

October 27, 2023

Via Electronic Mail Only

Board of Supervisors
Nevada County
950 Maidu Avenue
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Re: Response to Idaho-Maryland Mine Vested Rights Petition

Dear Board Members:

On behalf of the Community Environmental Advocates Foundation, we write in response to the Idaho-Maryland Mine Vested Rights Petition (“Petition”) submitted to the Nevada County Board of Supervisors (“Board”) by Rise Grass Valley, Inc. (“Rise”). The Petition alleges that Rise holds a vested right to conduct gold mining operations throughout an extensive surface and subsurface estate in Nevada County that Rise calls the “Vested Mine Property” (the “Property”). The Property includes the site of the Idaho-Maryland Mine, a historical gold mine that closed permanently in 1956.

The Petition should be rejected. At the outset, the notion that Rise could retain a legal right to resume a nonconforming use that has not been carried out in nearly seventy years is absurd. Even assuming that a vested right to mine gold existed at some point, that right has long since been abandoned. The Petition attempts to avoid this obvious conclusion by distorting the law and the facts. Among other things, it ignores the unambiguous mandates in the County’s Land Use and Development Code. It elides any distinction between mining gold and quarrying waste rock. And it glosses over volumes of evidence from numerous sources showing that all gold mining operations on the Property were, in fact, abandoned decades ago. But try as it might, Rise cannot escape the legal reality that it has no vested right to mine gold on the Property.

The Board should also recognize Rise’s Petition for what it is. Rise has owned the subject Property for nearly seven years. It applied for County permits to begin gold mining operations four years ago. Yet only now is Rise claiming that it actually held

a vested right to mine gold all along. Rise's Petition is a cynical response to the County's Planning Commission's unanimous recommendation that the Board reject Rise's project and decline to certify its environmental impact report. Rise could have tried to make its case that the Planning Commissioners—and the County's residents—were wrong. Instead, Rise has opted to circumvent the legislative process by asserting that the County *must* allow Rise to build and operate its massive gold mine. This last-ditch argument is as wrong on the merits as it is undemocratic. The Board should deny Rise's Petition.

I. Even assuming there was ever a vested right to mine gold on the Property, that right has been abandoned for decades.¹

Under both state caselaw and the Nevada County Land Use and Development Code, a property owner may acquire “a vested right to continue a use which existed at the time zoning regulations changed and the use thereafter became a nonconforming use.” *Stokes v. Bd. of Permits Appeals* (1997) 52 Cal.App.4th 1348, 1353; *see also* Nevada County Land Use & Development Code (“LUDC”) § L-II 5.19(B). However, as Rise's Petition acknowledges, the right to carry out a nonconforming use is not permanent. *See* Pet. 1. Rather, a vested right is lost upon abandonment of the nonconforming use. *See id.*; *Hansen Brothers Enterprises, Inc. v. Bd. of Supervisors* (1996) 12 Cal.4th 533, 569.

What the Petition fails to mention are other fundamental legal principles that must frame the Board's vested rights analysis. First, “[t]he 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.” *Dienelt v. County of Monterey* (1952) 113 Cal.App.2d 128, 131. “Given th[is] objective . . . to eliminate

¹ To be clear, Rise also has not provided adequate proof (1) that a vested right to mine gold arose at any point, (2) that this right existed as to each of the many individual parcels that make up the current Property, or (3) that Rise's proposed uses of the Property would not constitute an improper enlargement or intensification of that right. *See Hansen Brothers Enterprises, Inc. v. Bd. of Supervisors* (1996) 12 Cal.4th 533, 552, 563. However, because any vested right to mine gold has so obviously been abandoned, the Board need not address these other necessary elements of a vested rights claim in order to reject Rise's Petition. For additional information concerning the historical ownership and use of the Property's individual parcels, please refer to the “Review and Analysis of the Rise Grass Valley Vested Rights Petition” submitted to the County by the Community Environmental Advocates Foundation on October 20, 2023 (hereafter “CEA Foundation Letter”).

nonconforming uses, courts throughout the country”—including the California Supreme Court—“follow a strict policy against their extension or enlargement.” *County of San Diego v. McClurken* (1951) 37 Cal.2d 683, 687. Furthermore, neither courts nor the County hold “the power to waive or consent to violation of the zoning law.” *Hansen Brothers*, 12 Cal.4th at 564.

The upshot is that the Board need not—and cannot—strain the law and the facts to resurrect a vested right that has clearly been abandoned. The expectation under the law is that nonconforming uses will be phased out over time. It is against this backdrop that Rise must prove that it somehow holds a legal entitlement to revive a business operation that no previous owner of the Property has carried out in sixty-seven years. For the reasons set forth below, it cannot.

A. The burden is on *Rise*, as the vested rights claimant, to demonstrate that its alleged right has not been abandoned.

It is blackletter law that the party *asserting* a vested right bears the “burden of proving its vested rights claim.” *Calvert v. County of Yuba* (2006) 145 Cal.App.4th 613, 629 (citing *Hansen Brothers*, 12 Cal.4th at 564). Nonetheless, throughout its Petition, Rise attempts to shift this burden to the party *challenging* a vested rights claim. Citing the California Supreme Court’s *Hansen Brothers* decision, Rise repeatedly asserts that the party challenging a vested rights claim must separately supply “clear and convincing evidence” of *both* an “intent” to abandon the vested right *and* “overt acts” showing abandonment of the right. *See* Pet. 1, 54, 66, 67, 68, 69.

Hansen Brothers says none of this. Apart from repeating the basic rule that the vested rights applicant bears the burden of proving the right’s existence, *see* 12 Cal.4th at 564, *Hansen Brothers* sets forth no holding regarding either the *burden* or the *quantum* of proof for abandonment, *see id.* at 568–71. In particular, it does not state that the burden of proving abandonment shifts to the challenger of a vested rights claim. *See id.* And it never once uses the phrase “clear and convincing evidence.” *See id.* Indeed, later unpublished state court decisions make clear that *Hansen Brothers* left these exact issues unresolved. *See, e.g., Hardesty v. State Mining & Geology Bd.* (2017) 219 Cal.Rptr.3d 28, 45 (unpublished) (indicating *Hansen Brothers* did not address whether “abandonment must be shown by clear and convincing evidence,” and assuming without deciding that standard applied).² And other, more recent vested rights cases suggest that it

² The Petition also cites *Pickens v. Johnson* (1951) 107 Cal.App.2d 778, 787, for the proposition that a vested rights challenger must prove abandonment with “clear and convincing” evidence. *See* Pet. 54 & n.552. *Pickens*, unlike *Hansen Brothers*, was not a

is the vested rights *applicant* who must prove that abandonment has not occurred, at least when—as in this case—there have been long periods of discontinued or inconsistent use. *See Stokes*, 52 Cal.App.4th at 1356 (indicating there needed to be “facts to which [*the applicant*] can point as evidence the prior owners intended to and in fact did continue to operate” the nonconforming use); *Calvert*, 145 Cal.App.4th at 625.

Additionally, although it is technically correct that “abandonment” entails both an “intention to abandon” and an accompanying “overt act, or failure to act,” the caselaw is unequivocal that the *intention* to abandon a nonconforming use can be inferred entirely from a property owner’s *conduct*. *See, e.g., Hansen Brothers*, 12 Cal.4th at 569; *Gerhard v. Stephens* (1968) 68 Cal.2d 864, 890 (holding a court is capable of “reasonably infer[ring]” an intention to abandon from a property owner’s “conduct”); *Pickens*, 107 Cal.App.2d at 788 (recognizing “abandonment is a matter of intent which may be proved by the acts and conduct of the party who is alleged to have abandoned” the interest). Thus, to the extent the Petition implies that the “intent” and “overt acts” prongs of abandonment require different showing and different evidence, it misrepresents the caselaw. The Board is free to infer that any vested right has been abandoned based on the actions of prior Property owners alone.

Regardless, the outcome of Rise’s Petition does not depend on nuanced questions about the exact evidentiary standard the Board should apply. This is a straightforward matter. Even assuming that the denial of a vested right must be supported by “clear and convincing evidence” that previous property owners intended to abandon gold mining operations on the Property, that evidence exists in droves. *See* Parts I.B. & I.C., *infra*.

B. Under the County Code, any vested right to mine gold expired by operation of law once this nonconforming use was discontinued for over a year.

The Board can deny Rise’s Petition outright by applying a single, unambiguous provision of the Nevada County Code. Specifically, Section L-II 5.19 of the Nevada County Land Use and Development Code states:

vested rights case, and thus lacked the background presumption that it is the applicant’s burden to prove its vested right. *See Pickens*, 107 Cal.App.2d at 787–89. In any event, *Pickens* never explicitly articulated the “clear and convincing” evidence standard. Moreover, *Pickens* recognizes that abandonment can be demonstrated entirely through overt acts “from which an inference of abandonment can be drawn.” *See id.*

B. Legal Nonconforming Uses. A legal nonconforming use is any use lawfully in existence at the time this Chapter or amendments thereto takes effect, although such use does not conform to the provisions of this Chapter. Such use may continue subject to the following:

...

4. If the use is discontinued for a period of one year or more, any subsequent use shall be in conformity with all applicable requirements of this Chapter, except as follows: a) uses clearly seasonal in nature (i.e., ski facilities) shall have a time period of 365 days or more, b) surface mining operations shall comply with the provisions of Section 3.22.L providing for interim management plans.

LUDC § L-II 5.19(B) (emphasis added). A virtually identical provision has existed in the Nevada County Code since the County enacted its first comprehensive zoning regulations in 1954. *See* Pet. Ex. 185 at 52³ (providing, circa October 1954, that “[i]f any non-conforming use of land . . . is abandoned and/or ceases for any reason whatsoever for a period of not less than one year, any future use of such land . . . shall be in conformity to the zone in which it is located”).

