



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

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**NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memo**

MEETING DATE: December 13, 2023

TO: Board of Supervisors

FROM: **Katharine Elliott, County Counsel**
Brian Foss, Planning Director
Diane Kindermann, Abbott & Kindermann, Inc.

SUBJECT: **Supplemental Staff Report** for the Idaho-Maryland Mine Vested Right Petition dated September 1, 2023 prepared by Braiden Chadwick and Ryan W. Thomason of Mitchell Chadwick, LLP, on Behalf of Joseph Mullin, Rise Grass Valley, Inc. (“**Petitioner**”) for a Formal Determination by the County of Nevada (“**County**”) Concerning the Existence and Scope of Vested Mining Rights to Mine the 175.64-acre “Idaho-Maryland Mine” (“**Petition**”) Comprised of the 119-acre Brunswick Industrial Site Assessor’s Parcel Numbers (APNs): 006-441- 003, 006-441-004, 006-441-005, 006-441-034, 009-630-037, 009-630-039 (“**Brunswick**”); and the Centennial Industrial Site APNs: 009-550-032, 009-550-037, 009-550-038, 009-550-039, and 009-560-036 (“**Centennial**”) (collectively, the “**Subject Property**”)

This document supplements the December 13, 2023 Board Agenda Memorandum regarding the Vested Right Petition (“**Staff Report**” or “**Supplement to the Staff Report**”) in four (4) particulars:

- I. **Resolution**
- II. **Attachments**
- III. **Section of the Staff Report entitled “Discussion of SMARA, County Ordinances, and Abandonment Evidence”**
- IV. **Errata to the Staff Report**

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I. RESOLUTION

Attached hereto as **Attachment A** is the Resolution of the Board of Supervisors of the County of Nevada.

II. ATTACHMENTS

A. **Regarding Attachment 3 to the Staff Report entitled “County’s Responses to Petitioner’s Facts and Evidence in Vested Rights Petition; including County Exhibits 1001-1027,” the Factual Responses are Hereby Amended as Follows:**

“Analysis of Reservation of Mineral Right Alleged in the Petition” is attached to this Supplement to the Staff Report as **Attachment B**. Attachment B supplements the County’s responses to Facts No. 5, 8, 11 and 13.

B. **Regarding Attachment 3 to the Staff Report entitled “County’s Responses to Petitioner’s Facts and Evidence in Vested Rights Petition; Including County Exhibits 1001-1027,” the Exhibits are Hereby Supplemented as Follows:**

The following Exhibits are appended and are incorporated herein by reference into the Staff Report:

Exhibit 1028 – Declaration of Rolf Kleinhans dated December 7, 2023

Exhibit 1029 - Declaration of Brian Foss dated December 6, 2023

Exhibit 1030 – Declaration of Tyler Barrington dated December 6, 2023

Exhibit 1031 – Declaration of Scott Miltenberger dated December 6, 2023

Exhibit 1032 – Declaration of Heather Norby dated December 6, 2023

Exhibit 1033 - Declaration of David Comstock dated December 7, 2023

Exhibit 1034 - Declaration of Keith Brown dated December 6, 2023

Exhibit 1035 – Declaration of Karry Przepiorski dated December 7, 2023

Exhibit 1036 – Declaration of Daniel Ketcham dated December 6, 2023

The Declarations are attached hereto in numerical order in **Attachment C**.

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III. SECTION OF THE STAFF REPORT ENTITLED “DISCUSSION OF SMARA, COUNTY ORDINANCES, AND ABANDONMENT EVIDENCE”

Section VII of the Staff Report is hereby supplemented, by the following discussions which are incorporated into the Staff Report:

Section VII. ANALYSIS

B. Mining Activities at the Subject Property Were Abandoned as of 1956

7. The Long Cessation of Mining Activity on the Subject Property Evidences an Intent to Abandon the Idaho Maryland Mine

- At Page 33 of the Staff Report in paragraph 1 of the above-referenced section, after the sentence stating “Here the nearly seventy (70)- year cessation of mining activities on the Subject Property demonstrates abandonment.”, the County inserts the following:

The declarations of County officials and employees, and local residents set forth in **County’s Exhibits 1028 - 1036** corroborate the objective evidence of abandonment presented in the Staff Report.

