECHNIQUES, SO THAT WE CAN CHALLENGE THEM? WHO IS "CHECKING RISE'S MATH" AND THE ASSUMED FACTS IN ITS VARIABLES? Consider by analogy the similar statistical sampling techniques used in political polling. There is always an admitted margin of error (and a greater unadmitted margin of error) demonstrated by the bias injected in the formulas by partisan poll takers. (e.g., If the pollster assumes a 63% election turnout for one side and a 51% turnout for the other side, the margin of error in the resulting prediction could be huge, when the reverse proves true by hindsight.) If the Board would not trust a partisan poll that relies on partisan variables and discloses neither its formulas nor its margin of errors, why should the Board or anyone else trust our community and personal fates to Rise's partisan statistics without a thorough study of Rise's math and its chosen assumptions for the key variables? (As to motive for being "realistic" versus "aggressive," note that Rise repeatedly admits that it is continuously dependent on periodic funding from its investors, and negative data could end that funding and the entire project, including the managers' jobs.)

14. Rise Again Admits (at 13-14) That Its Mining Plan Is Conditional On the Results of Its Exploration, Thereby Defeating Its Vested Rights.

Rise admits again that, if its exploration does not produce satisfactory results, Rise will not mine. Id. (This was previously admitted in terms of Rise lacking the capacity to mine (or even unconditionally to commit to mine) unless it is able to continuously find the needed financial and other support needed from its investors.) For example, Rise states (emphasis added): "OUR LONG-TERM SUCCESS DEPENDS ON OUR ABILITY TO IDENTIFY MINERAL DEPOSITS ON OUR I-M MINE PROPERTY … THAT WE CAN THEN DEVELOP INTO COMMERCIALLY VIABLE MINING OPERATIONS." Id. emphasis added. Furthermore, Rise admits that:

> **MINERAL EXPLORATION IS HIGHLY SPECULATIVE IN NATURE, INVOLVES MANY RISKS, AND IS FREQUENTLY NON-PRODUCTIVE. These risks include unusual or unexpected geologic formations and …[listing various risks already admitted by Rise, including the need for "capital available for exploration and development work."]**
>
> **Substantial expenditures are required to establish proven and probable reserves through drilling and analysis to develop …[listing again what is needed for mining and how they determine "whether a mineral deposit will be commercially viable]. WE MAY INVEST SIGNIFICANT CAPITAL AND RESOURCES IN EXPLORATION ACTIVITIES AND FIND IT NECESSARY TO ABANDON SUCH INVESTMENTS IF WE ARE UNABLE TO IDENTIFY COMMERCIALLY EXPLOITABLE MINERAL RESERVES. THE DECISION TO ABANDON A PROJECT MAY HAVE AN ADVERSE EFFECT ON THE MARKET VALUE OF OUR SECURITIES AND THE ABILITY TO RAISE FUTURE FINANCING. Id. (emphasis added.)**

But again, nowhere in the disputed EIR/DEIR, Rise Petition, or other Rise filings does Rise ever explain what happens next to the mine and our community, especially those of us living on the surface above or around the mine, when Rise (or the investors whose money is required for Rise to do anything material) decides the results of exploration are unsatisfactory and "abandons the project." Who cleans up the mess Rise leaves behind? That is why "reclamation plans" and "financial assurances" are essential, and why it is a legal and policy mistake to separate the adequacy of such reclamation plans and financial assurances from the dispute over the existence of vested rights, especially since Rise's reclamation plan will not have vested rights and will need conventional permits.

But consider this from the alternative perspective of the impacted local objectors. Rise admits that any intent to actually mine is dependent on many pre-conditions, such as successful future exploration and related fund raising, meaning that Rise does not presently have the required objective and unconditional intent to mine that is required for vested rights. But suppose (as the law requires) the reclamation plan and financial assurance plans

are decided at the same time as the vested rights. In that case, it will become clear that there can be no such vested rights because no Rise investors will go "all in" at this exploration stage on providing "financial assurances" in advance to Rise for the massive reclamation plan required for any such mining. By reference to the gambler analogy above, even if Rise were willing and intending to push all of its chips onto the table bet at the start before seeing the next open face cards, it is hard to imagine the investor with all the chips needed so to commit "to go all in" would prematurely commit to that gamble, especially considering all the risks not just admitted by Rise in these SEC filings but also those demonstrated by record objections to the disputed EIR/DEIR and Rise Petition. Stated another way, the objective test of any vested rights intent to mine is proven or disproven by whether or not the miner's money source is willing to go "all in" now, i.e., at the time the vested rights questions are to be decided. Otherwise, what Rise Petition is incorrectly claiming without any precedent is that such miners can have an unlimited option to mine if they wish after they proceed with indefinite exploration activities while trying to raise the required funding and while us surface owners and our community continue indefinitely to suffer the stigmas depressing our property values. No applicable law gives such an indefinite option to Rise at such objectors' prejudice.

15. **Rise Admits (at 14-16, emphasis added) That there are "significant governmental regulations" that may prevent Rise from obtaining "all required permits and licenses to place our properties into production."**

THIS ADMISSION (LIKE OTHERS) IS CONTRARY TO RISE PETITION'S DISPUTED CLAIM (AT 58) THAT RISE'S DISPUTED VESTED RIGHTS EMPOWER RISE TO DO WHATEVER IT PLANS "WITHOUT LIMITATION OR RESTRICTION."
Apparently, that Rise Petition reflects Rise's litigation goal (e.g., to see how much it can "get away with" free of regulation or obligation), but to avoid liability to investors Rise does not dare that same outrageous and incorrect claim in the Rise SEC filings. By analogy, this is like some "alternative reality" politician irresponsibly claiming something absurd at a rally, but then admitting the contrary reality when he or she is under oath and subject to consequences for false statements. See the Initial Evidence Objection, including its Table of Cases And Commentaries … as well as other record objections to any such Rise vested rights claims. Notice that, besides incorrectly discussing abandonment (e.g., ignoring the required use-by-use, component-by-component, and parcel-by-parcel analysis, and the requirements of many cases cited by objections that Rise ignores), Rise implicitly asserts its incorrect unitary theory of vested rights as if any "use" or "component" on any "parcel" allows all uses and components on all parcels until abandoned. But, as objectors prove, Rise overstates what vested rights, if any existed anywhere (which objectors dispute), could accomplish for Rise, although the scope of that overstatement is different between the Rise Petition versus this SEC filing and others (as well as the EIR/DEIR and other Rise filings at the County).

Rise also states (at 14, emphasis added) that "THE COMPANY'S OPERATIONS, INCLUDING EXPLORATION AND, IF WARRANTED, DEVELOPMENT OF THE I-M MINE PROPERTY, REQUIRED PERMITS FROM GOVERNMENTAL AUTHORITIES AND WILL BE GOVERNED BY LAWS AND REGULATIONS, INCLUDING …[a general and insufficient list of applicable laws, none of

which apply to the conflicts between the surface owners above and around the 2585-acre underground mine versus Rise that all Rise filings continue to ignore entirely.]

In any case, the 2023 10K is both internally inconsistent and contrary to the Rise Petition. For example, Rise claims (Id. at 14) that its disputed vested rights empower it to avoid a use permit: **"Mining operations on the I-M Mine Property are a vested use, protected under the California and federal Constitutions, and A USE PERMIT IS NOT REQUIRED FOR MINING OPERATIONS TO CONTINUE." HOWEVER, ON THE NEXT PAGE, RISE SEEMS TO ADMIT (AT 15, EMPHASIS ADDED) THAT USE PERMITS ARE STILL REQUIRED AS FOLLOWS:**

> **Subsurface mining is allowed in the County M1 Zoning District, where the I-M Mine Property is located, with approval of a "Use Permit." Approval of a Use Permit for mining operations requires a public hearing before the County Planning Commission, whose decision may be appealed to the Board of Supervisors. Use Permit approvals include conditions of approval, which are designed to minimize the impact of conditional uses of neighboring properties. … [After describing the 11/19/2019 Use Permit application for underground mining and Rise's proposed additions, like the "water treatment plant and pond, Rise said] There is no assurance our Use Permit application will be accepted as submitted. If substantial revisions are required, our ability to execute our business plan will be further delayed.**

Thus, while the Rise Petition describes evading the requirement for a use permit, and this SEC filing discussion begins with a similar disclaimer of the need for such a use permit, this 2023 10K discussion still contemplates a use permit. Moreover, **Rise also admits that: "Existing and possible future laws, regulations, and permits governing the operations and activities of exploration companies or more stringent implementation of such laws, regulations, or permits, could have a material adverse impact on our business and caused increases in capital expenditures or require abandonment or delays in exploration."** What Rise does not do is address the DEIR admission at 6-14 claiming that the whole project is economically infeasible if Rise cannot operate 24/7/365 for 80 years, which extraordinary timing impositions many objectors expect law reforms to prevent by all appropriate legal and political means.

Indeed, AFTER EXPLAINING THE COSTS AND BURDENS OF SUCH LAWS, REGULATIONS, AND PERMITS, RISE WARNS THAT IT "CANNOT PREDICT IF ALL [SUCH] PERMITS… WILL BE OBTAINABLE ON REASONABLE TERMS." RISE THEN ADDS (at 15): "WE MAY BE REQUIRED TO COMPENSATE THOSE SUFFERING LOSS OR DAMAGE BY REASON OF OUR MINERAL EXPLORATION OR OUR MINING ACTIVITIES, IF ANY, AND MAY HAVE CIVIL OR CRIMINAL FINES OR PENALTIES IMPOSED FOR VIOLATIONS OF, OR OUR FAILURE TO COMPLY WITH, SUCH LAWS, REGULATIONS, AND PERMITS." See Rise's financial admissions below demonstrating that Rise both lacks the insurance and the financial resources to pay any material judgment to such victims. (Again, there is no discussion about the consequences of Rise harms to impacted surface residents or their properties above or around the underground IMM.)

This confusion becomes more complicated because Rise now also admits (at 16) what objectors thought Rise denied for its vested rights, that, besides a use permit, Rise also (i) needs to comply with SMARA, (ii) needs to have a reclamation plan and financial assurances

as required in SMARA, (iii) and must comply with CEQA, making all our objections to the disputed EIR/DEIR part of this Rise Petition dispute.

16. Rise Admits (at 16) That Its "activities are subject to environmental laws and regulations that may increase our costs of doing business and restrict our operations."

This is another example of the SEC filings conflicting with the Rise Petition (at 58) incorrectly claiming that Rise can operate as it wishes with vested rights "without limitation or restriction." See objectors' prior discussion of such confusion and disputes. This section correctly observes that environmental and related laws and regulations are evolving to being stricter and more burdensome for miners, and thereby "may require significant outlays and may cause material changes or delays in our operations and future activities. It is possible that future changes in these laws or regulations could have a significant adverse impact on our properties or some portion of our business, causing us to re-evaluate those activities at that time." As discussed above, objectors worry that, when Rise finally decides it cannot accomplish its objectionable plans or its investors stop doling out its essential working capital, our community will be much worse off than we already are now if Rise were allowed to start its operations before they stop again. This is a constant theme throughout these SEC filings where Rise warns investors that they may lose their investments when Rise abandons the project for any of these many such risk-related reasons. Such Rise admissions of risks and consequent abandonment should require the Board to be extremely protective of our community, especially those living on the surface above and around the 2585-acre underground IMM, such as by insisting on the strongest possible reclamation plans and financial assurances. The EPA and CalEPA lists include more than 40,000 such abandoned or bankrupt mines, and what they have in common is poor or worse reclamation plans and financial assurances.

17. Rise Contends (at 17) That Its Compliance With Climate Change Laws and Regulations Could Increase Its Costs And "have a material adverse effect on our business."

Suppose the Board compares this Rise commentary with Rise's responses to objections to the DEIR and objectors' rebuttals to the EIR's evasions of those meritorious objections. In that case, the Board will see a shift from comprehensive denial and evasion in the disputed EIR/DEIR to this strange and disputed appeal for sympathy about the costs and burdens Rise fears from climate change that it still regards as "highly uncertain" (and previously disregarded in the EIR/DEIR disputes as "too speculative.") When objectors say "strange," Rise again is protesting that "any adverse publicity in the global marketplace about potential impacts on climate change by us or other companies in our industry could harm our reputation." While the hundreds of objections to the disputed EIR/DEIR addressed climate change in many ways, objectors have been particularly focused on the EIR/DEIR's incorrect use, for example, of irrelevant historical surface average rainfall data to justify the massive 24/7/365 dewatering for 80 years that would drain groundwater (and existing and future well water) owned by surface owners living above

and around the 2585-acre underground IMM, purporting to treat it in the disputed, proposed water treatment plant "component" (for which there can be no vested rights because it has no precedent in 1954) and then flush our water away down the Wolf Creek. Notice in the following quote (at 17) about how Rise now deals with the reality of increasing climate change droughts and chronic dryness by making this about Rise instead of about how Rise makes this problem massively worse for our community in the most objectionable ways:

> Water will be a key resource for our operations and inadequate water management and stewardship could have a material adverse effect on our company and our operations. While certain aspects relating to water management are within our ability to control, extreme weather events, resulting in too much or too little water can negatively impact our water management practices. The effects of climate change may adversely impact the cost, production, and financial performance of our operations.

Again, nowhere does Rise even attempt realistically to address Rise's threat to take objecting surface owners' groundwater or well water, except for a few (e.g., just 30? Mine neighbors along East Bennett Road) compared to the hundreds of existing, impacted well owners plus many more when one considers, as the law requires, the rights of all (thousands) surface owners above and around the 2585-acre underground mine to tap their groundwater in **future wells** (that Rise ignores) to mitigate drought and other climate change dryness. See *Keystone, Gray v. County of Madera, and Varjabedian.*

18. Rise Admits (at 17-18) That "land reclamation requirements for our properties may be burdensome and expensive" even without considering any of the competing, constitutional, legal, and property rights of objecting surface owners above and around the 2585-acre underground mine.