Rise’s lengthy Petition never once mentions this provision. But that does not make its effect on the Petition any less determinative. Section L-II 5.19(B) means exactly what it says. And Rise explicitly concedes the few basic facts that are necessary to reject its Petition. It acknowledges that gold mining became a nonconforming use of the Property in October 1954, Pet. 55; that all “large-scale excavation and gold processing” on the Property “halted by 1956,” Pet. 71; that within the next year the company had sold off all mining infrastructure from the Property and allowed the mine to flood, Pet. 37; that no “gold mining companies resumed exploratory work [or] engaged in

³ The Petition’s exhibits lack sequential page numbers. For ease of reference, citations to the Petition’s exhibits refer to the page number of the PDF document in which the exhibit is included, per the files available on the County’s website: <https://www.nevadacountyca.gov/3860/Petition-for-Vested-Rights>. For example, “Pet. Ex. 185 at 52” refers to page 52 of the document available at the link titled “IMM Vested Rights Petition – Exhibits 176 – 225”: <https://www.nevadacountyca.gov/DocumentCenter/View/50847/IMM-Vested-Rights-Petition---Exhbits-126---175>.

efforts to re-open the Mine to produce gold” until approximately “40 years later,” Pet. 72; and that the actual extraction and production of gold has *never* resumed on the Property, *see* Pet. 73–74. Thus, under Section L-II 5.19(B), any vested right to mine gold had been lost by operation of law by the 1960s.

The California Supreme Court’s *Hansen Brothers* decision is entirely consistent with this analysis. There, the Court discussed an earlier iteration of Section L-II 5.19(B) that is materially identical to the current version. *See* 12 Cal.4th at 568–71 (discussing then-Nevada County Development Code section 29.2(B)). Because it ultimately concluded that the nonconforming “use” at issue had never been discontinued at all, the Court explicitly declined to rule on whether the County Code “is intended to automatically terminate all nonconforming uses whenever the use has ceased for” longer than the statutory period. *Id.* at 571 n.30. However, the Court voiced no doubts about whether the Code would terminate a nonconforming use automatically when—as here—*all* activities associated with the use had ceased for the statutory period.⁴ *See id.*; *see also id.* at 571 (“This is not to say that future inactivity at the mine may not result in termination of that vested right . . .”).

Other cases decided after *Hansen Brothers* indicate that the Board should give Section L-II 5.19(B) its plain meaning and find that any vested right to mine gold has been automatically lost through discontinuance of the use. In *Stokes*, the court analyzed the effect of a municipal regulation that automatically voided any right to resume a nonconforming use after it had been discontinued for a three-year period. 52 Cal.App.4th at 1354 & n.4. After discussing the *Hansen Brothers* opinion at length, *see id.* at 1354–56, the court determined that the case “d[id] not assist” the vested rights applicant, *id.* at 1355. It emphasized that unlike in *Hansen Brothers*, *all* relevant uses of the subject property had stopped for a period of seven years, and thus any right to resume the previous nonconforming use had been lost. *See id.* at 1355–56. Significantly, the court went on to hold that although the municipal permitting board had *also* found “that the prior owners had intended to abandon the . . . nonconforming use,” this additional finding of intent was “not necessary,” given the code’s automatic discontinuance provision. *Id.* at 1356.

⁴ The Court, noting the “seasonal[ity]” of the aggregate quarrying business, did express some skepticism that a property owner could automatically lose a vested right to quarry if it were to cease the literal activity of quarrying for longer than the statutory period—provided, however, that the owner was still selling aggregate from its stockpiled stores throughout the time that quarrying was paused. *See id.* But in this case, once gold mining had ceased by 1956, all activities associated with gold mining also ended.

The Board should follow *Stokes* and apply the plain language of Section L-II 5.19(B). All gold mining operations on the Property stopped by 1956, by which time gold mining was a nonconforming use. No gold mine has operated on the Property in the more than six decades since. As a result, Section L-II 5.19(B) *requires* that the County deny Rise’s Petition. *See Hansen Brothers*, 12 Cal.4th at 564 (emphasizing County lacks authority to consent to violations of its own zoning laws).

C. The historical record is clear that no vested right exists because prior Property owners *intended* to abandon—and *did* abandon—all gold mining operations.

Even if Section L-II 5.19(B)(4) had not automatically voided any vested right to mine gold on the Property, the historical record is replete with evidence that the right has, in fact, been abandoned.

First, both the fact that gold mining has not occurred on the Property for sixty-seven years and the fact that any gold mining use was discontinued for decades longer than the deadline in Section L-II 5.19(B)(4) are strong evidence of abandonment. Virtually all cases recognize that although periods of nonuse alone may not be sufficient to prove abandonment, long lapses certainly are evidence of an intent to abandon. *Stokes*, 52 Cal.App.4th at 1355–56; *Hardesty*, 219 Cal.Rptr.3d at 45 (emphasizing property owner did not “actually mine for many, many years”); *Hansen Brothers*, 12 Cal.4th at 569 (“[T]he duration of nonuse may be a factor in determining whether the nonconforming use has been abandoned.”). Moreover, *Hansen Brothers* noted that in all jurisdictions, nonuse for longer than a statutory deadline provides additional proof of abandonment. *See* 12 Cal.4th at 569 (explaining different jurisdictions have viewed such nonuse as either (1) being *sufficient* to prove abandonment, regardless of subjective intent; (2) creating a *presumption* of abandonment; or (3) providing *evidence* of abandonment). The caselaw and common sense all point to the same conclusion: When property owners discontinue a nonconforming use for sixty-seven years, and when that period of nonuse is sixty-six years longer than local law allows, they *intended* to abandon the use.

Second, the *manner* in which gold mining operations ceased strongly conveys an intent to permanently abandon the use. In 1957, just six months after the mine had ended all operations, the mining company that owned the Property conducted a two-day fire sale of any remaining mining infrastructure on the Property. Pet. 37–38; Pet. Ex.

422 at 159.⁵ The mine shafts were allowed to flood. Pet. 37, 70; Pet. Ex. 419 at 153. The company planned to pivot to an entirely different business—aircraft manufacturing. Pet. Ex. 421 at 157. And, within five years, the company was bankrupt and the Property was sold at auction to a private couple. Pet. 40, 70.

Although “fluctuating mineral prices *may* induce an operator to close a mine temporarily, . . . that does not mean *all* gold mines were closed because of low prices, with the intent to reopen when profitable.” *Hardesty*, 219 Cal.Rptr.3d at 44. The shuttering of the Idaho Maryland Mine was not the sort of temporary pause in operations to wait out a fluctuating market that can stave off abandonment. *See Hansen Brothers*, 12 Cal.4th at 569 (citing a North Carolina case in which “[t]here, as in [*Hansen Brothers*], the plant, equipment, inventory, and utilities were maintained throughout the [nonuse] period and the plant could be made operational within two hours”); *id.* at 570 n.29 (providing an example of a dairy business that discontinues the butter making portion of its operations “for several months when the demand for butter was low” and “stored butter was adequate to meet the need”). Rather, by the early 1960s, there simply were no mining facilities left to operate on the Property, and no mining company left to resurrect them.

Third, the admissions and behavior of prior Property owners show that they viewed gold mining as nothing more than a defunct, historical use. When applying for a County use permit to quarry waste rock in 1979, the then-Property owner described the Idaho-Maryland Mine as a “former” use of the Property. Pet. Ex. 232 at 24. The environmental analysis for the use permit describes the “gold mining operations” on the Property as “former” and “historic” and notes that “[l]ittle remains” of the old mine. Pet.

⁵ *See also* Jack Clark, *Gold in Quartz: The Legendary Idaho Maryland Mine* 246 (2005) (“The mining and milling of gold ore was discontinued as of December 27, 1955, and all operations turned to the production of tungsten.”); *id.* at 248 (“On September 25, 1956, orders were received from the board of directors to cease nearly all tungsten production, abandon the Idaho shaft, and to allow both mines to fill with water, up to and including the Brunswick 1450-foot level.”); *id.* (“Subsequent to the decision to allow the lower levels of both mines to fill with water, the surface plant of the Idaho Maryland mine was sold to the Oro Lumber Co. The sale included the mill, cyanide plant, headframe, hoists, compressors and several buildings.”); *id.* at 252 (“All gold mining operations in the Grass Valley mining district ceased in July 1956, for the first time in over 105 years.”); *id.* (“Beginning on May 21, 1957, a two-day auction was held at the New Brunswick mine to liquidate over 1400 lots of equipment and structures. These involved everything from the Old Brunswick, New Brunswick, and what remained of the Idaho Maryland mines.”).

Ex. 251 at 20, 22, 29. The County staff report for the use permit similarly described the mine as “closed” and indicated operations were no longer “active.” Pet. Ex. 252 at 60, 63.

Additionally, starting in 1991, state and local law required owners of any property that includes an “active” or “idle” mine to file an annual report with the state describing the mine’s status. *See* Pub. Res. Code § 2207(a)(6); *see also* LUDC § L-II 3.22(M) (imposing same requirement); *Hardesty*, 219 Cal.Rptr.3d at 34 & n.6 (indicating property owners claiming a vested right to mine are also required to file these annual reports). Rise has put forth no evidence showing that *any* annual report was ever submitted to the state. This suggests that no Property owner in over thirty years has understood the Property to contain even an “idle” mine.

Fourth, evidence that a previous owner planned to use a property for purposes that are different from the nonconforming use—even when those plans do not materialize—can be enough to prove that the nonconforming use has been abandoned. *See Stokes*, 52 Cal.App.4th at 1356 (endorsing municipality’s finding that prior owners showed intent to abandon nonconforming bathhouse use when they filed an application to convert the building to a senior center/shelter). That is exactly what occurred here. In the 1980s, the BET Group engaged in extensive planning to develop a residential subdivision, called “BET Acres,” on a portion of the surface estate. *See* Pet. 43–44; Pet. Ex. 261 at 118–29 (geotechnical evaluation for residential subdivision project). The Property owners went so far as to secure approval of a final map for the subdivision. *See* Pet. Ex. 263 at 175–78. According to the real estate agent that represented the BET Group at this time, they had no intention of either reopening a gold mine on the Property or selling the Property as a mining asset. *See* Declaration of Charles W. Brock ¶¶ 5, 7 (included as “Attachment A”).