E. Other Actions and Omissions by the Owners of the Subject Property in the 1970s and 1980s Demonstrate an Intent to Abandon The Mining Use

4. The Use Permits Sought in the 1980s And 1990s do Not Evidence a Vested Right to Mine

- At Page 38 of the Staff Report, in paragraph 1 of the above-referenced section after the first sentence, the County inserts the following:

Petitioner asserts the vested right was confirmed in 1980 by the County. This assertion is based on language in a County Planning Commission staff report.¹ (Petitioner’s Vested Right Petition pp. 66-67, Exhibit 252.) The County Board of Supervisors is the only entity that can make a determination regarding nonconforming uses on the Subject Property, and such determination is made after a noticed hearing. The staff member comment in the 1980 County Planning Commission staff report is not a finding by the Board of Supervisors as to the legal status of a land use. Therefore, such staff comment provides neither a legal conclusion nor precedent as to any use or alleged vested rights. Further, the Reclamation Plan for that 1980 project required 40 acres of the Subject Property

¹ “The property owner has indicated that mine rock has been sold and taken from the property continuously since the mine closed, and so this use permit application is for expansion of an existing, non-conforming use by the addition of a crusher and screening plant.” (County of Nevada Planning Commission Staff Report - Use Permit Application (U79-41) (Feb. 20, 1980) at p. 2.)

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(Centennial) to be reclaimed and restored to a condition that was either (1) graded to the contours of the land before it was covered with waste rock from the historic gold mine operations, or (2) leveled with a culvert drainage pipe installed to prepare the land for an “easy transition” to alternate uses. The Reclamation Plan further states that reclamation of the site, “will end surface mining and storage of the waste rock.” (Petition, Exhibit 251, Reclamation Plan, ¶ 23(a) and 29.) This language from the Reclamation Plan demonstrates the County was not making a determination of vested rights, but instead was considering a short-term use permit and reclamation of the previously mined lands for non-mining, development purposes. The Petition is the first and only time a determination of a vested right to mine has been sought for the Subject Property. Petitioner’s assertions are without merit.

IV. ERRATA TO THE STAFF REPORT

The following identifies corrected errata in the Staff Report.

BACKGROUND

Subject Property (Brunswick) Permit History:

- At Page 6, first entry shall be revised as follows:

1956 Mining ceased, all mining and processing equipment sold. Subject Property also sold in segments for non-mining activity through 1959. Last segment sold in 1963.
- At Page 6, first full paragraph shall be revised as follows:

By October 1956, all mining had ceased at the Subject property, and all mining and processing equipment was sold.

Subject Property (Centennial) Permit History:

- At Page 7, first entry shall be revised as follows:

1956 Mining ceased, all mining and processing equipment sold. Subject Property also sold in segments for non-mining activity through 1959. Last Segment sold in 1963.
- At Page 8, first full paragraph shall be revised as follows:

By October 1956, all mining had ceased at the Subject Property, and all mining and processing equipment was sold.

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Section IV. COUNTY AND STATE MINING REGULATION

- At Page 15², **B. “California Surface Mining Reclamation Act of 1975 (“SMARA”), Public Resources Code §§ 2710, et seq.”**

Calvert v. County of Yuba case citation includes an error. The correct citation is *Calvert v. County of Yuba* (2006) 145 Cal.App.4th 613³, 617.

Section V. ESTABLISHING THE ABANDONMENT OF THE MINING USE

- At Page 24, **B. “The Burden of Proof for Abandonment”**

A party name is misspelled in the *Palico Enterprises, Inc. v. Beam* case. The correct citation is *Pallco Enterprises, Inc. v. Beam* (2005) 132 Cal.App.4th 1482, 1497-1498.

- At Page 24, **B. “The Burden of Proof for Abandonment”**

The following paragraph contains errors that require correction:

Furthermore, the general rule is that a party making a claim must provide the evidence to support that claim. (See *Washington v. Washington* (1949) 91 Cal.App.2d 811, 813 [“Each party must prove his own affirmative allegations. Evidence need not be given in support of a negative allegation (Code Civ. Proc., § 1869), but the party holding the affirmative of the issue must produce evidence to support it, and if such evidence is not produced the finding must be against such party. (Code Civ. Proc., § 1981). See, e.g., *La Prade v. Dept. of Water & Power* (1945) 27 Cal.2d 47, 51.)