After noting some general reclamation requirements (again ignoring such surface owners' competing, constitutional, legal, and property rights, and thereby underestimating the scope and intensity of its reclamation and other obligations), Rise complains (at 18, emphasis added):

> In order to carry out reclamation obligations imposed on us in connection with our potential development activities, we must allocate financial resources that might otherwise be spent on further exploration and development programs. **We plan to set up a provision for our reclamation obligations on our properties, as appropriate, but this provision may not be adequate. If we are required to carry out reclamation work, our financial position could be adversely affected.**

FIRST, vested rights require not just reclamation obligations but also "financial assurance," which cannot be satisfied by what Rise's 2023 10K calls "setting up a provision" (i.e., setting aside some reserve funds, probably on a legally and economically illusory basis, where such

set asides are vulnerable to judgment creditors and to disappointing treatment in any bankruptcy case), as our expert will address when the County or county is willing to hear our objections to Rise's reclamation plans and financial assurances, which should be heard now to defeat Rise's vested rights claims, because such reclamation uses and components on each parcel need their own vested rights and Rise cannot achieve any of them.) See Rise's admitted financial condition below which makes its "set up of provisions" worse than unsatisfactory. SECOND, as Hardesty and other cases demonstrate, this underground mining is a different "use" for vested rights analysis than surface mining "uses." Reclamation of underground mining harms, such as draining our community's groundwater and existing and future well water, is massively more expensive than Rise admits or contemplates, since it ignores those issues entirely. But see *Keystone, Gray v. County of Madera, and Varjabedian.* ***THIRD,*** despite ample warning in meritorious record EIR/DEIR objections explaining the toxic water pollution menace of hexavalent chromium confirmed in the CalEPA and EPA websites' studies and evidence and illustrated by the case study of how such CR6 pollution killed Hinkley, CA and many of its residents as illustrated in the movie, *Erin Brockovich,* Rise has not renounced its objectionable plan to pipe cement paste with hexavalent chromium into the underground IMM to shore up mine waste into columns. If, despite massive funding from the utility's settlement in that historic case, that town still has been unable to remediate its groundwater after all these years. See www.hinkleygroundwater.com. Rise can hardly be expected to do better when it still refuses to confront that obvious risk.

19. Rise Admits (at 18) harms from "intense competition in the mining industry."

This reveals one more of the many ways in which Rise is positioned to fail, since it has no sufficient financial cushion on which to rely when it suffers any of the many risks and problems it admits may be fatal to it. Rise's concluding admission on this topic is also telling for another reason: despite admitting the lack of resources that render Rise unable to afford to accomplish any part of its plans for the I-M Mine Property, Rise wants to "diversify" and start buying more mines; i.e.: "If we are unable to raise sufficient capital our exploration and development programs may be jeopardized or we may not be able to acquire, develop, or operate additional mining projects."

20. Rise Admits (at 18) that it is vulnerable to any "shortage of equipment and supplies.

21. Rise Admits (at 18) that "[j]oint ventures and other partnerships, including offtake arrangements, may expose us to risks."

Rise's chronically distressed financial condition is admitted below and in other Rise SEC filings, that demonstrate Rise's lack of the resources or credit to accomplish any of its material objectives or to satisfy any material obligations it contemplates without continuous equity-based funding from its investors. Many objectors have worried about "who may be behind the

curtain" and whether they might be an even bigger risk to our community than Rise. In this admission paragraph, Rise states the obvious:

> We may enter into joint ventures, partnership arrangements, or offtake agreements … Any failure of such other companies to meet their obligations to us or to third parties, or any disputes with respect to the parties' respective rights and obligations, could have a material adverse effect on us, the development and production at our properties, including the I-M Mine Property, and on future joint ventures … could have a material adverse effect on our results…

Perhaps more than in most industries, there are some "aggressive in the extreme" players in the mining industry, and many such miners operate through "expendable" shell subsidiaries that they may not hesitate to place into strategic bankruptcies (or foreign insolvency proceedings for which they may seek US Bankruptcy Code Chapter 15 accommodations) that would create problems for everyone. This industry may also suffer its share of "loan to own" hedge funds (or the like), which can create difficulties for everyone else. This is another risk factor against which the County should prepare to protect our community, especially those living above and around the 2585-acre underground mine.

22. **Rise Admits (at 18) that it "may experience difficulty attracting and retaining qualified management" and that "could have a material adverse effect on our business and financial condition."**

23. **Rise Admits (at 18) that currency fluctuations could become a problem.**

24. **Rise Admit (at 19) that "[t]itle to our properties may be subject to other claims that could affect our property rights and claims."**

While it seems likely that major disputes by third parties over title to the IMM would have surfaced by now, the real question is whether, or to what extent, Rise anticipates attempting to solve its problems by asserting disputed claims to expand its alleged rights, titles, and interests. For example, what groundwater rights does Rise claim to empower it to dewater the mine 24/7/365 for 80 years? Also see the Rise's issues herein of concern to owners of surface properties above and around the 2585-acre IMM.

25. **Rise Admits (at 19) that it may attempt to "secure surface access" or purchase required surface rights" or take other objectionable actions to acquire surface access (all of which are prohibited in the deeds by which Rise acquired the IMM, as admitted in the Rise Petition Exhibits and earlier year SEC 10K filings).**

If the County wonders why us surface owners living above or around the 2585-acre underground mine have been so defensive and outspoken against the mine, in part, it is from

concern (in the case of some objectors born of experience) that Rise may battle for access to the surface to promote its opportunity to plunder the ground below the 200 foot deep surface rights of objecting surface owners, especially as to the groundwater and existing and future well water rights. See Initial Evidence Objections proving by Rise Petition's own exhibits that such Rise assertions in this 2023 10K (compare with the prior 10K's) admits are meritless. Such implied or express Rise warnings including the following (at 19, emphasis added):

> **In such cases [i.e., where Rise does not own the surface above and around its underground mine it decides it wants to use], applicable mining laws usually provide for rights of access for the purpose of carrying on mining activities; however, the enforcement of such rights through the courts can be costly and time consuming. It is necessary to negotiate surface access or to purchase surface rights if long-term access is required. [This is wrong and contrary to Rise's deed restrictions attached as an Exhibit to its Rise Petition.] There can be no guarantee that, despite having the right at law to carry on mining activities, we will be able to negotiate satisfactory agreements with any such existing landowners/occupiers for such access or purchase such surface rights, and therefore we may be unable to carry out planned mining activities. In addition, IN CIRCUMSTANCES WHERE SUCH ACCESS IS DENIED, OR NO AGREEMENT CAN BE REACHED, WE MAY NEED TO RELY ON THE ASSISTANCE OF LOCAL OFFICIALS OR THE COURTS IN SUCH JURISDICTION THE OUTCOMES OF WHICH CANNOT BE PREDICTED WITH ANY CERTAINTY. OUR INABILITY TO SECURE SURFACE ACCESS OR PURCHASE REQUIRED SURFACE RIGHTS COULD MATERIALLY AND ADVERSELY AFFECT OUR TIMING, COST, AND OVERALL ABILITY TO DEVELOP ANY MINERAL DEPOSITS WE MAY LOCATE.**

None of that is correct in respect to the IMM, which is the only mine Rise presently reports owning in these SEC filings or in its financial statements. FIRST, this demonstrates there can be no vested rights for Rise as to the 2585-acre underground mine, since Rise admits it needs surface access for such mining that Rise has not had (and neither did many predecessors in the chain of title.) Rise neither has such access, nor can Rise expect to acquire such access (or the permits Rise would need for that new "use" on a new parcel for which all cases, including Hansen, would forbid vested rights.) See the Table of Cases and Commentaries… at the end of the Initial Evidentiary Objection and other objections in the record, including to the disputed EIR/DEIR. SECOND, even Rise Petition's own Exhibits prohibit Rise from any such access to the surface without the owners' consent, which means that Rise's express threat to "rely on the assistance of local officials or the courts" is wrongful, meritless, and worse; it sounds like this may be a Rise threat to bully surface owners by asserting such meritless threats based on a deed that Rise must have read since it is a key piece of imagined Rise evidence for its disputed Rise Petition. THIRD, Rise's incorrect and disputed claim that mining law "usually provides for rights of access" for such mining is

irresponsible and inapplicable, because what matters at law here is what the controlling deed states, and this deed (and those of various predecessors) clearly denies Rise access to the surface.

26. **Rise Admits (at 19) that its "properties and operations may be subject to litigation or other claims" that "may have a material adverse effect on our business and results of operations."**

Based on the irresponsible Rise warning in the previous subsection against surface owners living above and around the 2585-acre underground mine to compel access with litigation and official complaints, Rise seems planning to provoke meritless disputes.

27. **Rise Admits (at 19) that "[w]e do not currently insure against all the risks and hazards of mineral exploration, development, and mining operations."**

Rise admits the obvious, that (at 19):

> Exploration, development, and mining operations involve various hazards, including environmental hazards, industrial accidents, metallurgical and other processing problems, unusual or unexpected rock formations, structural cave-ins or slides, flooding, fires, and periodic interruptions due to inclement or hazardous weather conditions. These risks could result in damage to or destruction of mineral properties, facilities, or other property; personal injury, environmental damage, delays... increased costs…monetary losses, and possible legal liability. We may not be able to obtain insurance to cover these risks at economically feasible premiums or at all. We may elect not to insure…

Since Rise's financial statements prove that Rise cannot to pay any sizable judgment, much less cover significant other losses, this is another reason why Rise may be unable to continue to mine, leaving everyone else with the still unanswered question: What then?

III. Rise's Admitted (at 49-50, emphasis added) Financial Problems In item 7 of the 2023 10K: Management's Discussion And Analysis of Financial Condition And Results of Operations, Including "Liquidity and Capital Resources."

As summarized below in more detail, Rise has reported (at 49) a net loss and comprehensive loss for the fiscal year ending 7/31/2023 of $3,660,382 and for 2022 of $3,464,127. For fiscal 2023 Rise only reported (at 50) "working capital of $474,272" with a deficit loss of $26,668,986, burning "$2,476,478 in net cash used in operating activities (compared to $2,694,359 in the prior fiscal year). Besides its own excuses for distress, Rise also admits (at 50) vulnerability to "[c]ontinued increased levels of volatility or rapid destabilization

of global economic conditions" because they "could negatively impact our ability to obtain equity or debt financing or … other suitable arrangements to finance our Idaho-Maryland Mine Project which, in turn, could have a material adverse effect on our operations and financial condition." Id. Moreover, these losses and problems are expected to continue:

> **THE COMPANY EXPECTS TO OPERATE AT A LOSS FOR AT LEAST THE NEXT 12 MONTHS. IT HAS NO AGREEMENTS FOR ADDITIONAL FINANCING AND CANNOT PROVIDE ANY ASSURANCE THAT ADDITIONAL FUNDING WILL BE AVAILABLE TO FINANCE ITS OPERATIONS ON ACCEPTABLE TERMS IN ORDER TO ENABLE IT TO CARRY OUT ITS BUSINESS PLAN. THERE ARE NO ASSURANCES THAT THE COMPANY WILL BE ABLE TO COMPLETE FURTHER SALES OF ITS COMMON STOCK OR ANY OTHER FORM OF ADDITIONAL FINANCING. HOWEVER, THE COMPANY HAS BEEN ABLE TO OBTAIN SUCH FINANCINGS IN THE PAST. IF THE COMPANY IS UNABLE TO ACHIEVE THE FINANCING NECESSARY TO CONTINUE ITS PLAN OF OPERATION, THEN IT WILL NOT BE ABLE TO CARRY OUT ANY EXPLORATION WORK ON THE I-M MINE PROPERTY OR THE OTHER PROPERTIES IN WHICH IT OWNS AN INTEREST AND ITS BUSINESS MAY FAIL. ID. AT 50 (emphasis added).**

The Board must consider this not just as proof of Rise's financial infeasibility that makes all its actual mining plans likewise appear long-term/indefinite, unaffordable, and perhaps illusory, but these facts also defeat any objective intent for mining required for any vested rights to mine. Note that the Rise admissions could at most be alleged by Rise to prove this disputed claim (which is insufficient for vested rights to mine, which mining is a separate "use" from "exploration" under the applicable cases, which insist of testing for vested rights on a continuous, use-by-use, component-by-component, and parcel-by-parcel basis): Rise (like to a lesser extent its Emgold predecessor, but not Emgold's predecessors) from time to time has claimed to have engaged in some occasional drilling exploration on certain parcels and to aspire to further such exploration, if and when it can afford to do so, requiring further discretionary (i.e., noncommitted) funding from investors. Rise admits in these SEC 10K's (and consistently in other filings) massive and chronic financial problems that consistently require "going concern" warnings from Rise and its accountants. Rise also admits that it has no "proven" or "probable" gold reserves and that it remains speculative that there is any commercially viable gold potential. Also, as the disputed EIR/DEIR admits, there are years of massive start-up work required (e.g., dewatering the IMM, repairing and reconstructing infrastructure, the shaft, and the 72 miles of Flooded Mine tunnels, etc.) even to be able to begin exploring the Never Mined Parcels where Rise claims to need 76 more miles of tunnels for further exploration and mining.

While the County (incorrectly) has so far declined to consider SEC filing admissions and Rise's economic circumstances in objectors' rebuttals, the courts will certainly do so, especially as to these vested rights claims, where reclamation plans are essential to vested rights and financial assurances are essential to any tolerable reclamation plan. But beyond that, to preserve vested rights there must be a continuous objective intent to do the nonconforming vested "use," which here is (at most) so far just to explore, not to mine. Rise is following the

same pattern as its Emgold predecessor did (also without achieving any vested rights) before Emgold finally abandoned its quest for mining that never proceeded beyond minor and occasional exploration (when its repeatedly extended option finally expired unexercised.) There is no such thing as a miner having a vested right to mine such continuously (since at least 1956) closed, dormant, flooded, and discontinued underground mine parcels under these circumstances, such as because such explorations were so minor, infrequent, misplaced, and noncontinuous, plus such a successor miner's alleged intent to mine cannot be so conditioned on both (i) the availability on terms satisfactory to Rise of sufficient new money from investors who have no funding commitment and making discretionary decisions on their continuous, day-to-day decisions to dole out money only on a short term basis, as they continuously reassess the risks versus benefits of gambling more money, and (ii) Rise itself being satisfied with whatever opportunities Rise continues to perceive from time to time as the exploration and other relevant data cumulates. These SEC 10K admissions are essential evidence for rebutting vested rights, among other Rise claims, because the miner cannot satisfy any vested right to mine under such circumstances, in effect claiming that it intends to mine if and only if all such practical and legal requirements for mining appear to be viable (many of which are admitted and defined as Risk Factors" in this 2023 10K) and appear to exist in the future to the satisfaction of both Rise and its money source.