Similarly, in 1993, Sierra Pacific Industries applied for and received a rezoning of a portion of the Property, with the intention of securing the County’s approval that any of the potential future “uses . . . contemplated” in the application “would be considered appropriate for th[e] site.”⁶ Pet. Ex. 282 at 313; *see also* Pet. 46; Pet. Ex. 282 at 313–15. None of the potential uses involved mining. *See* Pet. Ex. 281 at

⁶ Additionally, throughout the 1970s, the same portion of the Property was used for a commercial logging and sawmill business, which involved no mining operations. *See* Declaration of John J. Vaughan ¶¶ 2–7 (included as “Attachment B”). This is further evidence that the Property’s owners intended to abandon gold mining and had instead transitioned portions of the Property to alternative, commercially viable uses. *See Stokes*, 52 Cal.App.4th at 1356.

298–303. Thus, whatever “hopes” any Property owners might have held that gold mining might one day resume, their *actions* showed that they did not intend to restart mining. *See Hardesty*, 219 Cal.Rptr.3d at 35, 45 (emphasizing mere “hope[s]” and “dreams” of resuming mining cannot prevent abandonment of a vested mining right).

Fifth, the State of California has long understood the Property’s mining operations to be permanently closed. The California Department of Toxic Substances Control’s (“DTSC”) EnviroStor database states that the “Idaho Maryland Mine Property” was “identified as an abandoned mine in 1989.”⁷ It similarly describes the “Centennial M-1 Property” as having “remained dormant” “[s]ince 1956.”⁸ Moreover, in 2006, DTSC launched a statewide “Abandoned Mine Lands Site Discovery Process” to better identify and track “inactive or abandoned mines” from which toxic mine wastes might be leaching.⁹ DTSC “selected the former Idaho Maryland Mine” as its single starting example to demonstrate the capabilities of the new Abandoned Mine Lands process.¹⁰ In other words, the Idaho Maryland Mine is not just *an* abandoned mining operation; it was the poster child for abandoned mines in California.

Against this bevy of facts proving abandonment, Rise can muster only three counterexamples. First, it points out that in several transactions involving the Property, sellers reserved certain mineral rights. Pet. 35, 36, 38, 39, 44, 45, 46. Second, without producing any of the actual insurance documents, Rise claims that a single former owner insured the Property “as a mining asset” in 1977. Pet. 42, 71 (citing a declaration from August 2023). Third, the same owner allegedly said around 1980 that “there has been some consideration of re-opening the mine.” Pet. 42; Pet. Ex. 254 at 95. These three ambiguous facts fall far short of refuting the reams of clear countervailing evidence. As set forth above, the events in 1977 and 1980 came over two decades after the mine permanently closed, and thus well after the Board can and should reasonably find that

⁷ “Idaho Maryland Mine Property (29100007),” EnviroStor, California Department of Toxic Substances Control, available at https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=29100007.

⁸ “Centennial M-1 Property (60000716),” EnviroStor, California Department of Toxic Substances Control, available at https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=60000716.

⁹ California Department of Toxic Substances Control, *Abandon Mine Lands Site Discovery Process* 1, 2 (2006), available at https://dtsc.ca.gov/wp-content/uploads/sites/31/2016/01/SMBRP_AML_Guidance.pdf.

¹⁰ DTSC, *supra* note 9, at App. D, p. 1.

abandonment occurred. And the blanket reservation of a property's mineral rights is a typical, boilerplate deed provision that reflects no clear intent to resume *any* form of mineral exploitation, let alone gold mining. Additionally, as even the Petition acknowledges, not all sales of the Property included a reservation of mineral rights. *See* Pet. 39; Pet. Ex. 217 at 198 (resolving in 1959 to sell the Property's mineral rights, which the seller describes as having “been abandoned by non-payment of taxes”).¹¹

D. Rise's claims regarding waste rock quarrying are irrelevant.

Perhaps recognizing the weaknesses in its claim of a vested right to *mine gold*, Rise attempts to bolster its Petition with other, unrelated evidence. Its reasoning goes something like this: Since the 1960s, some of the Property's parcels have been used intermittently for the quarrying of waste rock. *See* Pet. 4–5, 42, 68, 71, 75–76. The County issued a permit for these operations in 1980, when it characterized waste rock quarrying as an “existing, nonconforming use” of these parcels.¹² *See* Pet. 42, 66–68, 75–76. And because—at least according to Rise—the *Hansen Brothers* decision says that a vested right to engage in *some* mining use entails a vested right to engage in “mining” generally, the County's 1980 permitting decision regarding *waste rock quarrying* was

¹¹ The first specific proposals to restart gold mining on the Property did not emerge until the late 1980s, over four decades after the mine closed. *See* Pet. 44; Pet. Ex. 262 at 131; Pet. Ex. 267 at 190. For the reasons set forth above, any vested right to mine gold had already long since been abandoned by the time those plans arose. In any event, these later proposals—none of which came to fruition—evinced nothing more than a speculative hope to resume mining, which is insufficient to prevent a finding of abandonment. *See Hardesty*, 219 Cal.Rptr.3d at 45.

¹² As discussed further in the CEA Foundation Letter, there is no indication that the County, when it described waste rock processing as an “existing, non-conforming use,” intended to find that the Property owner held a *vested right* to quarry waste rock. *See* CEA Foundation Letter 7 (citing Pet. Ex. 252 at 60). That conclusion would have been inconsistent with the information known to the County in 1980—namely, (1) that waste rock quarrying would have become an inconsistent use in 1954 when the County's first zoning regulations took effect, but (2) that no waste rock processing actually began on the Property until *after* “the mine closed” in 1956 or 1957. *See* footnote 13, *infra*. Thus, it seems that the County meant to characterize waste rock quarrying as an existing use of the Property that conflicted with current zoning regulations. However, as discussed in-text, even assuming that the County recognized a vested right to quarry waste rock, this finding would be irrelevant to Rise's current Petition.

effectively a concession that Rise holds a vested right to *mine gold*. See Pet. 66–69, 75–76.

This far-fetched theory has no basis in law or fact. Starting with the law, Rise again distorts the holding of *Hansen Brothers*. At issue in that case was an aggregate production business. 12 Cal.4th at 543–44. The quarry owner separately mined different types of rock from two distinct areas of its property—one a riverbed and the other a hillside—and then combined the different materials into a single aggregate end product for sale. *Id.* at 545, 549, 567 & n.24. Because the owner could store excess material on-site, there were occasionally long periods in which the owner did not need to actively quarry the hillside area. *Id.* at 549, 565. Rejecting claims that the owner had abandoned a vested right to mine the hillside, specifically, the Court concluded that the relevant unit of analysis for vested rights purposes was the entire “operation of an aggregate production business.” *Id.* at 565. Because the “materials that comprise[d the] aggregate” always came from *both* the riverbed and hillside mining areas, those two mining activities were “integral,” “component parts” of the overall operation that could not be abandoned “independent[ly]” of one another. *Id.* at 566–67.

However, *Hansen Brothers* expressly acknowledged that *if* one of the mining uses had been an “independent aspect of the business,” any vested right to that use could be “broken down”—and lost—separately from the broader mining operations. *Id.* at 567. And it very much did *not* hold that a vested right to carry out one type of “mining” guarantees a broader right to carry out all other, distinct mining uses on a property. Rather, *Hansen Brothers* emphasized that the scope of a vested right in the mining context is limited to “the *particular material* [that] is being excavated.” *Id.* at 557 (emphasis added); see also *id.* (citing favorably *County of Du-Page v. Elmhurst-Chicago Stone Co.*, 165 N.E.2d 310, 313 (Ill. 1960), which held a vested right to mine is limited to “the particular asset” being mined); *Paramount Rock Co. v. County of San Diego* (1960) Cal.App.2d 217, 228 (concluding a vested right to extract sand and premix concrete materials did not encompass a right to crush rocks for use in concrete premixing); *Hardesty*, 219 Cal.Rptr.3d at 43–44 (holding vested right to engage in subsurface mining did not encompass right to surface mining). Thus, in *Calvert v. County of Yuba* (2006) 145 Cal.App.4th 613, 625, the court questioned how the “alleged vested right” to *aggregate* mining could have been “continuous,” since the subject site had historically hosted two distinct mining operations—“gold mining[,] and not simply aggregate mining.”

Here, the historical record is unambiguous that waste rock quarrying and gold mining were never a single unified “business” analogous to the two halves of the aggregate quarrying operation in *Hansen Brothers*. Indeed, there is no evidence that

waste rock quarrying and gold production ever even occurred on the Property at the same time.¹³ And the fact that the waste rock material accumulated on the Property in the first place is proof enough that this rock was not being used for any purpose while the gold mine was operational. In other words, gold mining was an “independent aspect” of the historical use of the Property, and thus any vested right to mine gold must be “broken down”—and deemed abandoned—separately from any right to quarry waste rock. *See* 12 Cal.4th at 566; *see also Calvert*, 145 Cal.App.4th at 625. As a result, the Board should simply dismiss as irrelevant the Petition’s entire discussion of waste rock quarrying.

Additionally, the County’s permitting materials from 1980 could not have been more clear that the County was recognizing waste rock processing—and waste rock processing *alone*—as a nonconforming use of the Property. The staff report for the permit described the “existing, non-conforming use” as “mine rock . . . be[ing] sold and taken from the [P]roperty.” Pet. Ex. 252 at 60. Similarly, the permit itself described the proposed “operation” as “involv[ing] harvesting, crushing, screening, and sale of waste rock left from the Idaho-Maryland Mine.” *Id.* at 69. Far from recognizing any additional or broader vested right to mine gold, the permit expressly prohibited the permittee from “remov[ing] from the site” any “material beyond the depth of rock waste material.” *Id.* at 71; *see also id.* at 46 (explaining, in the reclamation plan for the waste rock operations, that the “mineral commodity to be mined” is limited to “mine waste rock tailings and mill sand”). Moreover, as discussed above in Part I.C., to the extent that the permitting materials alluded to the historical mining uses of the Property at all, it was to note that those uses had been discontinued and that the mine was closed.