The paragraph should be corrected as follows:

Furthermore, the general rule is that a party making a claim must provide the evidence to support that claim. (See *Washington v. Washington* (1949) 91 Cal.App.2d 811, 813 [“Each party must prove his own affirmative allegations. Evidence need not be given in support of a negative allegation [citation], but the party holding the affirmative of the issue must produce evidence to support it, and if such evidence is not produced the finding must be against such party.”].) See, e.g., *La Prade v. Dept. of Water & Power* (1945) 27 Cal.2d 47, 51.

² All page number references are to the numbers as they appear on the staff report itself, not to the PDF page numbers.

³ Underlined portions of the text are for emphasis but should be included in any public-facing document.

ATTACHMENT A



RESOLUTION No. _____

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION FINDING THAT MINING OPERATIONS WERE ABANDONED AS EARLY AS 1956 AND NEITHER THE PETITIONER NOR ANY OTHER PARTY HAS A VESTED RIGHT TO MINE AT THE 175.64-ACRE SUBJECT PROPERTY COMPRISED OF THE BRUNSWICK INDUSTRIAL SITE ASSESSOR'S PARCEL NUMBERS: 006-441-003, 006-441-004, 006-441-005, 006-441-034, 009-630-037, 009-630-039; AND THE CENTENNIAL INDUSTRIAL SITE ASSESSOR'S PARCEL NUMBERS: 009-550-032, 009-550-037, 009-550-038, 009-550-039, AND 009-560-036, AND FINDING THE ACTION STATUTORILY EXEMPT FROM CEQA

WHEREAS, the Subject Property is located within unincorporated western Nevada County on approximately 175.64 acres, consisting of the Brunswick Industrial Site ("**Brunswick**") and Centennial Industrial Site ("**Centennial**") on Assessor's Parcel Numbers 006-441-003, 006-441-004, 006-441-005, 006-441-034, 009-630-037, 009-630-039, 009-550-032, 009-550-037, 009-550-038, 009-550-039, and 009-560-036; and

WHEREAS, Assessor's Parcel Numbers 006-441-003, 006-441-004, 006-441-005, 006-441-034, 009-630-037, 009-630-039, 009-550-032, 009-550-037, 009-550-038, 009-550-039, and 009-560-036 are owned by Rise Grass Valley, Incorporated; and

WHEREAS, on September 1, 2023, the applicant for Rise Grass Valley, Incorporated, ("**Petitioner**") submitted a formal petition for a vested rights determination pursuant to California Public Resources Code Section 2776 ("**Petition**"); and

WHEREAS, in 1954, Nevada County adopted Ordinance No. 196, which required a use permit for excavation or smelting within one thousand (1000) feet of a public road; and

WHEREAS, the Petition lacks sufficient evidence to support an affirmative conclusion regarding the existence or scope of any vested right accrued upon the adoption of Ordinance No. 196; and

WHEREAS, the former Idaho Maryland Mine is abandoned pursuant to state and local law because Petitioner and its predecessors in interest in the Subject Property failed to comply with both state law and the County's Land use and Development Code mandates for mines; and

WHEREAS, the County Board of Supervisors is the only entity that can make a final determination after a duly noticed public hearing regarding a vested right to conduct nonconforming uses on the Subject Property; and

WHEREAS, under *Hanson Brothers* and the legal doctrine of vested rights, mere ownership of a property is not sufficient to preserve a vested right. Accordingly, a reservation of mineral right alone does not constitute an objective manifestation of an intent to mine; and

WHEREAS, the Board of Supervisors of the County of Nevada has considered all the evidence submitted by the applicant for the Subject Property; and

WHEREAS, a duly noticed public hearing was held on December 13, 2023, and December 14, 2023; and

WHEREAS, the Board of Supervisors of the County of Nevada has considered public comments and a staff report from the Planning Department, as well as responses thereto from the Petitioner; and

WHEREAS, pursuant to Section 15378 of the California Environmental Quality Act, (“CEQA”) the County’s action to adopt the Resolution does not constitute a project that is subject to CEQA and the CEQA Guidelines; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors for Nevada County finds and determines, based upon its review of the evidentiary materials including all written documents and oral testimony received, and all statements made during the public hearing, that the Petitioner has failed to demonstrate there is a vested right to mine the Subject Property as the mining use was abandoned, and therefore, neither the Petitioner nor any other party has a vested right to mine the Subject Property.