Consider what these and other Rise admissions and indisputable facts mean for the disputed Rise Petition's vested rights claims. Rise is, in effect, like a gambler in a Texas holdem game who has no chips left to bet except those that are doled out by her/his by the money source looking over her/his shoulder at the cards being dealt face up one by one. The effect of such Rise admissions for this analogy is that Rise admits it must abandon the game whenever the money source has exhausted her/his appetite for such risks. That is not a possible vested right situation for Rise (or its predecessors.) Reading Rise's 2023 10K admissions demonstrates that Rise isn't committed to mining, but just wants an indefinite and perpetual option to explore (when and to the extent that its money sources fund more exploration) with the Rise **option** to mine (or abandon mining) in some future situation when and if the circumstances arise where Rise and its money source both agree that mining could be sufficiently profitable to make it worth that huge cost of that start-up gamble. But this 10K, like the other Rise SEC filings, proves both that (i) Rise is not yet at that point of commitment to mine, and (ii) Rise's money source is not yet willing to fund anything more than such exploration. Objectors ask the Board to consider the same question objectors will ask the courts, as we keep trying to resolve this dispute as quickly as possible: how long must our community, and especially objectors living above and around the 2585-acre mine, suffer in limbo with depressed property values and other stressful uncertainties, while Rise indefinitely "explores its options?"

IV. Rise's Financial Statements, And Its' Accountants' Opinions, (at 52-79) Also Contain More Admissions That Defeat Rise's Vested Rights And Other Claims.

The Rise accountants confirm Rise's admitted, continuing vulnerability and the present financial infeasibility concerns consistently also reported in Rise's previous SEC filings and audited financial statements. As Davidson & Company, LLP explained at the start of its opinion (Rise's 2023 10K at 53, emphasis added):

Going Concern

> The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the consolidated financial statements, the Company incurred a loss of $3,660,382 for the year ended July 31, 2023 and as of that date, had an accumulated deficit of $26,668,986. **These events and conditions raise substantial doubt about its ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 1. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.**

In that Note 1 Rise admitted to the accountants, which confirmed (at 59, emphasis added) that:

> The Company is in the early stages of exploration and as is common with any exploration company, it raises financing for its acquisition activities. **The accompanying consolidated financial statements have been prepared on the going concern basis, which presumes that the Company will continue operations for the foreseeable future and will be able to realize its assets and discharge its liabilities in the normal course of business. The Company has incurred a loss of $3,660,382 for the year ended July 31, 2023 and has accumulated a deficit of $26,668,986. The ability of the Company to continue as a going concern is dependent on the Company's ability to maintain continued support from its shareholders and creditors and to raise additional capital and implement its business plan. There is no assurance that the Company will be able to obtain adequate financing in the future or that such financing will be on terms advantageous to the Company. These events and conditions cast substantial doubt about the Company's ability to continue as a going concern. The consolidated financial statements do not include any adjustments that might be necessary if the Company is unable to continue as a going concern.**
>
> At July 31, 2023, the Company had **working capital of $472,272** (2022 - working capital of $636,617).

Those “going concern” issues, as well as the $1,437,914 secured loan secured by the IMM assets (as explained in Note 9 at 67), make it challenging (at best) for Rise to attract either credit or asset-based loans, making Rise dependent upon continuing equity fundraising, which itself becomes progressively more difficult because existing shareholders’ stock is diluted by the issuance of additional equity securities, including debt that is equity-based (e.g., debt convertible into equity or arranged with massive stock warrants or other “equity kickers”). That dilution is becoming a problem because, as Rise itself admits in such 2023 10K and prior SEC filings, Rise’s continued deficit spending each year without any revenue or addition of any material capital assets does not enhance Rise’s creditworthiness, except Rise may argue that: (i) Rise’s exploration related work might add some intangible value to offset such increasing equity dilution perhaps from any value to a mining speculator of some incremental information from that exploration; and (ii) Rise’s cost of seeking permits, governmental approvals, or vested rights might add intangible value for a mining speculator to the extent that those efforts ultimately succeed before the project is abandoned by the essential money sources or by Rise (following the pattern set by Emgold, when it abandoned its purchase option).

As described at p. 54 and Note 5 at p. 64, the reported “carrying amount [value] of the Company’s mineral property interests” is $4,149,053, reflecting the Rise purchase prices of

the IMM and Centennial discussed in Note 5. As explained in the "Significant Accounting Policies" for Mineral property" in Note 3 (at 61, emphasis added):

> **Mineral property**
>
> The costs of acquiring mineral rights are capitalized at the date of acquisition. After acquisition, various factors can affect the recoverability of the capitalized costs. If, after review, management concludes that the carrying amount of a mineral property is impaired, it will be written down to estimated fair value. **Exploration costs incurred on mineral properties are expensed as incurred. Development costs incurred on proven and probable reserves will be capitalized. Upon commencement of production, capitalized costs will be amortized using the unit-of-production method over the estimated life of the ore body based on proven and probable reserves (which exclude non-recoverable reserves and anticipated processing losses).** When the Company receives an option payment related to a property, the proceeds of the payment are applied to reduce the carrying value of the exploration asset.

Unlike the legal rules where Rise has the burden of proof, accountants here rely on management's assessment of the facts requiring write-downs of that IMM asset value below its purchase price for such "impairment," explaining (at 64, emphasis added):

> As of July 31, 2023, based on management's review of the carrying value of mineral rights, management determined **that there is no evidence that the cost of these acquired mineral rights will not be fully recovered and accordingly, the Company determined that no adjustment to the carrying value of mineral rights was required. AS OF THE DATE OF THESE CONSOLIDATED FINANCIAL STATEMENTS, THE COMPANY HAS NOT ESTABLISHED ANY PROVEN OR PROBABLE RESERVES ON ITS MINERAL PROPERTIES AND HAS INCURRED ONLY ACQUISITION AND EXPLORATION COSTS.**

Note, that Rise admits (and the accountants confirm) **(**at 65, emphasis added**) that because there are not "proven or probable [gold] reserves"** all these increasing exploration expenditures have cumulated to $8,730,982. As explained, that requires that such costs must be reported as expenses adding to the perpetual and cumulating Rise losses. Only "[d]evelopment costs incurred on proven and probable [gold] reserves" will be capitalized and then, when and if "production" "commences," amortized using "the unit-of- production method." Id. at 61.

Note 9A (at 74) addressed "Evaluation of Disclosure Controls And Procedures" and then "Managements Annual Report on Internal Control over Financial Reporting." These admissions and opinions reflect not only on the reliability and quality of Rise's financial reporting, but also on all the other important Rise filings with the County, such as the disputed Rise Petition and the disputed EIR/DEIR. The Board should consider whether this seems to reflect a pattern and practice about which objectors have previously objected in record filings, such as to Rise assertions of alternate reality opinions as if they were facts, and misuse of certain objectionable tactics described as "hide the ball" or "bait and switch." Consider the following admissions (Id. emphasis added):

> **Evaluation of Disclosure Controls and Procedures**

The United States Securities and Exchange Commission (the "SEC") defines the term "disclosure controls and procedures" to mean controls and other procedures of an issuer that are designed to ensure that information required to be disclosed in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in the reports that it files or submits under the Exchange Act is accumulated and communicated to the issuer's management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

As of the end of the period covered by this Report, our management carried out an evaluation, with the participation of its Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. **Based on this evaluation, management concluded that our disclosure controls and procedures were not effective as of July 31, 2023 because of a material weakness in internal control over financial reporting that existed as of that date, as more fully described below.**

Management's Annual Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the company's assets that could have a material effect on the financial statements.

We carried out an evaluation, with the participation of our Chief Executive Officer and Chief Financial Officer, of the effectiveness of its internal control over financial reporting as of July 31, 2023. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in Internal Control-Integrated 2013 Framework. **Management concluded that our company's internal control over financial reporting was not effective as of July 31, 2023 because a material weakness in internal control over financial reporting existed as of that date as a result of a lack of segregation of incompatible duties due to insufficient personnel. A material weakness is a deficiency or a combination of control deficiencies in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of annual or interim financial statements will not be prevented or detected on a timely basis.**

As of the end of the period covered by this Report, our management carried out an evaluation, with the participation of its Chief Executive Officer and Chief Financial

Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. **Based on this evaluation, management concluded that our disclosure controls and procedures were not effective as of July 31, 2023 because of a material weakness in internal control over financial reporting that existed as of that date, as more fully described below.**

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We carried out an evaluation, with the participation of our Chief Executive Officer and Chief Financial Officer, of the effectiveness of its internal control over financial reporting as of July 31, 2023. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in Internal Control-Integrated 2013 Framework. Management **concluded that our company's internal control over financial reporting was not effective as of July 31, 2023 because a material weakness in internal control over financial reporting existed as of that date as a result of a lack of segregation of incompatible duties due to insufficient personnel. A material weakness is a deficiency or a combination of control deficiencies in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of annual or interim financial statements will not be prevented or detected on a timely basis.**

Objectors also note Item 10 “Involvement in Certain Legal Proceedings” in the 2023 10K (at 78-79), which describes a long story about environmental wrongs or crimes at the British Columbia (Canada) mine of Banks Island Gold, Ltd. (“Banks”), where Rise stated (at 78) that “Benjamin W. Mossman was a director and officer” before Banks still pending Canadian bankruptcy proceedings. Objectors do not have sufficient knowledge (or interest) to explore the merits of those disputes. What objectors know is that, after discussion of Rise’s perspective on that extensive litigation, the 2023 10K states the following (at 79, emphasis added):

> [In the second trial in 2022] He [Mr. Mossman] was found guilty of 13 environmental violations in relation to certain waste discharges at the Banks mining site, and on September 26, 2023, Mr. Mossman was fined a total of approximately C$30,000 in connection with all of the offenses. Both Mr. Mossman and the Crown has filed appeals from this trial. The Crown has appealed all acquittals. Mr. Mossman has appealed all convictions.

> The hearing of both appeals has been scheduled for the week of January 15, 2024.

Objectors have not evaluated these Canadian disputes and do not address their merits, if any. Objectors cite such Rise quotes only because objectors are informed and believe that Mr. Mossman has had a substantial role in Rise's many filings with the County, as demonstrated in his presentations at the previous County hearings and his public comments on the various IMM disputes, especially those professing his adherence to high standards of environmental compliance. Therefore, as with any such conviction (if only as a legally appropriate challenge to his credibility and the weight of any evidence he has presented (or not presented), objectors reserve the right to ask the County to consider how these convictions (which he disputes and appeals) reflect on Rise and the credibility and weight of such evidence. None of that is not offered here as proof of any wrongs on the merits of this dispute or as proof about his character on the merits. However, that Rise information itself may be (or become) relevant to the credibility of any evidence to the extent provided in Evidence Code #780, 785, and (if and to the extent applicable, 788). See both the Initial Evidentiary Objection and Objectors Petition of Pre-Trial Relief, Etc.

ATTACHMENT 1: SOME PREVIOUS SEC FILINGS ON WHICH OBJECTORS FOUND USEFUL ADMISSIONS BEFORE RECENTLY HAVING TO UPDATE TO THE 2023 10K, BECAUSE RISE FILED THAT NEW 10K BEFORE OBJECTORS FILED DOCUMENTS ADDRESSING SUCH RISE SEC FILINGS.

I. This Attachment Provides Useful Rebuttal Comparisons Between Rise Claims Before And After Rise's September 1, 2023, Shift In Legal Theories For Its Rise Petition Claiming Vested Rights.

Rise SEC filings have long been a source of useful admissions. The fact that Rise has updated its reports in the 2023 10K does prevent those earlier admissions from being useful rebuttal evidence. Since some of those rebuttals were already prepared when Rise filed its 2023 10K on October 30, 2023, objectors have attached some of them below for helpful comparison. While the selected Rise statements are often similar and sometimes identical, objectors note that the changes in from those prior reports to the new 2023 10K are important rebuttal evidence, since what Rise changed (and failed to change) in its SEC 2023 10K updates after its September 1, 2023, Rise Petition filing to claim vested rights, proves how Rise has and has not changed its "story" before and after that radical change in legal theories from (a) normal permitting to (b) vested rights claims. While objectors have objected on the record to both Rise's pre-Rise Petition filings and the Rise Petition, the rebuttals are often focused on how Rise can be contradictory and inconsistent with itself. Thereby that both (i) defeats credibility of claims by Rise for or from its Rise Petition, and (ii) creates other rebuttal opportunities for objectors to defeat the Rise Petition. See the Initial Evidence Objection authorities like EC #623. Objectors are more focused on the SEC filings than on Rise's County filings because general experience in other cases demonstrates that the more serious consequences of incorrect, deficient, or worse statements in such SEC filings tend to inspire greater accuracy and reality (although still disputable) than filings like those with the County, where the filing miners may perceive less risk of accountability or adverse consequences. The more contradictions and conflicts exist between Rise's different presentations to different audiences, the less possible it is for Rise to satisfy its burden of proof.

II. General Admissions from Rise's SEC Form 10Q for the Quarter Ending 10/31/2022 (Updating from the Prior 10Q Addressed in my DEIR Objection 254 #2). [Note that the lack of current SEC reporting data is another problem for Rise, for example, creating a basis for objectors to ask if Rise is trying to avoid admitting even worse facts by delaying filings.]

A. General Admissions About the Speculative Nature of Rise As a Hypothetical "Going Concern" from the Footnotes of Its Current Financial Statements Qualified By Its Accountant, Defeating Any Credibility For Reclamation And Demonstrating Why Sufficient Rise Financial Assurances Will Not Be Achievable.

As described in FN1 to the financial statements reporting the massive financial losses and problems described herein, with 10/31/22 working capital of only $66,526: "The ability of the Company to continue as a going concern is dependent on the Company's ability to maintain continued support from its shareholders and creditors and to raise additional capital and implement its business plan. There is no assurance that the Company will be able to obtain adequate financing in the future or that such financing will be on terms advantageous to the Company. These events and conditions cast significant doubt about the Company's ability to continue as a going concern. The consolidated financial statements do not include any adjustments that might be necessary if the Company is unable to continue as a going concern." While Rise, the EIR/DEIR team, and County staff (even the County Economic Report team) have tried to evade any consideration of Rise's financial condition, capabilities, or credibility, that is no longer possible because even SMARA recognizes that reclamation is the key to any vested rights, and reclamation cannot be satisfactory without credible and required "financial assurances" that Rise cannot provide, even for the less expensive reclamation plans disputed by objectors as grossly insufficient and non-compliant. Moreover, the County should also be more generally concerned about how it and others harmed by any Rise conduct creating liability can be compensated when Rise shows no ability to satisfy any significant judgment against it. That Rise lack of financial responsibility should be considered for governmental caution not sufficiently shown so far in these Rise processes, in effect not only justifying objectors' concerns about the harms from such Rise mining and related activities, but also who will bear the cost of remediating and cleaning up any such harms during operations, much less the ultimate reclamation burdens at the end of this ordeal.