In sum, Rise’s repeated insistence that the County recognized a broader vested right to “mining” that includes gold mining is either a misunderstanding of the law

¹³ As referenced above, it is undisputed that all gold extraction and production activities on the Property ceased by 1956. The earliest concrete evidence of any waste rock collection or quarrying is nearly a decade later, in 1964 or 1965. *See* Pet. 4, 40, 42; Pet. Ex. 231 at 22. Apart from one ambiguous remark in the County staff report for Use Permit U79-41 that “the property owner has indicated that mine rock has been sold and taken from the property continuously *since the mine closed*,” *see* Pet. Ex. 252 at 60 (emphasis added), there is nothing in the record suggesting that waste rock collection began any earlier. Additionally, this comment indicates that (1) waste rock quarrying and gold mining never occurred simultaneously on the Property; and (2) waste rock quarrying had not yet begun when the County’s zoning regulations took effect in 1954. *See* footnote 12, *supra*.

or a flagrant misstatement of the historical record. Waste rock quarrying and the County's handling of it have nothing to do with the current Petition.

Despite the Petition's best efforts to complicate things, this is an easy matter. Any vested right to mine gold on the Property was lost decades ago. The plain language of the County Code compels that conclusion. And even if it did not, the evidence is clear that the Property's owners *intended* to abandon commercial gold mining, a use that no one has carried out in sixty-seven years. The Board must deny the Petition.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Ellison Folk



Ryan Gallagher

Attachments:

- A. Declaration of Charles W. Brock (October 19, 2023)
- B. Declaration of John J. Vaughan (October 18, 2023)

cc: Julie Patterson Hunter, Clerk of the Board, clerkofboard@nevadacountyca.gov
Katharine Elliott, County Counsel, county.counsel@nevadacountyca.gov
Matt Kelley, Senior Planner, matt.kelley@co.nevada.ca.us
Laurie Oberholtzer, CEA Foundation, laurieoberholtzer3@hotmail.com
Ralph Silberstein, CEA Foundation, ralphasil@gmail.com

DECLARATION OF CHARLES W. BROCK

I, Charles W. Brock, declare as follows:

1. I am over 18 years of age and have personal knowledge of the facts contained in this declaration which is true, correct and complete. If called upon to testify I could and would testify as to the truth of the facts stated herein.
2. I have been a licensed Realtor in California since 1968, and obtained my Brokers License in 1981. (Lic. # 00328328)
3. In 1980 I was introduced to the heirs of the Estate of Marian Ghidotti, by their attorney Richard Hawkins. The three executors of this estate were Erica Erikson, Mary Bouma and William Toms (aka. "the BET Group").
4. In 1981 I represented the Estate of Marian Ghidotti in the sale of 14 parcels which comprised what was referred to as "The Ghidotti Ranch", in Penn Valley, CA.
5. Throughout the mid 1980's I remained in contact with the BET Group and worked on planning to sell their holdings known as the former Idaho Maryland Mine. At no time during my representation of the BET group did they ever consider reopening or operating any mining activity. They were well aware of the toxic contamination on site and had limited resources to deal with soils contamination, let alone reopening and operating a gold mine. This viewpoint was clearly communicated to me by each of the three executors. In 1986 the decision was taken to subdivide acreage at the Old Brunswick Mine in order to raise funds to address toxics soils, so that the balance of their holdings might be better prepared for sale. In January of 1987 local surveyor Al Beeson was engaged by the BET Group and recorded County Final Map #85-7 (BET Acres), subdividing 5 residential lots on the site of the Old Brunswick Mine. This same map delineated contiguous remaining lands which are now owned by Rise Gold and are commonly known as the "Brunswick Industrial Site", located at the intersection of East Bennett Rd. and Brunswick Rd. Between January 4, 1987 and August 23, 1987 I represented the BET Group, closing escrows on each of these 5 parcels. Proceeds from these sales were later used to pay taxes and begin

efforts to conduct soils sampling on the Centennial site holdings, in preparation for marketing the remaining former mine parcels. In 1992 I assisted the BET Group contract with Vector Engineering to conduct soils testing.

6. I did not represent the BET Group as they entered a Lease with Option to Buy with Emgold Mining in early/mid 2000's. After an approximate 7 year effort, Emgold failed to certify their Environmental Impact Report and abandoned their Lease with Option to Buy the former mine property.
7. In June of 2014, I listed the remaining holdings formerly known as the Idaho Maryland Mine for sale. Within the body of the Listing Agreement it was stated, "Subject property was once an operating gold mine (Idaho Maryland Mine), and portions of the surface soil is known to be contaminated". Historical information, data and core samples were made available to the market, however, the sellers wanted the market to clearly understand that the Idaho Maryland Mine was not a permitted, operating mine, and that the BET Group would not be participating in any mine clean-up or permitting activity as a condition of sale. This condition of sale was clearly stated, in a remark I made at that time which was quoted in the Grass Valley Union newspaper (June 11, 2014) where I said "we are not selling a mine". Measures taken to arrive at our asking price were based on comparable sales of similarly zoned light industrial and residential properties.

I, Charles W. Brock, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 10/19/23

By: 

Charles W. Brock

DECLARATION OF JOHN J. VAUGHAN

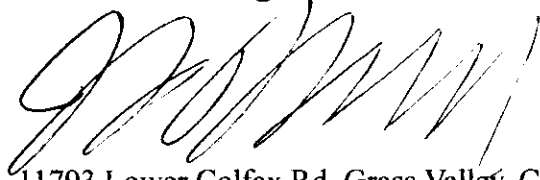
I, John J Vaughan, declare as follows:

1. I am over 18 years of age and have personal knowledge of the facts contained in this declaration, which is true, correct and complete. If called upon to testify I could and would testify as to the truth of the facts stated herein.
2. I have lived in Nevada County (Grass Valley and Nevada City) since 1967.
3. From 1969 through 1979 I worked at Robinson Enterprises running their internal information technology department, including software development.
4. During that time, I was tasked with creating a database and software to validate log scaling information. The end result was to compare the number of board feet delivered by Robinson Enterprises logging trucks to information prepared by the US Forest Service Log Scaling workers at the Brunswick Timber Products Sawmill on Brunswick Road (then owned by Bill Pendola, also called the Bohemia Mill).
5. As part of that work, I visited the Brunswick Timber Products Sawmill on Brunswick Road dozens of times to observe the process.
6. At no time during that 10 years did I see anything but log storage and sawmill operations anywhere at the locations that Rise Gold now calls the Brunswick Industrial Site.
7. There were no mining operations anywhere on the sawmill site.
8. There were no mining operations on the acreage around the large concrete silo, which was not part of the sawmill.
9. In addition, during the 56 years that I've lived here, I have driven by both the Brunswick site and the Idaho-Maryland Site (Centennial) hundreds if not thousands of times.
10. Both locations have been abandoned for most of the years I have lived here.
11. I have never seen any gold mining operations at either location.
12. The only activity I have observed at Brunswick, prior to the current Community uses, was a sawmill.
13. The only activity at Centennial was periodic rock crushing which stopped in the late 70's or early 80's.

I, John J. Vaughan, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: 10/18/2023

BY: John J. Vaughan

A handwritten signature in black ink, appearing to read 'John J. Vaughan', is written over a horizontal line.

11793 Lower Colfax Rd, Grass Valley, CA 95945
916-807-0430 Cell

From: [Tony](#)
To: [Julie Patterson-Hunter](#)
Subject: Re: Abuse of Process-Vesting Must be Denied!
Date: Thursday, November 2, 2023 9:51:22 AM

Dist 1

Hi Julie....I realized my opening sentence was incorrect. It should say, "Dear Board, Planning and others involved in the decision making process of the vested rights application by this morally reprehensible company". I worded it incorrectly in my submission. Please amend if possible.

Thanks
Tony

> On Nov 2, 2023, at 9:42 AM, Julie Patterson-Hunter <Julie.Patterson-Hunter@nevadacountyca.gov> wrote:
>

> Thank you - your email has been received

> -----Original Message-----
> From: Tony <topotony@gmail.com>
> Sent: Monday, October 30, 2023 8:34 AM
> To: bdofsupervisors <bdofsupervisors@nevadacountyca.gov>
> Cc: Idaho MMEIR <Idaho.MMEIR@nevadacountyca.gov>
> Subject: Abuse of Process-Vesting Must be Denied!
>

> Dear Board, Planning, and others involved in this morally reprehensible company,

> I implore you to throw out this ridiculous claim of vested rights. I've lived 1 mile from the site for 32 years since

1991, and drove past it everyday day. Not once did I ever see even the tiniest hint of mining activity there. I also frequently rode my mountain bike thru the property to get into the cedar ridge area. I can testify under oath, to the indisputable fact that the IMM was completely closed down and conducted absolutely no activity whatsoever, with regards to existing as an active working mine.

>

> This farce application by Rise is an abuse of process, clear and simple. It demonstrates their lack of respect and regard for this county's health and well being. Economically as well as physically for the residents. Their attempt to gain access, for proceeding with a devastating industry in a highly residential area, is nothing less than an attack of dire consequences for the entire county, should it be allowed to happen.

>

> Please send this company away from our beloved community and environment. They have no legal basis for granting vested rights here. You may already have received this very fact from land use attorneys and the county's own legal counsel. Add to that the testimony by the many residents that have lived here for years, and you can be certain that this stunt by Rise is an offense that could, very easily, bring an abuse of process suit to their doorstep.

>

> As our trusted representatives, we ask that you deny this application in the most swift and decisive manner possible.

>

> Thank you,
> Tony Lauria
> 13784 Greenhorn Rd
> Grass Valley, Ca 95945

>

From: [Paul Schwartz](#)
To: [bdofsupervisors](#); [Idaho MMEIR](#); [Idaho MMEIR](#)
Cc: [psschwartz21](#)
Subject: Reject Vested Rights Argument
Date: Friday, November 3, 2023 9:40:08 AM

Dist 1

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Board of Supervisors:

On December 13 & 14 you will consider Rise Gold's arguments that they have "Vested Rights" to move forward with their gold mining enterprise at the Idaho Maryland Mine location. CEA has presented to you a summary of the evidence that deflates each argument Rise Gold makes. I would like to add my personal memories to the case against the Vested Rights argument.