BE IT FURTHER RESOLVED that the Board of Supervisors finds the action statutorily exempt pursuant to Section 15378 of the California Environmental Quality Act (“CEQA”) Guidelines from the requirement to prepare an Environmental Impact Report (“EIR”) or a Negative Declaration, for the approval of a Resolution finding that the Applicant does not have a vested right to mine due to abandonment of the mining uses at the Subject Property (“Resolution”). The County’s action to adopt the Resolution does not constitute a project that is subject to CEQA and the CEQA Guidelines.

BE IT FURTHER RESOLVED that the Board of Supervisors for the County of Nevada hereby finds and determines:

1. Mining of gold, tungsten, and other minerals occurred at the Subject Properties from approximately the mid-to-late 1800’s until 1956. (Petition, pages 7-38; and Staff Report, pages 4-8.)
2. In 1954, Nevada County adopted Ordinance No. 196, which required a use permit for excavation or smelting within one thousand (1000) feet of a public road. The evidence provided by the Petitioner does not confirm whether the activities regulated by Ordinance No. 196 were actually occurring at the time the ordinance was passed, or if they occurred within one thousand (1000) feet of a public road. (Petition, Exhibit 1851; and Staff Report, pages 4-8.)
3. The Petition lacks sufficient evidence to support an affirmative conclusion regarding the existence or scope of Petitioner’s alleged vested right accrued upon the adoption of Ordinance No. 196. Therefore, an affirmative conclusion regarding any existence or scope of a vested right is unnecessary because the evidence and applicable legal standards demonstrate that any right to mine the Subject Property was subsequently abandoned. (Staff Report, sections V-VIII.)
4. Pursuant to the *Hanson Brothers* decision and related controlling and persuasive legal authority, the Board finds that the objective manifestations of intent shown by the objective acts of Petitioner and its predecessors in interest regarding the Subject Properties demonstrate that through the period of 1956-1963 there was: i) an intent to abandon mining; and ii) abundant overt acts and failures to act occurred which support the conclusion that Petitioners have not retained any interest in the right to the nonconforming mining use. In making this conclusion, the Board adopts the analysis and reasoning in the Staff Report concerning the Petition, which the Board incorporates by reference herein. The key objective manifestations of intent, overt acts, and failures to act which demonstrate the intent to abandon during the period of 1956-1963 are summarized as follows:

- a. Idaho Maryland Mines Corporation began selling off portions of the Subject Properties in 1954 and only some included reservations of the subsurface mineral rights. (Petition, page 35; Staff Report, section VII(B)(1); and Response to Facts No. 5.)
- b. All mining activities at both the Brunswick and Centennial sites had ceased by 1956 and the Idaho Maryland Mines Corporation continued to sell off segments of the Subject Property for non-mining purposes. (Petition, page 36-37; and Staff Report, p. 6-8 and Section VII(B)(2).)
- c. In 1957, the Idaho Maryland Mines Corporation completely liquidated all remaining mining equipment in a two-day auction. Even the mine buildings were sold and removed from the Subject Properties, with the exception of the concrete silo. (Staff Report, section VII(B)(3); Response To Facts, No. 12; and County Exhibit 1006.)
- d. In 1958, the new owner of the Brunswick site applied for and received a use permit to convert the former mine property to be used as a sawmill and drying yard. (Petition, Exhibit 215; Staff Report, p. 6; Response to Facts No. 14; and Historians' Finding No. 36.)
- e. In 1960, the secretary of the Sum-Gold Corp., confirmed that it acquired approximately seventy (70) acres of the Idaho-Maryland Mine property and is in the process of subdividing lots for residential development. (Nevada County Planning Commission Meeting Minutes p. 58 of Book 2 (July 11, 1960) (County Exhibit 1009).)
- f. By 1960, the Idaho Maryland Mines Corporation had so completely divested itself from the mining industry that it no longer possessed the capability of resuming mining activities and even changed its name to remove reference to the word "mine." The corporation, now going by the name Idaho Maryland Industries, Inc., no longer operated in the mining industry and had re-invested their assets from the liquidation of the abandoned mine into aircraft parts manufacturing and other, non-mining businesses. (Petition, Exhibit 221; Staff Report, section VII(C)(1); and County Exhibit 1007.)
- g. In 1961, Yuba River Lumber Co. applied to rezone their lumber mill site they were operating on the Subject Properties to an industrial zoning designation. The company states that they are willing to record a restriction on their deed that only wood or lumber products would be allowed or file a declaration of restrictions on the property which would limit its industrial uses to only lumber. (Planning Commission Minutes pp. 19-23, Book 4 (March 23, 1961) (County Exhibit 1010); Nevada County Planning Commission Minutes pp. 24-31, Book 4 (April 10, 1961) (County Exhibit 1011); and Nevada County Planning Commission Minutes pp. 34-41, Book 4 (April 24, 1961) (County Exhibit 1012).)
- h. Idaho Maryland Industries, Inc. filed for bankruptcy in 1962 and their remaining ownership of 78.531 acres of surface rights and 2,630 acres of mineral rights of the Subject Property were sold at auction to William and Marian Ghidotti, who purchased the property as an investment with "no immediate plans" for its use. (Petition, Exhibit 226; Staff Report, section VII(C)(2); and Historians' Finding No. 43.)