B. General Financial Data as of 10/31/2022.

Rise reports little cash ($166,805) [even less than compared to the 7/31/22] for the period, and that cash will not be sufficient to fund any of its EIR/DEIR goals, especially those relating to the "aspirational" safety and mitigation issues of concern to the objectors and likely the lesser priorities for the miner once it has obtained its disputed EIR approval and has then begun its meritless defense to the objectors' legal, political, and law reform resistance to protect objectors' homes, groundwater and other property rights and values, our forests and environment, and our way of life in our community above and around the 2585-acre underground mine. Rise's other current assets are not material, and its noncurrent assets are just the speculative mine and equipment that has little value absent massive additional investment needed even to begin mining (e.g., dewatering and updating to a starting position the mine condition from being closed and flooded since 1956, as to which there are insufficient reliable and useful information, many likely dangerous conditions unaddressed by the disputed DEIR/EIR, and massive admitted risks). That is why the disputed $4,149,053 "book value" of the mine (including Centennial, Brunswick, and the underground mine) and $545,783 equipment are qualified by the Rise accountant as dependent on the disputed assumption that Rise remains a "going concern" which the accountant and Rise itself admit is speculative.

Note that the most current reported information on expenses and losses (for the three months ending 10/31/2022, which is comparable to prior periods shown) declares an operating (expense) loss of $702,522 and a Net Loss for the period of $684,538, which losses will continue

(and objectors expect to prove would dramatically increase) until at best the start of profitable mining which will be long delayed and may never occur for many reasons, whether for lack of working capital, lack of sufficient accessible gold, objectors resistance and resulting lack of investment or credit, worse than expected mining conditions, and other factors that Rise and its accountant admit cause this to be a highly speculative enterprise, as demonstrated above and in objections to the EIR/DEIR. For example, the 10Q reports for the most current reported three months of "Cash Flows From Operating Activities (showing a "loss for the period" of $684,538 and "net cash used in operating activities" of $305,113) that will quickly exhaust the current cash on hand long before not only any net cash flow is produced by the mining, but also long before the potential value of the long closed and flooded mine can even be evaluated for its actual, potential value. FN 1 reports working capital on 10/31/22 of only $66,526. But see other data on page 19. Note also from FN 1 that its "accumulated deficit" (loss) is $23,693,142. [However, note that on 10Q at p. 18 in the "Results of Operations" discussion of "expenses" for that period ending 10/3/1/2022 there are different numbers reported that are larger but still comparatively small, i.e., $105,570 for consulting, $123,989 for geological, mineral, and prospect costs, and $154,096 for "professional fees."]

C. Mining And Other Risk Related Admissions by Rise.

For any such EIR/DEIR mining and related activities, legal compliance, vested rights' reclamation, and other operations, Rise needs (and lacks) vastly more financial resources, especially working capital and the credit needed for compliant "financial assurances" for vested rights reclamation. This SEC 10Q filing admits various things that are directly or indirectly contrary to or inconsistent with the EIR/DEIR or which support any or all of the four Engel Objections, as well as those of others, including the admitted reality that Rise lacks the working capital, financial resources, and capacity to perform its material obligations with respect to the mine, especially regarding the CEQA, vested rights duties (e.g., reclamation and related financial assurances), and other safety or mitigation "aspirations" proposed or required by the EIR/DEIR and other Rise presentations. In effect, if the County were to approve the EIR or vested rights it would be imposing massive harms, risks, and problems on us local objectors for no net benefit to us or the community that Rise admits are **reasons why even voluntary investment in this mine would be a speculative investment for even the most risk tolerant investors.** For example, consider the following such 10Q admitted reasons for disapproving the EIR and rejecting vested rights:

a. "As of the date of these consolidated financial statements, the Company has not established any proven or probable reserves on its mineral properties and has incurred only acquisition and exploration costs." At p.7
b. "Our business, financial condition, and results of operations may be negatively affected by economic and other consequences from Russia's military action against Ukraine and the sanctions imposed in response to that action." "Risk Factors at p. 21. [Is this a subtle way of warning us that the suspected real party in interest "behind the curtain" successor maybe someone/some entity who presents even greater risks than Rise, such as, for example, someone vulnerable to such Russian sanctions or similar disabilities?]

c. “We will require significant additional capital to fund our business plan.” Risk Factors at p. 22-23. Consider the detailed admissions that follow that admission:

> We will be required to expend significant funds to determine whether proven and probable mineral reserves exist at our properties, to continue exploration and, if warranted, to develop our existing properties, and to identify and acquire additional properties to diversify our property portfolio. We anticipate that we will be required to make substantial capital expenditures for the continued exploration and, if warranted, development of our I-M Mine Property. We have spent and will be required to continue to expend significant amounts of capital for drilling, geological, and geochemical analysis, assaying, permitting, and feasibility studies with regard to the results of our exploration at our I-M Mine Property. We may not benefit from some of these investments if we are unable to identify commercially exploitable mineral reserves.
>
> Our ability to obtain necessary funding for these purposes, in turn, depends upon a number of factors, including the status of the national and worldwide economy and the price of metals. Capital markets worldwide were adversely affected by substantial losses by financial institutions, caused by investments in asset-backed securities and remnants from those losses continue to impact the ability for us to raise capital. We may not be successful in obtaining the required financing or, if we can obtain such financing, such financing may not be on terms that are favorable to us.
>
> Our inability to access sufficient capital for our operations could have a material adverse effect on our financial condition, results of operations, or prospects. Sales of substantial amounts of securities may have a highly dilutive effect on our ownership or share structure. Sales of a large number of shares of our common stock in the public markets, or the potential for such sales, could decrease the trading price of those shares and could impair our ability to raise capital through future sales of common stock. We have not yet commenced commercial production at any of our properties and, therefore, have not generated positive cash flows to date and have no reasonable prospects of doing so unless successful commercial production can be achieved at our I-M Mine Property. We expect to continue to incur negative investing and operating cash flows until such time as we enter into successful commercial production. This will require us to deploy our working capital to fund such negative cash flow and to seek additional sources of financing. There is no assurance that any such financing sources will be available or sufficient to meet our requirements. There is no assurance that we will be able to continue to raise equity capital or to secure additional debt financing, or that we will not continue to incur losses.

d. ***“We have a limited operating history on which to base an evaluation of our business and prospects.” Risk Factors at p.23.*** Consider the detailed admissions that follow that admission and which raise the question: why aren’t those additional investigations being required and done in advance of the EIR approval, especially since the EIR/DEIR ignores objector demands for a commentary about the adverse consequences us neighbors fear if the EIR miner dewaters and otherwise creates a mess and then (before any of the mitigation or other safety work) abandons the project as infeasible? Such advance work should include what the 10Q plans for later after approval as follows:

> Since our inception, we have had no revenue from operations. We have no history of producing products from any of our properties. Our I-M Mine Project is a historic, past-producing mine with apart from the exploration work that we have completed since 2016 has had very little recent exploration work since 1956. We would require further exploration work in order to reach the development stage. Advancing our I-M Mine Property into the development stage will require

significant capital and time, and successful commercial production from the I-M Mine Property will be subject to completing feasibility studies, permitting and re-commissioning of the mine, constructing processing plants, and other related works and infrastructure. As a result, we are subject to all of the risks associated with developing and establishing new mining operations and business enterprises including:

- completion of feasibility studies to verify reserves and commercial viability, including the ability to find sufficient ore reserves to support a commercial mining operation;
- the timing and cost, which can be considerable, of further exploration, preparing feasibility studies, permitting and construction of infrastructure, mining and processing facilities;
- the availability and costs of drill equipment, exploration personnel, skilled labor, and mining and processing equipment, if required;
- the availability and cost of appropriate smelting and/or refining arrangements, if required;
- compliance with stringent environmental and other governmental approval and permit requirements;
- the availability of funds to finance exploration, development, and construction activities, as warranted;
- potential opposition from non-governmental organizations, local groups or local inhabitants that may delay or prevent development activities;
- potential increases in exploration, construction, and operating costs due to changes in the cost of fuel, power, materials, and supplies; and
- potential shortages of mineral processing, construction, and other facilities related supplies.

The costs, timing, and complexities of exploration, development, and construction activities may be increased by the location of our properties and demand by other mineral exploration and mining companies. It is common in exploration programs to experience unexpected problems and delays during drill programs and, if commenced, development, construction, and mine start-up. In addition, our management and workforce will need to be expanded, and sufficient support systems for our workforce will have to be established. This could result in delays in the commencement of mineral production and increased costs of production. Accordingly, our activities may not result in profitable mining operations and we may not succeed in establishing mining operations or profitably producing metals at any of our current or future properties, including our I-M Mine Property.

e. ***"We have a history of losses and expect to continue to incur losses in the future" Risk Factors at p.23.*** Consider the detailed admissions that follow that admission and which raise the question, under these many admitted uncertain and high-risk circumstances, why is it not the EIR/DEIR that is "speculative" instead my objections, as the disputed EIR/DEIR continues incorrectly to assert. For example, consider these quoted 10Q admissions (emphasis added):

We have incurred losses since inception, have had negative cash flow from operating activities, and expect to continue to incur losses in the future. **We have incurred the following losses from operations during each of the following periods:**

- **$3,464,127 for the year ended July 31, 2022**
- **$1,603,878 for the year ended July 31, 2021**
- **$5,471,535 for the year ended July 31, 2020**

We expect to continue to incur losses unless and until such time as one of our properties enters into commercial production and generates sufficient revenues to fund continuing operations. We recognize that if we are unable to generate significant revenues from mining operations and/or dispositions of our properties, **we will not be able to earn profits or continue operations.** At this early stage of our operation, we also expect to face the risks, uncertainties, expenses, and difficulties frequently encountered by companies at the start-up stage of their business development. **We cannot be sure that we will be successful in addressing these risks and uncertainties and our failure to do so could have a materially adverse effect on our financial condition. (emphasis added)**

What that implies is not just an unhappy fate for investors, but a worse result for us local surface owners above and around the 2585-acre underground mine, a topic which the EIR/DEIR incorrectly refuses to address as too "speculative," although the reverse is more true; i.e., as so admitted, shortly after the Rise investors and creditors lose hope for their gamble, they will cease supporting Rise and it will collapse, leaving a mess for us neighbors and our bigger community that the EIR/DEIR refuses to discuss but which (as a bankruptcy lawyer with vast experience in such situations) Some objectors report having seen such problems too many times and can describe for the bankruptcy or other courts that most likely will resolve the disputes that must follow any EIR or vested rights approval by the County. See the Engel Objections.

Again, these admissions defeat the level of certainty incorrectly implied in the EIR/DEIR to the contrary and wrongly asserted as grounds for ignoring objections as too speculative or unsubstantiated or unexplained, because such admissions confirm the correctness of objections, at least to the extent of requiring a meaningful EIR/DEIR "good faith reasoned analysis" and "common-sense" risk assessment in the DEIR/EIR where none now exists. These problems are even more serious in the vested rights disputes, making the granting of vested rights to evade the permitting process even more dangerous for us objectors and the County. In particular, for example, as described in Engel's DEIR Objection 254 #'s 2, 4, 14, and 15, it is not speculative (as the disputed EIR incorrectly claims) that us objectors living on the surface above and around the 2585-acre underground mine will enforce our defensive rights to protect our homes, environment, and property rights and value, our forests and environment, and our community way of life against this mining menace with not just the usual legal challenges, but also with law reforms and political changes.

D. SEC Filing Admitted "Risks Related to Mining and Exploration."

Consider the detailed 10Q admissions that follow that forgoing admission and which raise the question, under these many admitted uncertain and high-risk circumstances, why is it not the EIR/DEIR that is "speculative" instead my objections, as the disputed EIR/DEIR continues incorrectly to assert. For example, consider these quoted 10Q admissions (with emphasis added):

(i)"The I-M Mine Property is in the exploration stage. There is no assurance that we can establish the existence of any mineral reserve on the I-M Mine Property or any other properties we may acquire in commercially exploitable quantities. Unless and until we do so, we cannot earn any revenues from these properties and if we do not do so we will lose all of the funds that we expend on exploration. If we do not discover any mineral reserve in a commercially exploitable quantity, the exploration component of our business could fail." 10Q at p. 24:

We have not established that any of our mineral properties contain any mineral reserve according to recognized reserve guidelines, nor can there be any assurance that we will be able to do so.

A mineral reserve is defined in subpart 1300 of Regulation S-K under the Securities Act of 1933, as amended (the "Securities Act") and the Exchange Act ("Subpart 1300") as an estimate of tonnage and grade or quality of "indicated mineral resources" and "measured mineral resources" (as those terms are defined in Subpart 1300) that, in the opinion of a "qualified person" (as defined in Subpart 1300), can be the basis of an economically viable project. In general, **the probability of any individual prospect having a "reserve" that meets the requirements of Subpart 1300 is small, and our mineral properties may not contain any**

"reserves" and any funds that we spend on exploration could be lost. Even if we do eventually discover a mineral reserve on one or more of our properties, there can be no assurance that they can be developed into producing mines and that we can extract those minerals. Both mineral exploration and development involve a high degree of risk, and few mineral properties that are explored are ultimately developed into producing mines.

The commercial viability of an established mineral deposit will depend on a number of factors including, by way of example, the size, grade, and other attributes of the mineral deposit, the proximity of the mineral deposit to infrastructure such as processing facilities, roads, rail, power, and a point for shipping, government regulation, and market prices. **Most of these factors will be beyond our control, and any of them could increase costs and make extraction of any identified mineral deposit unprofitable.**

(ii)"The nature of mineral exploration and production activities involves a high degree of risk and the possibility of uninsured losses." 10Q at p. 24:

Exploration for and the production of minerals is highly speculative and involves greater risk than many other businesses. Most exploration programs do not result in mineralization that may be of sufficient quantity or quality to be profitably mined. Our operations are, and any future development or mining operations we may conduct will be, subject to all of the operating hazards and risks normally incidental to exploring for and development of mineral properties, such as, but not limited to:

- economically insufficient mineralized material;
- fluctuation in production costs that make mining uneconomical;
- labor disputes;
- unanticipated variations in grade and other geologic problems;
- **environmental hazards;**
- **water conditions;**
- **difficult surface or underground conditions;**
- **industrial accidents;**
- metallurgic and other processing problems;
- mechanical and equipment performance problems;
- **failure of dams, stockpiles, wastewater transportation systems, or impoundments;**
- **unusual or unexpected rock formations; and**
- **personal injury, fire, flooding, cave-ins and landslides.**

Any of these risks can materially and adversely affect, among other things, the development of properties, production quantities and rates, costs and expenditures, potential revenues, and production dates. If we determine that capitalized costs associated with any of our mineral interests are not likely to be recovered, we would incur a write-down of our investment in these interests. All of these factors may result in losses in relation to amounts spent that are not recoverable, or that result in additional expenses.