During the early to mid 1960s I spent summers with my grandparents in Yuba City. My grandfather was an engineer with PG&E. His primary job was to inspect commercial PG&E customers to make sure all was well with their PG&E service, but also to make sure they wasn't any evidence they were by by-passing the meters. During my summer stay I would go with him on his route through the gold country. My grandmother worked full time and apparently I required adult supervision. The Robinson Lumber Mill on the Idaho Maryland Mine site was one of his frequent stops. He was chummy with the operators and would visit with them for what seemed like hours to a 10 year old (me). Meanwhile, I would wander around the lumber mill property and investigate everything that was happening. Watching the logging trucks pull in and unload, the milling operation, the large ponds filled with logs, and all the heavy equipment moving around. This was pretty exciting for a young man who during the rest of the year lived in a beach town. I had to be careful to stay away from most of the action. I would circle the edges of the mill site and watch the action from a distance. There was no mining going on during the 4-5 summers I spent visiting the Idaho Maryland Mine Robinson Timber Sawmill. My grandfather would talk about the history of the Idaho Maryland Mine. He was a rock collector hobbyist and during our days driving through Nevada County we would stop at his favored spots, mostly tailings, and poke around. If there was any mining activity going on at the Idaho Maryland Mine site I would have seen it and my grandfather would have met with them regarding their PG&E services. PG&E can certainly confirm there were not electric services used for mining activity during the 1960s.

Paul Schwartz
13812 Meadow Drive
Grass Valley, CA 95945

Sent from [Mail](#) for Windows

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: ellenlight8@gmail.com
Subject: Letter From Ellen Clephane - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:28:05 PM

Dist 1

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Ellen Clephane at ellenlight8@gmail.com

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Ellen Clephane. I live at 13951 Greenhorn Rd, Grass Valley, CA 95945.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

My husband and I live on Greenhorn Road, just over a mile from Brunswick, very close to the proposed mine. We have owned our home for almost 17 years and love the quiet rural environment here. The thought of a huge industrial complex in this neighborhood ~ threatening wells, creating air and noise pollution, bringing constant truck traffic and all the rest of the ugliness and environmental damage, is horrific beyond imagining. I hope, pray and trust that you will give a clear and resounding NO to this insane mine

project. And for that you have my heartfelt thanks!

Sincerely,

Ellen Clephane

ellenlight8@gmail.com

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: eric.s.gibbons@gmail.com
Subject: Letter From Eric Gibbons - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:28:09 PM

Dist 3

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Eric Gibbons at eric.s.gibbons@gmail.com

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Eric Gibbons. I live at 12640 Beaver Dr, Grass Valley, CA 95945.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

Our family has lived on Beaver Drive in District 3 for almost 30 years. I have been a small business owner in Grass Valley in the past and have been active in the Lutheran Church, scouting, Masonic affiliations, GV Rotary and CEA.

I'd like to point out that Rise Gold's claim of vested rights would require providing verifiable proof of continuous operation by the chain of every legal owner/entity from the

time the mine closed in 1956 to the present. I encourage the commission and board to insist this unbroken chain be un-refutably demonstrated.

Sincerely,

Eric Gibbons

eric.s.gibbons@gmail.com

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: susandhpeace@gmail.com
Subject: Letter From Susan Hopkins - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:28:16 PM

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Susan Hopkins at susandhpeace@gmail.com

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Susan Hopkins. I live at 12959 Woolman Lane, Nevada City, CA 95959.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

I have lived in District 4 for almost 30 years, moving to this beautiful county to enjoy the natural environment. I cherish our quality of life and hope that it will not be ruined by a project that can only bring degradation.

Sincerely,

Susan Hopkins

susandhpeace@gmail.com

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: pfiung65@gmail.com
Subject: Letter From Pamela Jung - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:28:21 PM

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Pamela Jung at pfiung65@gmail.com

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Pamela Jung. I live at 800 Freeman Lane #205, Grass Valley, CA 95949.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

I live in Lisa S.'s district (3) near Target. I have lived in this county for over 30 years, so I feel like I've earned a vested interest in this issue of the mine. I have been following this issue for years now and have saved all the clippings about it from The Union. Soon I may need a wagon to haul them around. It's so obvious that county citizens don't want the mine started up again; indeed they want this issue permanently put to bed. Mine Watch has done its due diligence very well. They have experts making the case. They've

followed the science. The conclusion is that opening the mine will cause much more harm than good. Sleazy Mossman aside, reopening is a very bad idea. I urge BOS to vote Rise Gold down for good.

Sincerely,

Pamela Jung

pfjung65@gmail.com

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: altair.woods@comcast.net
Subject: Letter From Kenneth Woods - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:28:31 PM

Dist 1

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Kenneth Woods at altair.woods@comcast.net

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Kenneth Woods. I live at 13608 Pegasus Place, Nevada City, CA 95959.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

Sincerely,

Kenneth Woods
altair.woods@comcast.net

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: fandorfarm@gmail.com
Subject: Letter From david and barbara reed - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:28:36 PM

Dist 4

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of david and barbara reed at fandorfarm@gmail.com

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is david and barbara reed. I live at 25000 fandor, nevada city, CA 95959.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

Sincerely,

david and barbara reed
fandorfarm@gmail.com

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: isoldevalon@gmail.com
Subject: Letter From Gwen Walker - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:28:43 PM

Dist 3

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Gwen Walker at isoldevalon@gmail.com

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Gwen Walker. I live at 10201 Ridgeview Dr, Grass Valley, CA 95945.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

I live in district 3 near A to Z hardware. I am an individual with reactive airway disease and a high cancer risk. this mine cannot be re-opened due to the risk it poses to people like me. I urge you to REJECT their vested interest petition and shut them down so they cannot open this mine and put our community at risk

Sincerely,

Gwen Walker

isolvevalon@gmail.com

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: lololauria@gmail.com
Subject: Letter From Lauren Lauria - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:28:54 PM

Dist 1

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Lauren Lauria at lololauria@gmail.com

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Lauren Lauria. I live at 13784 Greenhorn Rd, Grass Valley, CA 95945.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

I feel the need to reiterate the fact that this vested rights move by Rise is a complete farce and another example of the incredible disrespect for this community and county. I have lived 1 mile from the Idaho Maryland (abandoned) mine site for 34 years. I have driven by it every day for that entire span. I will testify under oath that it has not been a working mine since 1990. Additionally, under historical scrutiny, it has not been a working mine since before 1957 when all assets were sold and the tunnels were flooded.

This application for vested rights is a blatant abuse of process by Rise Gold. You must dismiss and deny this and any further attempts to apply these slick deceitful tactics to invade our county with a heavy industrial toxic industry that would most definitely be the demise of all we love here. The thousands of residents in this area did not purchase their property with the contingency that the area could be rezoned into heavy industry.

In context of these deceitful maneuvers by Rise Gold, we are witnessing the continuation of that immoral behavior with the plea by Ben Mossman, to the Canadian court, that he is now unemployed, having been replaced by another CEO. A tactic used to dissuade a stiff sentencing. He planned the timing of this statement so the court could not verify it. Here is another lie. He is still an employed member of Rise Gold, in a different position.

This kind of horrible behavior is representative of the way in which this company would continue their business in this county. They would lie and cover up toxic spills, as happened in Bank Island. We have seen Mossman publicly lie to the Canadian court and we have seen him lie here, saying "there will be no impacts". This company would shirk any and every responsibility that requires honesty and integrity. Another obvious example of why this company and industry should never be allowed to ruin our home.

There is no possible way to prove the IMM has been a working mine past 1957. There are thousands of residents who will join myself in testifying this fact. Rise Gold is costing the county, and its citizens, an enormous sum of money fighting these dishonest tactics. They should be sued for abuse of process. Not only is the financial cost an undue burden, but we are continuing to suffer emotionally at the prospect of loss of our home values, water, clean air, health and quality of life. What this company is all about, is morally reprehensible. They should be put in their place, once and for all.

Be firm in your decision to deny this sham vested rights farce. Can you imagine the utter chaos and destruction of our county, if this dishonest company were permitted to reopen this mine without any guideline requirements, as put forth by the EIR? Please, Please, Please, deny this application and complete the denial by voting No to the use permit. And let's pass some laws that stop this type of industry from ever attempting this again in our densely populated community and county.

Thank you

Sincerely,

Lauren Lauria

lololauria@gmail.com

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: elirushimages@yahoo.com
Subject: Letter From Eli Rush - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:29:02 PM

Dist 1

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Eli Rush at elirushimages@yahoo.com

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Eli Rush. I live at 15631 Lower Colfax Rd, Grass Valley, California 95945.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

I live in District 3. I travel Brunswick Road and 174 daily. The traffic impact and noise level would be intolerable. I have no faith whatsoever in the integrity or honesty of Rise Gold's words or actions. They would be a blight upon our community, as they have been upon others.

Sincerely,

Eli Rush

elirushimages@yahoo.com

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: christymccracken@rocketmail.com
Subject: Letter From Diana McCracken - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:29:07 PM

Dist 1

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Diana McCracken at christymccracken@rocketmail.com

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Diana McCracken. I live at 13313 Greenhorn Road, Grass Valley, CA 95945.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

My family has lived here since 1970. I can in fact tell you that it was not a gold mine in the 70's. It was a sawmill and since we are 1/2 mile up Greenhorn Road I can still remember as a child the smell and noise the sawmill would give off. I remember the noise pollution from the trucks entering and exiting the sawmill. I don't understand how it can be stated that it was a run as a goldmine- it was a sawmill. Do not pass this through- you will ruin a family with 3 generations living 1/2 mile from the old mill.