- i. Accordingly, the Board finds that, over the period of 1956 through 1963, the Subject Properties were taken entirely out of mining use, all mining equipment and buildings were liquidated and removed from the property, and the Subject Properties were sectioned off and sold for non-mining purposes. Under the test for abandonment articulated in the *Hansen Brothers* case, these actions constitute objective manifestations of the intention to abandon mining and overt acts to abandon mining uses of the property. Contrary to the Plaintiff in *Hansen Brothers*, the owners no longer possessed the capability to resume mining activities as they had liquidated all equipment, and even buildings, sold off the properties, and entirely divested themselves of the mining industry. Accordingly, pursuant to *Hansen Brothers* and other legal authorities, the right to conduct mining activities on the Subject Property which became nonconforming in 1954, if they ever existed, was systematically abandoned through the period of 1956-1963. (Petition, pages 36-40; Staff Report, sections V and VII(A) through VII(C)(2); and Staff Report pages 6-8.)
5. Under *Hansen*, there must be an objective manifestation of an intent to mine, and such intent is absent here. All mining activities at the Subject Properties were abandoned during the 1956-1963 period, and all subsequent actions at the Subject Properties illustrate the lack of any intent to mine and the lack of a vested right. The subsequent owners understood that no vested right existed because they all requested permission via use permits for each of the uses. The subsequent uses were not mining activities. The key *objective* evidence from 1963 to present which demonstrates that mining activity was abandoned is summarized as follows:
 - a. Throughout the Ghidottis' ownership of portions of the Subject Property in the 1960's, there were no efforts or actions taken to resume nonconforming mining activities. (Staff Report, section VII(C)(2).)
 - b. The removal of waste rock from the Centennial Industrial site does not demonstrate an intent to resume mining activities as the rock removal. The use permits for the waste rock crushing and removal project limited the removal of on-site material to only the waste rock from the former mining operations – they did not provide for any additional excavation or digging. The Reclamation Plan for these projects required the property to be cleared and leveled for commercial development upon completion of the waste rock removal. Further, the use permits limited the lifespan of the project to four years. (Petition, Exhibit 251; and Staff Report, section VII(C)(3).)
 - c. From as early as 1958 to the 1990's, the Subject Property was used for new sawmill and timber processing operations, each of which was the subject of a request for a conditional use permit. The evidence demonstrates that these activities were not mining-related. Each owner sought use permits for these operations, which would not have been required if the uses were part of a vested right, and the owners understood that because they applied for the use permits. (Petition, Exhibits 215, 281, and 366 at page 460; Staff Report, section VII(C)(4); and County Exhibits 1010-1012.)
 - d. Petitioner's claims that the discontinuance of mining the Subject Property for nearly seventy (70) years is partially attributable to market conditions that dramatically decreased the price of gold, is inconsistent with the actions of the Petitioner's predecessors. Applying Petitioner's logic, mining would have resumed during a significant increase in the price of gold. To the contrary, the Petitioner's predecessors in interest failed to pursue objective efforts to resume gold mining when the price of gold dramatically increased in the 1970's. (Staff Report, section VII(C)(5); Petition, p. 41 and 72; and Petition, Exhibits 58, 269, and 276.)