(iii). "Commodity price volatility could have dramatic effects on the results of operations and our ability to execute our business plan." 10Q at p. 25:

The price of commodities varies on a daily basis. Our future revenues, if any, will likely be derived from the extraction and sale of base and precious metals. The price of those commodities has fluctuated widely, particularly in recent years, and is affected by numerous factors beyond our control including economic and political trends, expectations of inflation, currency exchange fluctuations, interest rates, global and regional consumptive patterns, speculative activities and increased production due to new extraction developments and improved extraction and production methods. The effect of these factors on the price of base and

precious metals, and therefore the economic viability of our business, could negatively affect our ability to secure financing or our results of operations.

(iv). "Estimates of mineralized material and resources are subject to evaluation uncertainties that could result in project failure." 10Q at p. 25:

> Our exploration and future mining operations, if any, are and would be faced with risks associated with being able to accurately predict the quantity and quality of mineralized material and resources/reserves within the earth using statistical sampling techniques. Estimates of any mineralized material or resource/reserve on any of our properties would be made using samples obtained from appropriately placed trenches, test pits, underground workings, and intelligently designed drilling. **There is an inherent variability of assays between check and duplicate samples taken adjacent to each other and between sampling points that cannot be reasonably eliminated. Additionally, there also may be unknown geologic details that have not been identified or correctly appreciated at the current level of accumulated knowledge about our properties. This could result in uncertainties that cannot be reasonably eliminated from the process of estimating mineralized material and resources/reserves. If these estimates were to prove to be unreliable, we could implement an exploitation plan that may not lead to commercially viable operations in the future.**

(v). "Any material changes in mineral resource/reserve estimates and grades of mineralization will affect the economic viability of placing a property into production and a property's return on capital." 10Q at p. 2:

> **As we have not completed feasibility studies on our I-M Mine Property and have not commenced actual production, we do not have mineralization resources and any estimates may require adjustments or downward revisions. In addition, the grade of ore ultimately mined, if any, may differ from that indicated by future feasibility studies and drill results. Minerals recovered in small scale tests may not be duplicated in large scale tests under on-site conditions or in production scale. (emphasis added)**

(vi). "Our exploration activities on our properties may not be commercially successful, which could lead us to abandon our plans to develop our properties and our investments in exploration." 10Q at p. 25:

> Our long-term success depends on our ability to identify mineral deposits on our I-M Mine Property and other properties we may acquire, if any, that we can then develop into commercially viable mining operations. Mineral exploration is highly speculative in nature, involves many risks, and is frequently non-productive. These risks include unusual or unexpected geologic formations, and the inability to obtain suitable or adequate machinery, equipment, or labor. The success of commodity exploration is determined in part by the following factors:
>
> - the identification of potential mineralization;
> - availability of government-granted exploration permits;
> - the quality of our management and our geological and technical expertise; and
> - the capital available for exploration and development work.
>
> Substantial expenditures are required to establish proven and probable reserves through drilling and analysis, to develop metallurgical processes to extract metal, and to develop the mining and processing facilities and infrastructure at any site chosen for mining. Whether a mineral deposit will be commercially viable depends on a number of factors that include, without limitation, the particular attributes of the deposit, such as size, grade, and proximity to infrastructure; commodity prices; and government regulations, including, without limitation, regulations relating to prices, taxes, royalties, land tenure, land use, importing and exporting of minerals, and environmental protection. We may invest significant capital and resources in exploration activities and may abandon such investments if we are unable to identify

commercially exploitable mineral reserves. The decision to abandon a project may have an adverse effect on the market value of our securities and the ability to raise future financing.

(vii). "We are subject to significant governmental regulations that affect our operations and costs of conducting our business and may not be able to obtain all required permits and licenses to place our properties into production." 10Q at 26:

Our current and future operations, including exploration and, if warranted, development of the I-M Mine Property, do and will require permits from governmental authorities and will be governed by laws and regulations, including:

- laws and regulations governing mineral concession acquisition, prospecting, development, mining, and production;
- laws and regulations related to exports, taxes, and fees;
- labor standards and regulations related to occupational health and mine safety; and
- environmental standards and regulations related to waste disposal, toxic substances, land use reclamation, and environmental protection.

Companies engaged in exploration activities often experience increased costs and delays in production and other schedules as a result of the need to comply with applicable laws, regulations, and permits. Failure to comply with applicable laws, regulations, and permits may result in enforcement actions, including the forfeiture of mineral claims or other mineral tenures, orders issued by regulatory or judicial authorities requiring operations to cease or be curtailed, and may include corrective measures requiring capital expenditures, installation of additional equipment, or costly remedial actions. **We cannot predict if all permits that we may require for continued exploration, development, or construction of mining facilities and conduct of mining operations will be obtainable on reasonable terms, if at all. Costs related to applying for and obtaining permits and licenses may be prohibitive and could delay our planned exploration and development activities. We may be required to compensate those suffering loss or damage by reason of our mineral exploration or our mining activities, if any, and may have civil or criminal fines or penalties imposed for violations of, or our failure to comply with, such laws, regulations, and permits.**

Existing and possible future laws, regulations, and permits governing operations and activities of exploration companies, or more stringent implementation of such laws, regulations and permits, could have a material adverse impact on our business and cause increases in capital expenditures or require abandonment or delays in exploration. Our I-M Mine Property is located in California, which has numerous clearly defined regulations with respect to permitting mines, which could potentially impact the total time to market for the project.

Subsurface mining is allowed in the Nevada County M1 Zoning District, where the I-M Mine Property is located, with approval of a "Use Permit". Approval of a Use Permit for mining operations requires a public hearing before the County Planning Commission, whose decision may be appealed to the County Board of Supervisors ("County Board"). **Use Permit approvals include conditions of approval, which are designed to minimize the impact of conditional uses on neighboring properties.**

On November 21, 2019 we submitted an application for a Use Permit to Nevada County (the "County"). On April 28, 2020, with a vote of 5-0, the County Board approved the contract for Raney Planning & Management Inc. to prepare an Environmental Impact Report and conduct contract planning services on behalf of the County for the proposed I-M Mine Project.

The Use Permit application proposes underground mining to recommence at the I-M Mine Property at an average throughput of 1,000 tons per day. The existing Brunswick Shaft, which extends to ~3400 feet depth below surface, would be used as the primary rock conveyance from the I-M Mine Property. A second service shaft would be constructed by raising from underground to provide for the conveyance of personnel, materials, and equipment. Processing would be done by gravity and flotation to produce gravity and flotation gold concentrates.

We propose to produce barren rock from underground tunneling and sand tailings as part of the project which would be used for creation of approximately 58 acres of level and useable industrial zoned land for future economic development in Nevada County. A water treatment plant and pond, using conventional processes, would ensure that groundwater pumped from the mine is treated to regulatory standards before being discharged to the local waterways. There is no assurance our Use Permit application will be accepted as submitted. If substantial revisions are required, our ability to execute our business plan will be further delayed.

In 1975, the California Legislature enacted the Surface Mining and Reclamation Act ("SMARA"), which required that all surface mining operations in California have approved reclamation plans and financial assurances. **SMARA was adopted to ensure that land used for mining operations in California would be reclaimed post-mining to a useable condition. Pursuant to SMARA, we would be required to obtain approval of a Reclamation Plan from and provide financial assurances to the County for any surface component of the underground mining operation before mining operations could commence. Approval of a Reclamation Plan will require a public hearing before the County Planning Commission.**

To approve a Reclamation Plan and Use Permit, the County would need to satisfy the requirements of California Environmental Quality Act ("CEQA"). CEQA requires that public agency decision makers study the environmental impacts of any discretionary action, disclose the impacts to the public, and minimize unavoidable impacts to the extent feasible. CEQA is triggered whenever a California governmental agency is asked to approve a "discretionary project". The approval of a Reclamation Plan is a "discretionary project" under CEQA. Other necessary ancillary permits like the California Department of Fish and Wildlife ("CDFW") Streambed Alteration Agreement (if applicable) also triggers CEQA compliance.

In this situation, the lead agency for the purposes of CEQA would be the County. Other public agencies in charge of administering specific legislation will also need to approve aspects of the Project, such as the CDFW (the California Endangered Species Act), the Air Pollution Control District (Authority to Construct and Permit to Operate), and the Regional Water Quality Control Board (National Pollutant Discharge Elimination System (authorized to state governments by the US Environmental Protection Agency) and Report of Waste Discharge). However, CEQA's Guidelines provide that if more than one agency must act on a project, the agency that acts first is generally considered the lead agency under CEQA. All other agencies are considered "responsible agencies." Responsible agencies do need to consider the environmental document approved by the lead agency, but they will usually accept the lead agency's document and use it as the basis for issuing their own permits. **There is no assurance that other agencies will not require additional assessments in their decision-making process. If such assessments are required, additional time and costs will delay the execution of, and may even require us to re-evaluate the feasibility of, our business plan. (emphasis added)**

(viii). "Our activities are subject to environmental laws and regulations that may increase our costs of doing business and restrict our operations. 10Q at 27:

All phases of our operations are subject to environmental regulation in the jurisdictions in which we operate. Environmental legislation is evolving in a manner that may require stricter standards and

enforcement, increased fines and penalties for non-compliance, more stringent environmental assessments of proposed projects, and a heightened degree of responsibility for companies and their officers, directors, and employees. **These laws address emissions into the air, discharges into water, management of waste, management of hazardous substances, protection of natural resources, antiquities and endangered species, and reclamation of lands disturbed by mining operations. Compliance with environmental laws and regulations, and future changes in these laws and regulations, may require significant capital outlays and may cause material changes or delays in our operations and future activities. It is possible that future changes in these laws or regulations could have a significant adverse impact on our properties**

(ix). "Regulations and pending legislation governing issues involving climate change could result in increased operating costs, which could have a material adverse effect on our business." 10Q at 27:

A number of governments or governmental bodies have introduced or are contemplating legislative and/or regulatory changes in response to concerns about the potential impact of climate change. Legislation and increased regulation regarding climate change could impose significant costs on us, on our future venture partners, if any, and on our suppliers, including costs related to increased energy requirements, capital equipment, environmental monitoring and reporting, and other costs necessary to comply with such regulations. Any adopted future climate change regulations could also negatively impact our ability to compete with companies situated in areas not subject to such limitations. Given the emotional and political significance and uncertainty surrounding the impact of climate change and how it should be dealt with, we cannot predict how legislation and regulation will ultimately affect our financial condition, operating performance, and ability to compete. Furthermore, even without such regulation, increased awareness and any adverse publicity in the global marketplace about potential impacts on climate change by us or other companies in our industry could harm our reputation. The potential physical impacts of climate change on our operations are highly uncertain, could be particular to the geographic circumstances in areas in which we operate and may include changes in rainfall and storm patterns and intensities, water shortages, changing sea levels, and changing temperatures. These impacts may adversely impact the cost, production, and financial performance of our operations.

(x). "Land reclamation requirements for our properties may be burdensome and expensive." 10Q at 28:

Although variable depending on location and the governing authority, land reclamation requirements are generally imposed on mineral exploration companies (as well as companies with mining operations) in order **to minimize long term effects of land disturbance.**

Reclamation may include requirements to:

- **control dispersion of potentially deleterious effluents;**
- **treat ground and surface water to drinking water standards; and**
- **reasonably re-establish pre-disturbance landforms and vegetation.**

In order to carry out reclamation obligations imposed on us in connection with our potential development activities, we must allocate financial resources that might otherwise be spent on further exploration and development programs. We plan to set up a provision for our reclamation obligations on our properties, as appropriate, but this provision may not be adequate. If we are required to carry out unanticipated reclamation work, our financial position could be adversely affected. (emphasis added)

(xi). "We may be unable to secure surface access or purchase required surface rights." 10Q at 28:

> Although we obtain the rights to some or all of the minerals in the ground subject to the mineral tenures that we acquire, or have the right to acquire, in some cases we may not acquire any rights to, or ownership of, the surface to the areas covered by such mineral tenures. In such cases, applicable mining laws usually provide for rights of access to the surface for the purpose of carrying on mining activities; however, the enforcement of such rights through the courts can be costly and time consuming. It is necessary to negotiate surface access or to purchase the surface rights if long-term access is required. **There can be no guarantee that, despite having the right at law to carry on mining activities, we will be able to negotiate satisfactory agreements with any such existing landowners/occupiers for such access or purchase of such surface rights, and therefore we may be unable to carry out planned mining activities. In addition, in circumstances where such access is denied, or no agreement can be reached, we may need to rely on the assistance of local officials or the courts in such jurisdiction the outcomes of which cannot be predicted with any certainty. Our inability to secure surface access or purchase required surface rights could materially and adversely affect our timing, cost, or overall ability to develop any mineral deposits we may locate. (emphasis added)**

(xii). "Our properties and operations may be subject to litigation or other claims." 10Q at 28:

> From time to time our properties or operations may be subject to disputes that may result in litigation or other legal claims. We may be required to take countermeasures or defend against these claims, which will divert resources and management time from operations. The costs of these claims or adverse filings may have a material effect on our business and results of operations.