Sincerely,

Diana McCracken

christymccracken@rocketmail.com

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: info@geoffeido.com
Subject: Letter From Geoff Erwin - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:29:15 PM

Dist 4

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Geoff Erwin at info@geoffeido.com

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Geoff Erwin. I live at 10407 S Ponderosa Way, Rough and Ready, CA 95975.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

I'm Geoff Erwin, also known as Geoff Eido from District 4. I wrote and performed WELLS RUN DRY at the planning meetings. I'm sure you're aware that the Idaho/Maryland mine has been inoperative for decades and that this is the latest lie posed by an untrustworthy company intent on raping our resources at great cost to our citizens and local habitat. Please, for the love of God, country, and Nevada County, tell these buggers to bugger off once and for all. Thank you

Sincerely,

Geoff Erwin

info@geoffeido.com

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: refreshology@gmail.com
Subject: Letter From Johni Christensen - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:29:22 PM

Dist 2

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Johni Christensen at refreshology@gmail.com

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Johni Christensen. I live at 18981 River Crest Ct, Grass Valley, CA 95945.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

We recently purchased 5 acres along South Wolf Creek in the Loadstar development off Brewer Rd. We chose this property because it is a pristine creek front property. We are excited to be new stewards to our patch of this beautiful area and consider the health of the waterways to be crucial to the vitality of the natural ecosystem and quality of life to the residents within these areas.

Sincerely,

Johni Christensen

refreshology@gmail.com

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: valeriekb@sbglobal.net
Subject: Letter From Valerie Kack - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:29:26 PM

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of valerie kack at valeriekb@sbglobal.net

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Valerie Kack. I live at 10350 smith rd, Grass Valley, CA 95949.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

I have lived in district 2 for 40 years with Wolf Creek on the back of my property. I've been fighting this mine for years, and I threaten to move if they were excepted. I was so happy when the supervisors voted against the reopening. This is insulting that these people are so determined and unconscious and disconnected from the community we have built solidarity about this concern. I have moved to Washington state, clean, bark beetles, destruction of my forest, the endless days without electricity, because of snow,

sometimes 3 feet deep and not traversable leaving me at the back of my property with no way in or out. As a single person I can't do this anymore. The smoke and ash was horrible, another reason to leave. But my loyalty continues to Wolf Creek and I would do anything to keep it healthy. I do not want any mine tailings making their way into it or anywhere in the water shed. I oppose reconsideration of these horrible Canadian greedy people.

Sincerely,

Valerie Kack

valeriekb@sbcglobal.net

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); Idaho MMEIR
Cc: hoodwink2@sbcglobal.net
Subject: Letter From Dave Hood - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:29:33 PM

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Dave Hood at hoodwink2@sbcglobal.net

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Dave Hood. I live at 840 Morgan Ranch Dr., Grass Valley, CA 95945.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

Sincerely,

Dave Hood
hoodwink2@sbcglobal.net

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: pohlmannfred10@gmail.com
Subject: Letter From Fred Pohlmann - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:29:40 PM

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Fred Pohlmann at pohlmannfred10@gmail.com

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Fred Pohlmann. I live at 55 Rockwood Drive, Grass Valley, CA 95945.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

I am a District 3 resident. It is obvious from the over 5,000 signatures on a petition to deny the reopening of the Idaho-Maryland mine, the noticeable yard signs opposing the mine, the numerous environmental groups and businesses that have voiced their opposition to the mine, and the large number of people who attended the recent Planning Commission meeting concerning the EIR to amplify this chorus of disapproval that the residents of this county overwhelmingly oppose the mine.

Sincerely,

Fred Pohlmann

pohlmannfred10@gmail.com

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: denise.bellas@gmail.com
Subject: Letter From Denise Bellas - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:29:44 PM

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Denise Bellas at denise.bellas@gmail.com

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Denise Bellas. I live at 13797 Allison Ranch Rd, Grass Valley, CA 95949.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

When I bought my home in Grass Valley, mining and the destruction of mining was in the past. I sincerely hope it remains so. I would never have invested in this community should Grass Valley have been a town of current mining. I am encouraged with the forward thinking town council and a dedicated people who volunteer based community, working to for a strong sense of outreach and well being! Mining is not the in the right direction for our town.

Sincerely,

Denise Bellas

denise.bellas@gmail.com

From: minewatchnevadacounty@gmail.com
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: donnalevro@gmail.com
Subject: Letter From Donna Levreault - Stay the Course - No to the Mine
Date: Wednesday, October 11, 2023 6:29:49 PM

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This letter is submitted by the CEA Foundation MineWatch Campaign on behalf of Donna Levreault at donnalevro@gmail.com

Nevada County Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

Dear Nevada County Supervisors,

My name is Donna Levreault. I live at 10752 Alta St, Grass Valley, CA 95945.

I am writing to express my strong opposition to Rise Gold's attempt to reopen the Idaho-Maryland Mine, including their recent Vested Rights claim. Their assertion that mining has been "continuous" since regulations changed in 1954 is laughable. This claim is little more than a last-ditch effort to bypass the environmental review and public input process that protects the citizens of this county.

Please stay the course and don't allow further delay tactics. I urge you to support the recommendations of the Planning Commission and protect our county from this destructive and irresponsible project.

I live on Alta Street and I oppose this latest ruse by Rise Gold to overrule the planning committee's rejection of their petition to start mining. The vested rights claim is unjustified. Mining stopped here in the 50s. Please oppose this latest ruse by this unscrupulous company, whose owner is already facing criminal charges in Canada because of his activities.

Sincerely,

Donna Levreault

donnalevro@gmail.com

From: [Walt](#)
To: [bdofsupervisors](#); [Idaho MMEIR](#); [Idaho MMEIR](#)
Cc: [James Bair](#); [Tim Ogburn](#); [John Vaughan](#); [Tony Powell](#); [Marion Blair](#); [Joan Staffen](#); [Paul Berger](#)
Subject: Rise Gold's petition for vesting rights to IMM and Rise Gold's IMM Fault Line
Date: Monday, October 9, 2023 12:08:09 PM

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Nevada County Supervisors and Planning Department

Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

To: Nevada County Board of Supervisors and California Attorney General

bdofsupervisors@nevadacountyca.gov, Idaho.MMEIR@nevadacountyca.gov

bdofsupervisors@nevadacountyca.gov

Idaho.MMEIR@nevadacountyca.gov

Re: Rise Gold's petition for vesting rights to IMM and Rise Gold's IMM Fault Line

At the last Idaho Maryland Mine (IMM) town hall meeting last month a hero emerged. Newly anointed Planning Commissioner Terry McAteer showed amazing tenacity in delving into and understanding the deep issues of the Rise Gold proposed project. Commissioner McAteer's research revealed that Rise Gold was attempting to disappear the fault line that runs through the property shown on the IMM County legal property description. Yes, none of us knew that a big fault line even ran through the middle of the IMM so any effort to make it disappear was not noticed. Furthermore it's a little surprising that nothing was done about this after the Planning Commission's decision 5 – 0 against the Rise Gold IMM. Rise Gold was incensed and launched attacks on the County and Commissioner McAteer personally. I was left asking myself, *Why is this fault line disappearance of such import to Rise Gold, and why they would risk this kind of exposure?*

The answer can be found and is well known in the mining business — dewatering and flooding a mine can with high probability trigger severe earthquakes along fault lines. The issue of mine operations triggering earthquakes should have been analyzed in an EIR but wasn't, another reason that nobody believed anything the EIR did cover. It is important that we understand this, that an operational IMM would pose a grave danger and threat to the entire Nevada county community health and safety, as the mine tunnels run all through the town of Grass Valley underground. There are no “mitigating measures” against mine watering and dewatering-caused earthquakes. According to the 200 studies referenced world wide in the paper cited below watering and dewatering a crack in the earth lubricates the fracture or fault to cause an earthquake of “seismic magnitudes of up to M=7 on the Richter scale”.

This brings clarity to the top and reveals the controlling issue, that man-induced earthquakes

are not an economic or legal or political or business issue. There is no vested right to kill a community. The danger and risk to public health and safety is primary, and the issue Rise Gold fears exposed the most. From a reference on the subject cited below, “these earthquakes can cause serious socio-economic losses with negative implications for the long-term sustainable development of countries abundant in natural resources and of mining regions”. Why is the County still dithering with the community collateral damage in the balance were the mine to go forward? Mining for gold is a useless endeavor as gold is not a rare earth mineral or some element that we cannot live without or even need. Again, this is not a legal issue about a corporations rights. You could not permit a corporation, even a responsible one, to build atomic bombs on the IMM with vesting or any other kind of rights, too dangerous to the community.

Put another way, the misdirection’s from Rise Gold would have you believe its about providing a “comparable water supply” or “not running out of water” or even flooding our "Wolf Creek with clean water". The truth is it's not about money, it is about earthquake damage to the community and infrastructure, people’s homes, and people’s lives if the mine goes live. Its about “serious socio-economic losses with negative implications for the long-term sustainable development”. Its about disrupting an entire community like a Fukushima.

The Planning Department vociferously pushed to “certify” the EIR they were peddling. Something is very wrong there, when corporations come to town to exploit the rich county history and our Planning Department which is supposed to protect us has gone south. Thank god and three cheers for Commissioner Terry McAteer, without which we would still be in the dark as to the real issues regarding IMM and any mine that happens to be on or near a fault line in the county. Routine underground blasting, watering and dewatering a mine on a fault line is not conducive to a community nearby, and its not even close. It’s a slam dunk in the vernacular, and you shouldn’t be stressing over this issue. Don't wait til October, just say NO now and move on, you've wasted enough taxpayer time and resource.

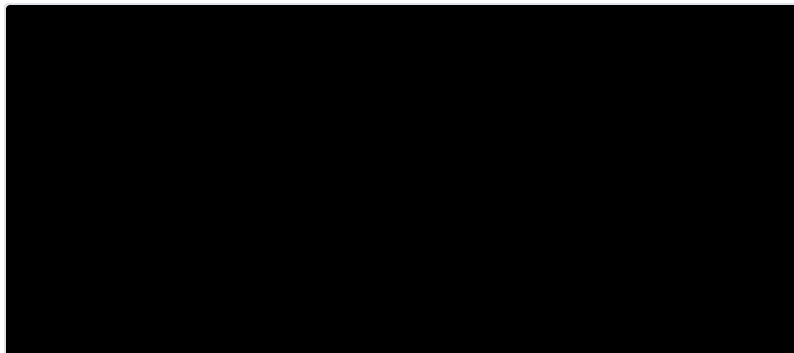
A brief technical description and citation of severe earthquakes from mine watering-dewatering is provided below:

Mine Water Discharge and Flooding: A Cause of Severe Earthquakes

Abstract:

Severe earthquakes can be triggered by dewatering and flooding of mines, as these activities alter the loading of the Earth’s crust and tectonic stresses in its interior. Worldwide, more than 200 studies have noted sites where human-induced stresses could have reactivated preexisting faults, triggering earthquakes with seismic moment magnitudes of up to $M=7$ on the Richter scale. This can only occur where faults are already under high tectonic stresses that have built up over many years. Stable continental regions are seismically less active than unstable regions (e.g. California, Japan, and Turkey). Consequently, faults in stable continental regions can be more earthquake-trigger sensitive, since accumulated stresses have not reached failure conditions. This paper provides an overview of officially recognized mining-triggered earthquakes with magnitudes $M=5.0$. The article illuminates that these earthquakes can cause serious socio-economic losses with negative implications for the long-term sustainable development of countries abundant in natural resources and of mining regions, in particular. Historic data suggest that regional geological conditions (e.g. structural geology and tectonic in-situ stress states) are more important in forecasting the potential of earthquake triggering than the scale of the mining activities. Overall, such forecasts should be made to estimate and mitigate potential socio-economic earthquake risks associated with geoengineering operations of extractive industries such as mining.

[Mine Water Discharge and Flooding: A Cause of Severe Earthquakes](#)



Mine Water Discharge and Flooding: A Cause of Severe Earthquakes

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Mine Water Discharge and Flooding: A Cause of Severe Earthquakes

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Walt Froloff
Concerned citizen
Grass Valley CA

From: [Deanna Figueira](#)
To: [bdofsupervisors](#)
Subject: Rise Gold
Date: Monday, October 9, 2023 3:58:48 AM

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Dear Supervisors,

Please vote no to vested rights to let Rise Gold conduct mining operations and also vote no to reopening the mine. This would destroy our town and surrounding areas, as well as create pollution in our waterways, air and roads. There is no benefit for our county or its people.
Please let me know what I as a citizen can do to stop this from happening.
Thank you.

Sincerely,
Deanna Figueira

From: [Randi Pratini](#)
To: [BOS Public Comment](#)
Cc: [bdofsupervisors](#)
Subject: re: Rise Gold mine
Date: Sunday, October 8, 2023 10:40:18 AM

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Please vote no to vested rights to let Rise Gold to conduct mining operations and also vote no to reopening the mine. This would destroy our town and surrounding areas, as well as create pollution in our waterways, air and roads. There is no benefit for our county or its people.

Please let me know what I as a citizen can do to stop this from happening.

Thank you for your time.

Sincerely,
Randi Pratini
District 1

From: [Ed Scofield](#)
To: [Julie Patterson-Hunter](#)
Cc: [Kit Elliott](#)
Subject: FW: Issue: Rise Gold, vested rights:
Date: Friday, September 15, 2023 10:55:18 AM

Dist 1

-----Original Message-----

From: br@timelinedesigns.com <br@timelinedesigns.com>
Sent: Thursday, September 14, 2023 4:54 PM
To: Ed Scofield <Ed.Scofield@nevadacountyca.gov>
Subject: Issue: Rise Gold, vested rights:

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Bruce Rayner here again, Ed. I've studied this situation after all the articles in The Union. It appears that Rise is taking our county and the BOS down a rat hole, which can only lead to more legal fees on our part.

To wit: Riverside County, CA is going through the same thing, some outfit comes out of the wood work, claiming vested mining rights and threatens with legal suits. Read this article or pass it on:

https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fncpalmsprings.com%2f2023%2f03%2f27%2fmining-operation-seeks-boards-recognition-of-vested-rights-to-expand%2f&c=E,1,sUPnjRqA7nV3aolpEJEiNoDcdZwAGUWGtQxS2RtlwEs3yIEdRmm4fCHA3esB2WO4Lq_jLiLoxIqH8BfEtmvrRDeNmqlZTheNIZI0dukWw,,&typo=1

What is interesting is there is a Federal act on the books, "California Surface Mining Control & Reclamation Act of 1975", which defines primary laws governing mining operations locally and provides guidelines for determining vested rights.

As I understand, the Rise Gold action seeks to declare any local zoning laws null and void due to "vested rights".

Why hasn't this issue appeared in any of the press coverage? Or articles for or against Rise Gold?

If our legal team hasn't looked into this issue, it might make a good question for them. I suggested Elias Funez at The Union look into the matter; it appears it might be a political hot potato. All the more reason why we haven't heard anything.

Sincerely,

Bruce Rayner
Nevada City.

From: [Walt](#)
To: [bdofsupervisors](#); [Idaho MMEIR](#)
Cc: [James Bair](#); [Tim Ogburn](#); [Tony Powell](#); [John Vaughan](#); [Marion Blair](#); [Joan Staffen](#); [Idaho MMEIR](#); [johnathon.crook@dtsc.ca.gov](#); [Jeffrey Thorsby](#); [Nevadacitychamber Info](#)
Subject: Rise Gold's petition to the NC BoS for vesting rights to IMM
Date: Monday, September 11, 2023 4:05:15 PM

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Nevada County Supervisors and Planning Department

Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

<!--[if !supportLineBreakNewLine]-->
<!--[endif]-->

To: Nevada County Board of Supervisors

bdofsupervisors@nevadacountyca.gov, Idaho.MMEIR@nevadacountyca.gov

bdofsupervisors@nevadacountyca.gov

Idaho.MMEIR@nevadacountyca.gov

Re: Rise Gold's petition for vesting rights to IMM

This is my second letter regarding the subject matter, and herein I address the actual Rise Petition for Reservation of Vested Mining Rights to IMM.

A **vested mining right** is a constitutionally protected property **right** to continue operating in a certain location and in a certain way without being required to conform to all current land use restrictions. This law was made to protect real miners and those that wanted to continue a mining business without interruption. This law was never meant to protect gold market speculators, investors, get rich schemers or scams.

The subject petition paints a litany of disjoint hodgepodge chain of owners all intending to find gold and becoming rich but failing to actually have an operational mine business, ie there was no gold mining operations to continue. In fact it was in the recent past declared loudly and publicly that there was no mine or mining operation by the owners.

The latest on the IMM operation was publicly proclaimed and published in our own The Union on June 12, 2014. "Former Idaho-Maryland Mine For Sale". The Union published "Coldwell Banker Grass Roots Realty has the \$2,750,000 land listing of 18 separate assessor's parcels, which includes 2,750 acres of mineral rights and a collection of core samples. But although the land's owners are sitting on a former gold mine, they're not selling the property as one."

Nothing speaks louder about the owner's intention and mine status as "We're not selling a mine," Emgold decided the best way to get rid of the land was to sell the land without the liability that the mine's mining past brought, toxic tailing, toxic ponds and all around danger to the public in perpetuity with signs posted to vacationers and visitors alike.

The IMM gold mine legacy was depressing its land price and the investors needed to sell the land minus anything to recover anything that they could from their speculative investment into gold mining. This sale didn't come easy for the owners as "Emgold had been trying to revive the mine east of Grass Valley for more than seven years to take advantage of an estimated 472,000 ounces of gold." "Emgold announced it no longer would list the Idaho-Maryland Mine as a current project for its investors". ie. after failing to make the mine operational, Emgold publicly proclaimed a cessation of all mining activities and complete a mine closing and abandonment. The vesting rights were gone, intentions were gone, and investors just wanted to get their money out of the speculative gold investment that was threatening to sink the whole investment.

"Considering contaminated mine tailings are part of the property, which the listing notes, Brock said it will likely be a challenge to sell." The environmental concerns regarding mine reopening were anticipated as being insurmountable and for good reasons. "We're very much aware of the sort of political history with Emgold having attempted to permit the operation of the mine and failed," Brock said. "There are substantial environmental issues with the property itself. There are a number of environmental concerns that we anticipate the market will need answers to."

So as history of IMM would have it, the owners sold the IMM land and high-tailed it out of town before a state agency could find the disaster that they were leaving and force them to clean up the toxic waste that they left for the county to clean up. Nobody, least of all the IMM owners wanted anything to do with vested mining rights, so they were desperate to bury the mine to sell the property and get out of Dodge before a hanging happened. Cessation of mining operations and all mine related activities were done, hope and plans for gold mining were abandoned. This allowed the owners to sell the land, and foreclose on any toxic waste liability which they also abandoned.

It is common for deeds in California to have mineral rights attached. Mineral rights on a deed do not constitute mining rights or carry vesting mining operation rights. Land with a failed and abandoned mine is quite common in Nevada County. An attempt to re-open any of these would require a permit from half a dozen agencies, and this is well known by even a layman. Attempts to resurrect the dead here is made to prolong the inevitable for publicity purposes, and should be seen for what it is, a stock pump-and-dump scam that is about to be shut down. Please be merciful and stop this sham with prejudice so that this community can find some relief from this plague called Rise Gold Corporation.