(xiii). "We do not currently insure against all the risks and hazards of mineral exploration, development, and mining operations." 10Q at 28:

> **Exploration, development, and mining operations involve various hazards, including environmental hazards, industrial accidents, metallurgical and other processing problems, unusual or unexpected rock formations, structural cave-ins or slides, flooding, fires, and periodic interruptions due to inclement or hazardous weather conditions. These risks could result in damage to or destruction of mineral properties, facilities, or other property, personal injury, environmental damage, delays in operations, increased cost of operations, monetary losses, and possible legal liability. We may not be able to obtain insurance to cover these risks at economically feasible premiums or at all. We may elect not to insure where premium costs are disproportionate to our perception of the relevant risks. The payment of such insurance premiums and of such liabilities would reduce the funds available for exploration and production activities. (emphasis added)**

Again, all these Rise admissions defeat the level of certainty incorrectly implied in the EIR/DEIR to the contrary and wrongly asserted as grounds for ignoring objections as too speculative or unsubstantiated or unexplained, because such admissions confirm the correctness of objections, at least to the extent of requiring a meaningful EIR/DEIR good faith reasoned analysis and common-sense risk assessment in the DEIR/EIR where none now exists. In particular, for example, it is not speculative (as the disputed EIR incorrectly claims) that us objectors living on the surface above and around the 2585-acre underground mine will enforce our defensive rights to protect our homes and property rights and value, our forests and environment, and our community way of life against this mining menace with not just the usual legal challenges, but also with law reforms and political changes.

E. Miscellaneous 10Q Admissions Inconsistent With Or Contrary to the EIR/DEIR.

The DEIR claims that there is no viable alternative to the mining of this property, because industrial uses would be too "intense," a bizarre idea that is contrary to "common sense" (the standard in *Gray v. County of Madera*) and for which the DEIR/EIR offers no "good

faith reasoned analysis" (the standard in *Vineyard, Banning, and Costa Mesa)* as demonstrated in Engel Objections and others thereto, noting that nothing is worse or more "intense" than such 24/7/365 mining for 80 years with continuous resistance from the local victims of this mining menace. However, the 10Q states at p. 17: "**The Company would produce barren rock from underground tunneling and sad tailings as part of the project which would be used for creation of approximately 58 acres if local and useable industrial zoned land for future economic development in Nevada County, which is the alternative rejected by the DEIR/EIR as not viable and too "intense." (emphasis added) This intensity works against Rise's vested rights claims, as well as by adding an "expansion" to its business operations not contemplated in the prior mining.**

F. Miscellaneous Other Admitted Data from the 10Q.

As discussed at page 8 of the 10Q, Rise closed its purchase of the "Idaho-Maryland Gold Mine" property on 1/25/2017 for $2,000,000. It then purchased the 82-acre surface rights adjacent thereto for $1,900,000 closing on May 14, 2017. Including those purchase prices and related acquisition expenditures totaling $7,958,346, the Rise cumulative expenditures for this project have been $8,082,335. Thus, Rise's working investment after acquisition has only been modest, such as for that 10Q period $123,989, of which the only CEQA evaluation or risk relevant expenses have been $92,159 for "consulting" $2453 on "engineering," and $1596 for "supplies." No wonder that Rise has so little useful to say about the conditions regarding its mine, both the flooded part (still unevaluated in any sufficient way since 1956) and the new expansion area in the 2585-acre underground mine, because not only has Rise seemed eager to avoid discovering any inconvenient or worse truths or information, but Rise had insufficient working capital to investigate even if it had wished to risk acquiring the information us objectors expect to be true and damning to its goals for EIR/DEIR approval and vested rights claims.

As discussed at 10Q page 10, Rise borrowed $1,000,000 on 9/3/2019 secured by all of its (and its subsidiary's) mine and other assets due in full on 9/3/2023. The 10Q reported current balance is $1,491,308. The substantial warrants and high interest rate on the loan, which confirm the lender's belief in the high-risk nature of that loan against those mining assets (i.e., almost 8 to 1 loan principal to book value of assets plus the stock warrants). Various stock transactions are also described that raised the money already spent.

III. RISE ADMISSIONS IN ITS FORM 10K FOR THE FISCAL YEAR ENDED 7/31/2022 (FILED 10/31/2022) [Again Not Updated Yet By Rise.]

A. Admissions Regarding the Mine Property And Basic Context Data.

1. How Rise's 10K (at pp.34-38) Describes the IMM History And How That Compares To Rise's Vested Rights Claims.

Rise's 10K admits (at 34-35) that 1955 was "the final year of production from the mine." Thus, there has been no mining for vested rights acquisition since at least 1955, thus

focusing on the comparison of the applicable law at that time to what Rise now proposes for vested rights mining. Compare this to the Nevada County's 1954 ordinance and State laws in 1954 laws versus what was done in that last 1955 year of mining operations, as discussed in *Hansen* in this Petition, including detailed analysis of that often-mischaracterized case by miners more correctly described in Exhibit __hereto. To be clear none of the work done at the mine since it closed and flooded in 1956 qualifies for vested rights, since it was only "exploration" or environmental testing, which even the Rise 10K excludes from mining activities by its admission at pp. 28: "Mineral exploration, however, is distinct from the definitions of 'sub surface mining' and "surface mining'" [making the point that miners in that M1 district zoned land could explore without a permit.] While Rise cites aggregate gold production numbers from 1866-1955 in its Table 3 at pp. 35, what matters for the vested rights dispute is what vested rights uses and intensities existed, for example, when the Nevada County ordinance addressed in Hansen was enacted compared to the nonconforming uses, if any, that occurred in 1955. Clearly, nonuse since 1956 cannot create any additional or enhanced vested rights, even under *Hansen* (much less under many other authorities that objectors cite [and will cite in later briefing] to defeat Rise's vested rights claims). While this is not the time or the place for briefing all objectors facts, evidence, and law for our trial briefs defeating the vested rights, it is instructive to consider this Rise 10K admission at 34, demonstrating that not much happened in 1954-55 of helpful relevance for Rise's vested rights claims, especially considering all the additional laws and regulations occurring after the mine closed and flooded in 1956 and even before since:"[mining was] forced to shut down by the US Government in 1942 (Shore 1943). Due to lack of development, a decline in gold production was experienced and recovery from war-time shutdown never occurred."

While Rise's 10K claims at pp. 34 that: "The I-M Mine Property and its comprehensive collection of original documents was rediscovered in 1990 by Consolidated Del Norte Ventures Inc, the predecessor company of Emgold Mining Corporation, and efforts were made to reopen the historic mine." During the period of what Rise called "Exploration & Mine Development 2003-2004" [skipping over in dead silence the period of nonuse or anything from 1956 to 2003], Rise claims (at pp. 34): "Development work during this period [2003-2004] included completion of a preliminary investigation of the mine records, publishing various technical reports on the I-M Property, leasing or purchasing adjacent properties [none of which would be eligible for vested rights because they were expansion, intensification, and otherwise barred by case law], various permit applications and associated environmental studies, development of a ceramics technology process, and completion of an exploration program. Emgold was unsuccessful in reopening the historic mine due to inability to raise necessary funding in the midst of unfavorable market conditions." As described in this Petition, objectors dispute any such Emgold documentary evidence as consistent with Rise's description (e.g., that such "rediscovered" in 1990 pre-1956 records that were a 'comprehensive collection"), the law of evidence will exclude those purported records as admissible proof for any vested rights.

As to the relevant "history" summarized by the Rise 10K starting at p. 34, using what are described as "available historic records," which objectors assume means the portion of such historical records which Rise was able to find and chose to hunt down and locate, leaving for later litigation discovery the question of which possibly available records Rise chose not to seek or investigate. [While the 10K admits that "[h]istoric drill logs were not available for review and

no historic drill core was preserved from past mining operations…" and objectors wonder what **reliable** evidence, if any, serves as the foundation for Rise's (and the EIR/DEIR's) purported analysis and what deficiencies exist to invalidate or discredit such analysis. Another discovery question is whether and to what extent the prior Emgold owner stopped its reported investigation merely (as Rise claims at 34-35) "due to inability to raise necessary funding in the midst of unfavorable market conditions" or whether they may also have been discouraged by negative information or clues of risks that would have to have been addressed in the EIR (if Rise had chosen to investigate them.) For example, the 10K reports that Rise purchased the "Emgold diamond drill program database" as distinct from all the historical documents of Emgold, as Rise did when it purchased from BET Group. In objectors' experience miners tend to be selective about what they want to know and what they avoid, because they might not want to know inconvenient truths or worse. Incidentally, Rise's efforts to dodge discovery claiming limits to the administrative record may work for CEQA disputes (although objectors do not waive any rights to seek such discovery by exceptions) do not apply to this vested rights dispute involving competing rights and claims between surface owners above and around the 2585-acre underground mine.

None of that Emgold activity could have created or preserved or otherwise supported any Rise vested rights claim. Even if Emgold had some intent to restart the mine, under the circumstances of nonuse, abandonment, etc., that intention could not support vested rights since it was not accompanied by any relevant mining or nonconforming uses, because, among other things, it could not comply with all the applicable laws and regulations taking effect since 1956 during the period of nonuse and abandonment before its 2003 acquisition. Even if somehow Emgold was relevant, Rise admits at pp. 35 that Emgold's intention was not to expand and do intensive mining like in the EIR/DEIR Rise plan, but rather (consistent with Emgold's "exploration drill program") on two different sites "both targeting near surface mineralization around historic workings, whereas Rise's plan was for deeper mining in different places. No one should imagine that anyone in 1956 had any intention to do what Rise proposes to do now, and objectors will dispute any contrary claim by Rise, as well as any claim of Emgold's exploration activities providing any support for Rise's vested rights claim.

Moreover, applying the objective standard for future intent, no one in 1956 when the mine flooded and closed could have had any intent to reopen the mine for what Rise wants to do now. Not only was the mine abandoned, but no effort was made to preserve any restart opportunity at least until that ineffectual Emgold dabbling in 2003. Mining historians can prove how everything changed radically between 1956 and any relevant modern dates in dispute with Rise, since in 1956 underground mining was largely still reliant on manual labor using hand tools and dynamite for excavation (as distinct from modern machinery), none of the equipment was at all comparable, the times primitive science was all superseded by more modern science in every field, safety regulations and practices and environmental considerations were absurdly lax and, in the absence of meaningful laws and enforcement ancient miner owners did as they wished, which is also reflected in their record keeping where they recorded what they wanted known or imagined, without little regard for realities or comprehensiveness for modern vested rights purposes, ventilation systems, dewatering systems, and communication systems were dangerously primitive, etcetera. Dewatering in the 1950's was especially primitive with manual

or the beginning of steam pumps which made the kind of dewatering needed in the IMM and planned by Rise literally imaginable in 1956. (Electric pumps did not begin to appear until well into the 1960's.) Among the factors leading to the 1956 closure was not just declining gold prices, but also depletion over decades of mining of easily accessible and high-grade gold, making mining more expensive and riskier, with many technology limits compared to the challenging conditions as well as the growing environmental concerns.

2. Some General Data Admissions About the IMM to Compare To the Disputed EIR/DEIR and the Vested Rights Claims

As stated in Rise's 10K at pp. 22+ the I-M Mine Project is described as a unified project comprised of "approximately 175 acres … surface land and … 2800 acres … of mineral rights" identified by maps and parcel data without any meaningful surface location data like roads or addresses. According to the 10K at pp. 25, that is comprised of "10 surface parcels" including 55 sub parcels (The "Brunswick" 37-acre site and related 82-acre "Mill" site, and the "mineral rights" area we call the "2585-acre underground mine" that the EIR/DEIR calls its CEQA project, as distinct from what the 10K calls the 56 acre "Idaho land" that the EIR/DEIR separates from that project and calls the "Centennial" dump site and on which no mining is contemplated. However, as explained in the Introduction to this Exhibit and elsewhere in the Petition, all of those parcels are described in Rise's 10K as parts of one unified mining project, thus conflicting with Rise's EIR/DEIR presentation of its alternate history (and trying to escape its SEC filings admissions by trying in the EIR/DEIR and other presentations to assert that the Centennial site is a separate project for CEQA but somehow inconsistently at the same time denying that Centennial work is an expansion or intensity-change for purposes of vested rights to use it as a dump for its new mining operations. Thus, for example, there can be no vested right to dump IMM mine waste on Centennial. Besides physical location and other differences, one of many factors separating the Centennial dump site from the IMM mining is that Centennial gets its NID water from the "Loma Rica System," while Brunswick gets its NID water from the "E. George System" (10K at 28).

In any case, neither Rise's 10K nor the EIR/DEIR nor other related filings reveal when or how Rise's predecessor acquired those 10 parcels (55 sub parcels) or underground mining rights to compare mine "expansions" for vested rights analysis versus the continuously evolving and expanding applicable laws at such times. Instead, Rise just states in the 10K that "original mineral rights" were acquired "at various times" since 1851. The 10K describes the Rise purchase of everything from BET Group Estate (at pp.29) by quitclaim deed on 1/25/2017 (with the Mill Site" acquisition in 2018) granting the right to mine for various "minerals" ***"beneath the surface of all such real property"*** (emphasis added) "subject to express limitation that the foregoing exception and reservation shall not include any right of entry upon the surface of said land without the consent of the owner of such surface of said land…" Note that Rise (at pp. 28) not only separates surface from subsurface mining, but separates "mineral exploration" from both such types of mining, consistent with the M1 district zoning.

The Rise description of its environmental studies (at 10K pp. 31-32) addresses the IMM and Centennial wholly owned land conditions, which is not determinative of the conditions in

the different areas of the 2585-acre underground mines. As admitted at page 31 as to "Environmental Liabilities," all "environmental studies were completed prior to Rise purchasing the Idaho land [aka Centennial] and the Brunswick land." That means that Rise cannot vouch for the accuracy, completeness, or sufficiency of the studies or any directions (or lack of correct instructions) given by prior owners. Motions in limine at the start of the court trial will exclude most of Rise's so-called evidence because it is inadmissible on various grounds and other reasons (such as those discussed in the Introduction to this Exhibit) why there can be no substantial evidence for any vested rights as claimed by Rise.

Such issues are important, among other things, because when Rise wants to impress the potential investor readers about the details of the "Geological Setting, Mineralization, And Deposit Types" (SEC 10K at 38+), it describes the variable underground gold related data with some precision. However, when the EIR/DEIR addresses those underground conditions to deal with groundwater and related environmental and other property rights issues, it generalizes and incorrectly assumes a uniformity of those underground conditions that is rebutted by Rise's SEC 10K variations, which in turn, however, also incorrectly extrapolates and generalizes on many such dispute topics from the surface conditions at its small, wholly owned Brunswick site to the underground mining of the 2585-acre sites. Again, what is lacking from Rise is a sufficient baseline either for CEQA or vested rights disputes as to the relevant starting dates for each parcel and at the relevant later dates so as to know how to judge applicable expansions and intensity changes at critical times. (While that variation is relevant for gold opportunities addressed in the 10K that Rise wants to know, the EIR/DEIR does not equally address that variability because its disputed "talking points" (the miner equivalent of politician "spin") sound less problematic for such groundwater and other EIR/DEIR risk disclosure exposures when it assumes uniformity consistent with its apparent desire for what seems to me to be an "alternative reality" Objectors expect yet another alternative reality version for Rise's vested rights claims.