Walt Froloff

Concerned citizen

Grass Valley. CA

From: [Walt](#)
To: [bdofsupervisors](#)
Cc: [James Bair](#); [Tim Ogburn](#); [Tony Powell](#); [John Vaughan](#); [johnathon.crook@dtsc.ca.gov](#); [Joan Staffen](#); [Marion Blair](#)
Subject: Rise Gold Vesting Rights in IMM
Date: Thursday, September 7, 2023 9:58:51 AM

Dist 3

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To: Nevada County Board of Supervisors

bdofsupervisors@nevadacountyca.gov, Idaho.MMEIR@nevadacountyca.gov

bdofsupervisors@nevadacountyca.gov

Idaho.MMEIR@nevadacountyca.gov

Re: Rise Gold's petition for vesting rights to IMM

The granting of Vested Rights to Rise Gold's IMM is not a decision that could be made by the Nevada County. IMM vesting rights do not exist for several reason not the least of which is IMM would not be vesting from a gold mining business 80 years ago but to toxic waste production and "engineering fill" production and sales, and maybe some gold mineralization not yet established. Some additional reasons are:

<!--[if !supportLists]-->1) <!--[endif]-->A permit was never obtained by the previous owner and hence no chain of vesting rights was created.

<!--[if !supportLists]-->2) <!--[endif]-->The NC BoS is not the body to decide this matter. The law on vesting rights in mining business is governed by the Surface Mining and Reclamation Act (SMARA). This act requires mining operators to obtain a permit from the California Department of Conservation's Division of Mine Reclamation which was created in 1991. A permit grants the operator the right to mine and extract minerals from a specific area. The vesting rights ensure that once a permit is obtained, the operator has the right to continue mining operations as long as they comply with the conditions set forth in the OBTAINED and

FILED permit and the SMARA regulations. These conditions include reclamation requirements, financial assurances, and environmental protection measures, none of which of which have been tendered. Moreover the California Department of Conservation's Division of Mine Reclamation oversees the implementation of SMARA and ensures that mining operations are conducted responsibly and in accordance with the law. In this case the “law” would most likely be CEQA.

<!--[if !supportLists]-->3) <!--[endif]-->The NC BoS has not received approval to act on vesting rights from the Department of Conservation nor have they received financial assurances that all mitigation measures will arise from toxic waste and operations of the IMM and will be followed. The local lead agency, Nevada County, must require and approve (after review by the Department of Conservation) a reclamation plan and financial assurances. Lead agencies may accept operation plans, reclamation plans and environmental studies that meet BLM and USFS, provided they meet the requirements of SMARA.

<!--[if !supportLists]-->4) <!--[endif]-->Vesting rights to mine shall occur if there is a business transition to another business, hence “reclamation” Rise Gold IMM is not a Reclamation project by definition. The following are examples of successful reclamation projects: • One mining company in Ventura County reclaimed its mining pit to a strawberry field. • A gravel extraction area at Mississippi Bar in Sacramento County was returned to a riparian (water) wildlife habitat. • An aggregate mine on agricultural land in Yolo County operates in four phases. The intent is that not more than 95 acres is out of agricultural production at any time during the project's life. • Other mined lands have been reclaimed to grazing and production of crops such as alfalfa, corn, grapes and tomatoes.

<!--[if !supportLists]-->5) <!--[endif]-->There is no real transference of a gold mining business from 80 years ago until today, and hence no vesting possible from this IMM project. The proper core samples to measure for any gold has not been done to establish that there is gold left in the abandoned mine. Speculation, theory and conjecture are not valid measures. The new business is in fact a Rise Gold IMM business exploitative of an abandoned mine solely for purposes of pumping up stock price on a national penny market where buyers are uneducated on environmental laws and regulations and are easily manipulated by PR, media headlines and media SoundBits. This is not a gold mining business, it's a stock scam business.

I hope this helps,

Walt Froloff
Concerned citizen
Grass Valley. CA

From: [gary.cartzdafner](#)
To: [bdofsupervisors](#)
Subject: ABSOLUTELY VOTE NO ON RISE GOLD
Date: Saturday, August 26, 2023 6:34:24 AM

Dist 3

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Please vote no to vested rights to let Rise Gold and (convicted **Ben Mossman and soon to be** sentenced) to conduct mining operations and also vote no to reopening the mine. This would destroy our town and surrounding areas, as well as create pollution in our waterways, air and roads. There is no benefit for our county or its people

GARY CARTZDAFNER

From: [Kathleen Madeira](#)
To: [bdofsupervisors](#)
Subject: Fwd: Corrected: Rise Grass Valley to Petition for Recognition of Vested Rights
Date: Friday, August 25, 2023 6:56:26 AM

Dist 3

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Please vote no to vested rights to let Rise Gold to conduct mining operations and also vote no to reopening the mine.

This would destroy our town and surrounding areas, as well as create pollution in our waterways, air and roads. There is no benefit for our county or its people.

Please let me know what I as a citizen can do to stop this from happening.

Thank you for your time.

Sincerely,

Kathleen Madeira



Rise Grass Valley to Petition for Recognition of Vested Rights at Idaho Maryland Mine

Rise Grass Valley plans to petition for recognition of vested rights to conduct mining operations at the Idaho Maryland Mine, according to a letter sent to Nevada County by its attorney Monday, August 21, 2023.

Rise Grass Valley, the applicant, plans to file a petition asserting vested rights by September 1, 2023.

“A vested right is a right to continue activity that existed before a zoning restriction became effective,” said County Counsel Katharine Elliott. “A vested rights finding for Rise Grass Valley would mean that the applicant has a legal right to mine on the Brunswick Industrial Site.”

The Board of Supervisors will hold a hearing on the petition in late October. This means the Board’s previously scheduled October 2-3 hearing on Rise Grass Valley’s application for a conditional use permit is canceled.

Instead of going first to the Planning Commission, the applicant has requested that its petition be heard by the Board of Supervisors and has agreed to waive any procedural rights or irregularities.

The Board of Supervisors will make the final determination on whether the petition for vested rights is valid by reviewing the facts of the historical use of the mine property and the law.

If the Board approves the petition, the next step would be consideration of a reclamation plan, which would explain in detail how the applicant would operate the mine. In addition, Rise Grass Valley would need to provide a statement of responsibility and financial assurances that the applicant could cover potential damages.

If the Board denies the petition, the County will schedule a noticed public hearing to consider the original proposal to reopen the Idaho Maryland Mine in early December.

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From: [Sheldon, Kent](#)
To: [bdofsupervisors](#)
Subject: Rise Grass Valley to Petition for Recognition of Vested Rights at Idaho Maryland Mine
Date: Wednesday, August 23, 2023 3:46:43 PM

Dist 1

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I am writing to state my disapproval of granting this Petition from Rise. Approval of this project will be a disaster for Nevada County, Grass Valley, and all residents anywhere near the Idaho Maryland mine. Please vote against this Petition.

Kent Sheldon - VP of Project Delivery & Life Cycle Management
Energy Storage and Optimization
Wärtsilä Corporation
+1.530.802.1920 (cell)

From: [Nathan Collins](#)
To: [bdofsupervisors](#)
Subject: No Mine
Date: Wednesday, August 23, 2023 3:17:46 PM

Dist 3

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Hello, thank you for reading this email. I am a resident of Grass Valley and I wanted to say I do NOT support the proposed mine reopening by Rise. I have heard they are going to try to petition for vested rights and I urge you to reject that petition. We do not want to renew mining in the area, especially not with a company that has such a spotty track record. Thank you.

Nathan Collins

Sent from my iPhone

Cooper & Kirk

Lawyers

A Professional Limited Liability Company

Charles J. Cooper
ccooper@cooperkirk.com

1523 New Hampshire Avenue, N.W.
Washington, D.C. 20036

(202) 220-9660
Fax (202) 220-9601

October 23, 2023

County of Nevada
Board of Supervisors
950 Maidu Avenue
Nevada City, CA 95959

Re: Idaho-Maryland Mine Vested Right Petition

To the Board of Supervisors:

I write on behalf of Rise Grass Valley, Inc., the owner of the property comprising the historic Idaho-Maryland Mine. Based on our independent review of the facts and the law, we have concluded that Rise Grass Valley, Inc. has a vested right to operate the Idaho-Maryland Mine, and we expect that right to be vindicated in court, should it be necessary to do so.

California law on these issues is clear. First, a land use “vests” when it is an existing use of a property at the time a zoning ordinance is passed that would restrict or prohibit that use. In California, “[t]he rights of users of property as those rights existed at the time of the adoption of a zoning ordinance are well recognized and have always been protected.” *Hansen Bros. Enter., Inc. v. Bd. of Super.*, 12 Cal.4th 533, 552 (1996). Second, a vested right to mine extends to all of the property as it was intended to be used at the time of vesting. *Id.* at 554 (“An entire tract is generally regarded as within the exemption of an existing nonconforming use, although the entire tract is not so used at the time of the passage or effective date of the zoning law.”) Third, the vested mining right continues unless and until a property owner abandons it, which occurs only when two conditions are met: (1) an owner has an intention to abandon; and (2) undertakes an overt act or failure to act, which implies that the owner is abandoning the vested right. *Id.* at 569. “Mere cessation of use does not of itself amount to abandonment.” *Id.*

The extensive historical record, which our firm has independently reviewed and assessed, demonstrates that Rise Grass Valley, Inc. possesses a vested right to mine its property comprising the Idaho-Maryland Mine. The right to mine vested in 1954, when the Idaho-Maryland Mine was operating at the time Nevada County enacted a zoning ordinance that would have, for the first time, required the mine operators to obtain a use permit. The vested right to mine extends to the entirety of the property now owned by Rise Grass Valley, Inc., because that property was part of the Idaho-Maryland Mine in 1954 and because the then-owners objectively manifested their intent to use the entire property for mining and related activities. No property owner has abandoned the right to mine the properties comprising the Idaho-Maryland Mine. All of the properties’ owners have intended to mine the property, as evidenced by their mineral exploration activities, their marketing of the property, their reservation of mineral rights, and their statements about the relevant economic conditions for mining. California law is clear that abandonment requires both

Nevada County Board of Supervisors

October 23, 2023

Page 2

intent and an overt act (or failure to act), neither of which have occurred here. Mere cessation of mining cannot constitute abandonment.

I am available at your convenience to discuss this matter. Thank you for your attention.

Respectfully,

s/ Charles J. Cooper

Charles J. Cooper

cc:

Brian Foss (Nevada County)

Kit Elliot (Nevada County)

Diane Kindermann (Abbott & Kindermann, INC.)