Stated another way, should the Rise vested rights claim or EIR/DEIR be mistakenly approved by the County, the challenge litigation will impeach the EIR/DEIR's and vested rights' descriptions of the underground and other conditions for groundwater and other risk and dispute issues, among other things, based on the contrary or inconsistent variable underground data presented in the SEC 10K. Also, when describing the underground conditions for gold, there are many described exceptions and variations, but the disputed EIR/DEIR's "don't worry about groundwater" theory (which objectors expect incorrectly attempt to evade key precedents that defeat Rise's plans, such as *Gray v. County of Madera*, and to be even further minimized in Rise's vested rights claims to attempt to evade objections like those in this Petition) falsely assumes or implies uniformity not described in the SEC 10K. For example, in discussing its underground analysis, even Rise's 10K reflects doubts (e.g., at 44): "Although Rise has carefully digitized and checked the locations and values of drill hole results from level plans and other documents, the absence of drill hole related documentation, such as drill logs, drill hole deviation, core recovery and density measurements, assay certificates, and possible channel sample grade biases, could materially impact the accuracy and reliability of the reported results."

Many inconsistencies appear even within the Rise 10K, although not usually as substantial as the differences between the more detailed 10K and the less significant, more

general, and less detailed data in the EIR/DEIR. Objectors fear the vested rights claims will be the worst of each alternative reality, such as exaggerating alleged “facts” that would help vested rights theories, while minimizing, ignoring, or incorrectly addressing “facts” that would defeat vested rights. For example, (at 44) the Rise 10K admits that “Rise has conducted mineral processing and metallurgical testing analysis on the recent drill core from the I-M Mine Property for the purposes of environmental study in conjunction with permitting efforts.” Since the disputed EIR/DEIR does not sufficiently reveal those results, that will likely be a subject of intense discovery efforts in any subsequent litigation to determine, for example: what was not reported by Rise and why? Even if the answer is that the EIR/DEIR or vested rights claim editor did not trust that data, as the Rise 10K admittedly does not accept/trust the inconvenient historical data that also rebuts the EIR/DEIR and vesting rights as addressed in our objections. For the 10K’s such doubts, consider, for example (at 44): “No estimates of mineral resources have been prepared for the I-M Mine Property. We are not treating historical mineral resource estimates as current mineral resource estimates. In addition, there are no mineral reserves estimates for the I-Mine Property.” Since the 10K (at 44-45) cites and relies on somewhat different authorities than the EIR/DEIR and (we assume) also than the vested rights claims, the question is why? Considering all of the many Rise and its enablers’ credibility issues with the EIR/DEIR, one wonders if Rise is more cautious about the 10K and other SEC filings because of the more serious consequences of misrepresentations than Rise is concerned about the accuracy, compliance, and sufficiency of the EIR/DEIR and (objectors assume) the vested rights claim data.

3. Some Environmental Data.

The Rise 10K contains (see pp. 28-45) many environmental facts that are often inconsistent with, or that fill in factual gaps in, the EIR/DEIR (and, objectors predict, will do so as well for Rise vested rights claim.) What is important for focus is that the history and investigations are either about the much less relevant and important Rise owned Brunswick and Mill site land (compared to the key 2585-acre underground mine, where the mining takes place and the problems begin), and most explorations/investigations are about the search for gold sources, not about a study for safety or environmental threats. Almost as bad, is the telling fact that Rise admits it and its predecessors didn’t even do much looking at the dangerous spots, but simply focused on their such wholly owned entry lands and then incorrectly extrapolated from that to wrongly assume those conditions uniformly applied in the 2585-acre underground mine that is the greatest concern. The Rise description of its environmental studies (at 10K pp. 31-32) addresses the IMM and Centennial wholly owned land conditions, which is not determinative of the conditions in the different areas of the 2585-acre underground mines. As admitted at page 31 as to “Environmental Liabilities,” all “environmental studies were completed prior to Rise purchasing the Idaho land [aka Centennial] and the Brunswick land.” That means that Rise cannot vouch for the accuracy, completeness, or sufficiency of the studies or any directions (or lack of correct instructions) given by prior owners. Motions in limine at the start of the court trial will exclude most of Rise’s so-called evidence because it is inadmissible on various grounds and other reasons (such as those discussed in the Introduction to this Exhibit) why there can be no substantial evidence for any vested rights as claimed by Rise.

For example, as to the “Idaho land” [aka Centennial] and containing arsenic in the mine tailings and waste berms, the NV5 Draft Final Preliminary Endangerment Assessment and follow-up Draft Remedial Action Plan (7/1/2020) is reported still “currently in process” by the Cal EPA. As to the Brunswick & Mill site (at p.31) following a surface Phase 1 assessment by ERRG, “ERRG has recommended further sampling and studies” “to determine if contamination historic mining and mineral processing was present.” This is one of several opportunities for investigation that Rise has avoided to evade inconvenient truths and embolden Rise’s “alternative reality” presentations. Also, in 2006 a Phase II assessment was reportedly done for the Mill Site by Geomatrix (at 32) which found arsenic in the waste rock and Volatile Organic Compounds (VOC) in the groundwater but they were not concerned with “vapor” and relied on the “deed restriction which restricts the use of groundwater for any domestic purpose and the construction of wells for the purpose of extracting water, unless expressly permitted by the Regional Water Board.” The significance of these causes of concern have not been investigated or addressed sufficiently by the DEIR/EIR, although NV5 reportedly prepared a “Phase I/II ESA (June 16, 2020) presenting the results of additional investigations and addressing historical conditions identified in previous reports” (at 32). [Stated another way, the wording of the summary results is cleverly ambiguous although drafted in the passive voice (e.g., “mine waste is believed [by whom? based on what?] to have originated from offsite…”) and subjective (e.g., arsenic concentrations …were relatively low except for …) [compared to what standard?]

At p. 32 + the 10K provides a general list of permits that might be required under particular summarized circumstances, but the Rise 10K does not apply that general summary to reveal when such permits will be sought for this project or what of the listed factors are expected to trigger that require such permits. Objectors mention this because when the EIR/DEIR lists permits it also does not describe sufficiently such trigger factors or the circumstances where objectors could apply such SEC 10K data and other law to assure ourselves that the miner was planning to seek all the required permits, as opposed to evading them until the miner was “caught” and then seeking such permits and “forgiveness.” The four Engel Objections to the EIR/DEIR demonstrate why objectors perceive the EIR/DEIR to suffer from credibility problems that make such concerns reasonable, and, as noted above in the Introduction, that credibility problem will now be compounded by Rise’s alternative reality in the EIR/DEIR conflicting with Rise’s alternative reality for its vested rights claims, as so described above regarding the Centennial site.

B. Admissions in Risk Factor Discussion 10K Item 1A at p.6+.

The risk factors admitted in the 10K are the same as those admitted in the more current 10Q that is addressed above. So, objectors will not repeat them here, but we note that the consistency of those admissions increases their importance as admissions in these disputes.

C. Miscellaneous Additional Financial Admissions. (Most data here is passed over in favor of the more current 10Q data stated above).

To place the foregoing Rise 10Q financial data in contest and reveal Rise's chronic incapacity to perform its EIR/DEIR goals and aspirations, even as limited to what it admits to be required (as distinct from what us objectors expect to be ultimately required if the EIR were ever to be approved and for the vested rights claims), objectors note the admission at Rise 10K p. 5: "As at July 31, 2022, we had a cash balance of $471,918, compared to a cash balance of $773,279 as of July 31, 2021." However, the 10K financial data for the prior year (starting at 48+) gives one a sense of scale, such as with respect to the "net loss and comprehensive loss for the year [2022]" of $3,464,127, compared to the operating loss of $3,385,107 (ignoring the large "gain on fair value adjustment on warrant derivatives"). Among the key questions is whether the data developed by Rise for the EIR/DEIR is being fully processed for its CEQA compliance as opposed to simply its gold exploration use. See, e.g., (at 49) where the 10K reports an "Increase in mineral exploration costs to $788.684 (2021- $782,261) related to activities surrounding the Use Permit application."

As admitted (at 49): During the year ended July 31, 2022, the Company received cash from financing activities of $2,392, 998 (2021-$248,198) related to the private placement' that year. But during that year "the Company used $2.694,359 in net cash on operating activities, compared to $2,853, 475 in net cash the prior year…" As to the risk that creates for nonperformance of the EIR/DEIR, please note the following related 10K admission that follows those admissions:

> The Company expects to operate at a loss for at least the next 12 months. It has no agreements for additional financing and cannot provide any assurance that additional funding will be available to finance its operations on acceptable terms in order to enable it to carry out its business plan. There are no assurances that the Company will be able to complete further sales of its common stock or any other form of additional financing. However, the Company has been able to obtain such financings in the past. If the Company is unable to achieve the financing necessary to continue its plan of operations, then it will not be able to carry out any exploration work on the Idaho-Maryland Property or the other properties in which it owns an interest and its business may fail.

The Rise auditors, Davidson & Company, LLP, qualified its financials (starting at 10K p. 53) as follows:

> ***Going Concern***
>
> The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the consolidated financial statements, the Company incurred a loss of $3,464,127 for the year ended July 31, 2022, and as of that date, had an accumulated deficit of $23,008,604. These events and conditions raise substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 1. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Exhibit B: Some Suggestions And Comments Regarding Pre-hearing Relief And Considerations, Including As To A Preliminary Status Conference For Increasing Clarity For Oppositions.

I. The Objectors Petition Seeks Required Due Process Participation And Greater Clarity In The County Process For Objections, To The Extent Still Practical Without Delaying The Process And Prolonging The Negative Impacts Of The Rise Mining Risks.

A. Some Examples of What Clarity And Other Relief Objectors Seek In The Requested Status Conference And Other Procedures.

This objectors' counter-petition requests urgent relief, beginning with a status conference for **clarification** of Rise Petition claims and County procedures and rules that will govern this unorthodox Rise process, including by requesting more specificity and clarity about the Rise Petition's existing and omitted allegations and claims in hopes of both (i) reducing otherwise certain procedural and other disputes (and potential changing or new Rise "stories" to evade objections), and (ii) planning for expediting a cost-effective resolution of these perpetual disputes by a requested County administrative procedure analogous or equivalent to judicial pretrial motions, such as to dismiss/demurrer, motion for a more definitive statement, and/or motion for summary judgment, (collectively here, together with the status conference itself, called a **"Summary Due Process Proceeding")**. See *Calvert* and *Hardesty.* Whatever the County may decide, such relief in a sufficient Summary Due Process Proceeding would expedite and reduce long-term costs and burdens in the next, court litigation phases of this Rise caused ordeal. In any event, it seems prudent to use such pre-trial short-cuts to minimize the need for another massive administrative counter record (e.g., by avoiding or reducing the need for massive rebuttals to Rise's disputed allegations, claims, and supporting documentation, such as Rise's 1000-page disputed, obsolete, and perhaps now irrelevant, so-called reclamation plan and its missing and deficient "financial assurances" already rebutted by Rise's own SEC filing admissions in Exhibit A and our prior EIR/DEIR record objections incorporated herein by reference. Unless objectors timely hear to the contrary, we assume that the EIR/DEIR objection record will be included as part of this Rise Petition dispute record.) Objectors should be able to dispose of Rise's vested rights claims promptly as a matter of law, because they are without any legal merit and have no chance of surviving any objector court challenges that may be necessary. More importantly, Exhibit A and other Rise admissions that contrary or contradictory to the Rise Petition must defeat that Rise Petition. See Evidence Code #623 and other authorities cited in Evidence Objection Part 1.

This **"Objectors Petition,"** and anything else objectors choose to do after the County response to this, will be followed in due course by more, formal objections to the Rise Petition after objectors have a greater opportunity to prepare more comprehensive and detailed analyses, rebuttals, and other oppositions on the merits, hopefully after the County inspires Rise to stop "hiding the ball." The meritless and evasive Rise Petition doesn't only assert erroneous or worse purported facts and legal theories, but it carefully avoids addressing many of our objections that doom Rise's ambitions, even though many objections and counter authorities

were previewed in hundreds of record prior objections. Among other things, this Objectors Petition explains:

(a) why the prompt, requested status conference is necessary to achieve fundamental clarification for objections to the Rise Petition, which is, among other things, another example (as demonstrated in objections to the disputed EIR/DEIR) of Rise's "hide the ball" tactics requiring clarity for cost-efficient and the timely defeat of the Rise Petition, as well as to learn from the County the basic rules and procedures that will apply to this disputed, mid-stream, radical switch of legal theories by Rise. For a simple example, objectors assume the County is treating this Rise Petition as a part of the prior EIR/DEIR proceeding so that objectors need not refile all their relevant, EIR/DEIR, record objections, to which we just add more objections and evidence;

(b) both (i) **why** the County's current procedure (which is deficient and objectionable by *Calvert/Hardesty* standards (as was the EIR/DEIR process so far) by denying at least surface owner objectors (and we contend many others as well) the required due process for full and at least equal to Rise participation in the Rise Petition dispute process (with at least minimum required clarity from Rise about the details of its recent "alternative reality" contradicted by its 2023 10K) as the courts have required for mining objectors in defeating vested rights claims in *Calvert* and *Hardesty,* ***and (ii) how*** *the County should allow objectors what is still practical to do* ***before the hearing without delaying the timely progression to the courts which can finally end this IMM menace.*** In any event, this counter Petition at a minimum, reserves objectors' procedural objections for the coming court process, for example, to rebut Rise's incorrect claims that we should be limited to the administrative record. That deficient record is not objectors' fault in this disputed procedure when objectors are denied the right to do more than, for example, three minutes each to speak rebuttals and making "offers of proof" as to rebutting testimony objectors could have provided in support of their objections and in impeachment and rebuttal of Rise and its enablers*;*

(c) why *this dispute must NOT be treated* ***as a mere two-party ministerial County process (where objectors can be limited to mere commenters, rather than equal due process parties in interest as the courts must and will do). This must be the kind of due process adjudicatory proceeding required by Calvert and Hardesty, plus a full party in interest dispute between competing property owners, where one (Rise as miner) impacts the other (objectors as surface owners whose groundwater/well water, for example, is being depleted*.)** In that context, the County can and should object for the public*, but* ***the County cannot deny the objectors' own, personal standing and constitutional, legal, and property rights to oppose the Rise Petition because we are impacted directly by living on the surface above and around the 2585-acre underground mine and insist on enforcing our own such rights as full parties in interest to compete against Rise as at least equals against Rise, especially when Rise exaggerates disputed vested rights into claims against objectors' property****. E.g., Exhibit A at #II.B.25, countering Rise's 2023 10K false claims to misuse of objectors' surface properties. However, we contend objectors are superiors in interest since, for example, it's objectors' groundwater and existing and future wells that Rise would be "dewatering" 24/7/365 for 80 years to flush away down Wolf Creek somewhere else, all contrary to* applicable law (e.g., *Keystone and Varjabedian*, as well as explained in objectors' EIR/DEIR objections)*;* and

(**d) why** objecting surface owners need speedy finality in eliminating the Rise Petition, especially because even the continuing Rise threat of its IMM menace depresses the value and marketability of objectors' properties above and around the 2585-acre underground IMM (which should concern the County because that also depresses property taxes).

If such objectors' rights to equal opportunities for vested rights rebuttals and counters cannot be fully accommodated timely in such an enhanced and more satisfactory County process that includes all objectors' concerns and counters about our both public and personal competing property, legal, and constitutional disputes, then the County should say so now at the outset and do what it still can to be fair and clarifying. Whatever else happens, objectors intend to prevent Rise from being able to complain that objectors had not "exhausted administrative remedies." That usual administrative "exhaustion" claim by miners would then be inapplicable, because **(citing CA Supreme Court authority in *Horn v. County of Ventura*) the *Calvert* court correctly held (at 622, emphasis added): "[o]ne need not exhaust inadequate remedies in order to challenge their sufficiency."** Since (as in *Calvert)* objectors' judicial challenge processes can include both procedural, evidentiary, and substantive objections, it seems reasonable for the County to allow this "right" now at the start of what is still practical, rather than risk being later ordered to do so all over again by the courts (as the court did in *Calvert because of such objections*) in a less coordinated way.

B. Some Examples of Other Requested Relief.

Objectors are entitled now at least to full *Calvert* and *Hardesty*-type due process and fairness for such objections, which rights must be further enhanced for these more complex disputes against **Rise using surface mining theories for its attempt to assert underground IMM vested rights claims** against us surface owners above and around that 2585-acre underground mine (and for facilitating a record for procedural and substantive due process objections for the following judicial processes, especially if such minimum clarity and fairness is not accomplished here). See *Hansen's* evidentiary requirements (Evidence Objection Part 1, Attachment 1) that Rise fails to perform, as well as *Hardesty's* rejection of the miner's claims for similar insistence on alternative reality allegations that made what that court called a "muddle" as the Rise Petition has just done here. Accord *City of Richmond,* supra, where Chevron's contradictory SEC admissions defeated its EIR. Rise's Petition lacks essential clarity and must also reveal in much greater comprehensiveness, detail, and specificity at least the following (with Rise required to cite, and, if the same is not readily available to objectors, by Rise attaching each referenced item of evidence or document, as appropriate):

(a) every relevant fact or claim on which Rise bases its disputed vested rights claims, including every piece of evidence and detail for evaluation and rebuttal, impeachment, and other counters, in each case clarifying (and differentiating) (i) what pertains to surface mining or to underground mining, and (ii) where (at least in the cited 10 parcels and 55 sub parcels named in the Rise's SEC 10K filings, plus more admitted by Rise elsewhere), and (iii) when such allegations apply and who was the so-called "Vested Mine Property" owner or operator of such parcel at the time, always for each use-by-use and component-by-component on a parcel-by-parcel basis; i.e., this is somewhat the equivalent of civil discovery from Rise, which must be adapted to be fair and appropriate under the circumstances. See, e.g., Evidence Objection Part

1, as well as the next Part 2, exposing how the Rise Petition fails to prove any vested rights in compliance with the rules of evidence or other applicable law. (Also, this deals with the tricky uses of Rise's differently defined (at p.1) terms "Vested Mine Property" (meaning where Rise claims such rights) versus "Mine Property" referring to alleged "multiple historical mines and operations" "before the "Vested Mine Property" allegedly was consolidated into the current configuration in 1941." The data as to the underground IMM is woefully deficient, and the Centennial data is even worse and more confusing, because the Rise Petition changes the legal theory by which the EIR/DEIR and other governmental applications for permits and approvals excluded Centennial as NOT part of the Rise "project.");

(b) every law, regulation, or competing property right (e.g., especially those of us surface owners above or around the 2585-acre mine and other objectors) that Rise contends vested right creates any Rise or mining immunity or excuse, or that Rise contends its (disputed) "nonconforming" vested uses can ignore, supersede, or defy. Those must include any excuses Rise alleges for what objectors may perceive as noncompliance with applicable laws, regulations, and objectors' such competing and conflicting constitutional, legal, or property rights, especially to deplete such surface owners' groundwater or our existing and future wells above or around the 2585-acre underground IMM. For example, Rise must explain how its petition can explain its conflicts with both (i) Exhibit A identified issues with the 2023 10K and other SEC filings, and (ii) the incorporated record objections to the EIR/DEIR. Those objector rights include what have already been asserted in record objections to the EIR/DEIR, all of which EIR/DEIR objections are also now applicable to oppose Rise's disputed vested rights claims and are incorporated herein by reference, plus any more such things relating to additional vested rights issue objector disputes stated or forecast herein or in the Evidence Objection Part 1 or Part 2 (to come);

(c) specifications of what normally required permits and other governmental approvals (besides the use permit for which Rise has already applied or whatever else is admitted in Rise's 2023 10K as revealed in Exhibit A) are alleged by Rise no longer to be required (or that are now claimed by Rise to be inapplicable) because of alleged Rise vested rights, including, for example, those Rise has applied for or which are listed as applicable before the vested rights claim by the EIR/DEIR, by the County Staff Report, or by the Rise SEC filings (e.g., Exhibit A);

(d) what exactly is the (new or old?) mining "project" for which Rise seeks a vested rights determination and how is it to be achieved; e.g., to what extent are Rise's vested rights claims for mining and related activities the same or different now from what was described in Rise's disputed EIR/DEIR and Rise permit or approval applications, in Rise's SEC filings (e.g., Exhibit A), or in Rise's already outdated and inconsistent reclamation plan and (still missing) financial assurances and other permit and other governmental applications that would be applicable but for Rise's alleged (but disputed) vested rights excuse to evade them. For example, when the Rise Petition lists in Conclusion #2 at 76 what Rise considers its vested rights "operations" allowed by Hansen, it must address each of those on a parcel-by-parcel/sub parcel-by-sub parcel basis and reveal what such operations [on a use-by-use, component-by-component basis] were ongoing there on 10/10/1954, since (as demonstrated in Evidence Objection Part 1) even *Hansen* insisted on such detailed evidence and remanded some of that surface mining, vested rights dispute on account of that lack of sufficient parcel-by-parcel such detailed evidence. *Hardesty* was even more severe for such "hide the ball" tactics it called a "muddle." Because, even under

Hansen as so more comprehensively explained, any future uses must be "similar" (without "expansion" or increased "intensity," including from the perspective of the impacted surface owners above or around the 2585-acre underground mine) to "uses" and "components" in operation on each such parcel or sub parcel 10/10/1954, with strict limits on attempted "expansions" and increases in "intensity," this must be a use-by-use, component-by-component, parcel-by-parcel/sub-parcel-by-sub parcel dispute;

(e) if and to the extent that Rise's vested rights claims are intended to eliminate, contradict, dispute, amend, modify, or otherwise change what Rise has stated in its EIR/DEIR, its SEC filings (e.g., Exhibit A), or any such permits or governmental applications, that should be highlighted, especially if that could expand or intensify what Rise claims the right to do under its disputed vested rights claims compared with what Rise planned under its EIR/DEIR, SEC filings, or any such permits or governmental applications; and

(f) whenever Rise specifies any such "expansions," "intensity" increases, contradictions, repudiations, or other changes (or alleged "variations," "clarifications," "embellishments," or "evolutions," or other comparable labels, such as what is sufficiently "similar" or too dissimilar) on account of its vested rights claims, Rise should specify and match the applicable timing of each alleged change as to the then-existing versions of applicable laws, regulations, permits, and governmental applications. (For example, to the extent that versions of laws or regulations or permits or applications existed before and after Rise claims vested rights began 10/10/1954, but Rise claims that somehow that it is free from compliance either with what previously existed or with amendments, modifications, or other new laws, regulations, permits or applications occurring after that alleged vested rights, trigger date of 10/10/1954, objectors must know in each such case such dates and such old versus new versions, so objectors' disputes can precisely match Rise's claims. Stated another way, **what versions of what laws, regulations, and rights does Rise admit or deny can still be enforced against it under its disputed theories? Objections are intended to be comprehensive, because objectors contend Rise has no vested right for any use or component on any parcel of any "Vested Mine Property.")**

Furthermore, to further advance that goal of fair, constitutional, and cost-effective dispute procedures, the County should allow at least some of the normal litigation processes, such as objectors being entitled to require Rise to respond to **"requests for admissions,"** so that objectors can clarify, narrow, and focus factual disputes and issues, while making Rise pay objectors' costs in proving anything that Rise incorrectly refuses to admit. Those can be helpful in supplementing offers of proof. While Rise generally claims vested rights without sufficient clarity or specificity, thereby allowing such a general denial of that claim by objectors, we would like to do better and end this Rise claimed menace once and for all.

Once better informed at such a requested County status conference, objectors could better explain how the County should proceed to "do this right" with *Calvert/Hardesty* due process, beginning with Rise properly so revealing its contentions, claims, and allegations sufficiently to frame each of the many issues and disputes precisely. The County then could promptly allow objectors to defeat as many as possible of the disputed vested rights claim as a matter of law based on some such pre-trial "Summary Due Process Proceeding." Without delaying the scheduled County hearing to follow shortly thereafter, the County could hear objectors' presentations of their case on video before a designated County official that asks the

"hard" questions and presents the kinds of objector cases of law, undisputed or key facts (e.g., EIR/DEIR and other Rise admissions, conflictions, contrary positions, and other inconsistencies), and offers of proof or testimony by qualified experts, so as to match what may be expected from the County and Rise players at the Board hearing. While that may not be full due process, that pre-hearing will at least be a useful preview of what no one can stop from coming from objectors in the judicial process to follow and may enable correct-thinking County players to ask better questions of Rise or its enablers at the Board hearing.

At a minimum, whether objectors can prevail by the equivalent of their motions to dismiss or for summary judgment, or even if Rise somehow imagines some disputed, material factual issues that survive such motions, the objecting parties will at least have somewhat clarified and narrowed the issues for the remaining court processes. In any event, if Rise must comprehensively plead and prove its vested rights claims in sufficient detail as so required, it should be easier to demonstrate that, as a matter of law and consistent with the rules of evidence that Rise cannot state or prove any legally cognizable cause of action for any such vested rights of any kind anywhere as alleged in the comprehensively disputed Rise Petition. While objectors would hope to end this Rise Petition threat once and for all, like the result in Rise's favorite *Hansen* case (see the full discussion of that decision in the Evidence Objection Part 1, as distinct from the deficient and disputed fragment addressed in the Rise Petition), at least many parts of the Rise Petition claims cannot possibly survive such rigorous objector challenge. For example, it is unimaginable even for cynics to imagine the EPA or CalEPA or any other responsible governmental authority, much less the courts tolerating the Rise Petition claim that an abandoned, toxic site like "Centennial" (which Rise cannot possibly prove it can ever afford to remediate—See Exhibit A and other Rise SEC filing admissions) can be used free of regulation on account of such a disputed vested rights theory, much less that cleanup work (especially here just surface work) on such toxic sites could be considered continuing **"similar"** work for vested rights mining on other parcels, especially those underground like this IMM.

II. Concluding Comments.

So, what possible benefit does Rise imagine for its radical, mid-stream switch to these disputed vested rights claims, even from *Hansen* (which hurts more than helps Rise's disputed claims, as demonstrated in Exhibit B) much from other authorities like *Calvert and Hardesty,* where the miners lost badly on many grounds to comparable objectors? Apparently, besides Rise's desperation and habit of gambling on meritless, "long shot" theories, Rise seeks somehow to shout "vested rights" for doing whatever the disputed Rise Petition may want (still a mystery as to critical issues) as if those words (vested rights) were a magic spell that somehow needed nothing more as justification or substantiation to evade the contrary applicable law. However, the Rise Petition is doomed on the legal merits and failed burdens of proof as required with essential, admissible evidence. Such flaws cannot be overcome by Rise's claims about misused/rebranded "due process" empowering imagined vested rights to evade permitting and environmental requirements that Rise has earlier explicitly and implicitly already admitted as being applicable, including in its 2023 10K even after the Rise Petition filing, as exposed in Exhibit A. See also the EIR/DEIR and Rise's other permit and other applications and filings, such as those detailed in the County Staff Report for the disputed EIR.

Once again, as objections to the EIR/DEIR (especially the Engel Objections) have repeatedly argued correctly, Rise continues incorrectly to ignore the competing due process rights of the objecting neighbors and public (as upheld by *Calvert and Hardesty*), as if somehow Rise could (incorrectly) compress this massive, multi-party dispute into something like a "ministerial" two-party dispute by Rise with the County in which our objections could (incorrectly) be limited and while unlimited time and advantages are disproportionately permitted to Rise and its enablers. If there is not sufficient time for objectors at the hearing, the least the County can do is consider our grievances before the Board hearing. At least for this vested rights dispute, due process hearing rebuttal presentations by objectors cannot be limited to three minutes each, especially without some pre-hearing and other accommodations to match each Rise disputed claim and to rebut its purported evidence, especially from Rise's own admissions and inconsistencies. See, e.g., Exhibit A. In any event, Rise's vested rights theories are not just wrong, but also legally impossible against such counters by the competing surface owner-objectors living above and around the 2585-acre underground IMM, whether the County allows them to be timely presented or whether objectors must assert them in offers of proof that the courts must accommodate. When this dispute reaches the courts, objectors' due process will mean full participation on an equal protection and time basis. Why not follow *Calvert, Hardesty, and other authorities to allow that fair and level playing field now*?