- e. When gold prices increased in the 1970's to a level that would have made mining operations economical, Ms. Ghidotti sold mining claims in lieu of resuming mining activities. This demonstrates the continued disinterest in resuming mining activity despite the elevated value of the gold. (Staff Report, section VII(C)(5); and Petition, p. 41 and Exhibits 236, 237, 238, 239, 240, 241, 242.)
 - f. While gold prices remained high into the 1980's, the BET Group, Ghidottis' successor in interest to the Subject Property, subdivided and sold portions of the Subject Property for residential development and not mining. (Petition, p. 44 and Exhibit 263; and Staff Report, section VII(E)(3).)
 - g. All legal uses of the Subject Property from approximately 1958 to the present were conducted pursuant to use permits requested by the landowners. The numerous applications for use permits over the nearly seventy- (70-) year period after cessation of mining demonstrate that each of Petitioner's predecessors in interest in the Subject Properties understood that there was no vested right of any kind. (Petition, Exhibits 215, 251, 253, 260, and 278; and Staff Report, p. 6-8 and section VII(D-E).)
 - h. In 2004, the waste rock removal and rock crushing project's site reclamation was completed, and notice given to the Department of Conservation's Office of Mine Reclamation, indicating termination of mining activity on the Subject Property. (Staff Report, page 8.)
 - i. When the Subject Property was purchased by the Petitioner in 2017, those parcels were not sold as a mine. This reality was confirmed by the listing price for light industrial and residential uses. The real estate broker also confirmed, "We are not selling a mine," and the listing price was not based on comparable sales of existing mining assets or properties, or potential gold reserves on the Subject Property, but on "comparable sales of similarly zoned light industrial and residential properties." (Declaration of Charles W. Brock, ¶ 7; and Staff Report, section VII(E)(6).)
 - j. In 2019, Petitioner "applie[d] to the County of Nevada for a *use permit to re-open the Idaho-Maryland Mine* and is fully financed to complete the *permitting* process," acknowledging the necessity of use permitting for mining activities on the Subject Property and, thereby confirming the absence of a vested right to do so. (Petition, p. 49 (emphasis added).) This is consistent with the understanding of Petitioner's predecessor, Emgold, who confirmed to its investors that a conditional use permit would be required and without one, their activities in Grass Valley, CA would cease: "There is no guarantee that the City of Grass Valley will approve the project or that other agencies will approve the permits necessary to operate[¶]...[¶]if the Company is unable to obtain required permits, and the reasons that the permits cannot be obtained are deemed financially insurmountable, the development of the [Idaho-Maryland Mine] Project would be curtailed, and the Company's operations in Grass Valley, would cease." (Staff Report, section VII(E)(6); Emgold Mining Corporation Quarterly Report Three and Nine Months Ended September 30, 2010 (Q3) (November 26, 2010) (County Exhibit 1023).)
6. The former Idaho-Maryland Mine is also considered abandoned pursuant to state and local law because Petitioner and its predecessors in interest in the Subject Property failed to comply with both state law and County land use and development code mandates for mines as follows:

- a. No notice of intent to preserve an interest in the subsurface mineral rights was filed until 1989, seven years after the Marketing Title Act was adopted and the filing obligation imposed. (Civ. Code section 880.020, et. seq.) Accordingly, the tardy 1989 filing of the Notice of Intent to preserve an interest in the mineral estate is objective evidence of the abandonment. As this filing only records ownership, even if it were timely filed, that filing alone would not be conclusive of an objective manifestation to resume mining activities. (Petition, Exhibit 275; and Staff Report, section VII(E)(2).)
 - b. The Petitioner and its predecessors in interest in the Subject Properties failed to comply with the requirement to file an annual report pursuant to section 2207 of the Public Resources Code. (Staff Report, section VII(F)(2).)
 - c. The Petitioner and its predecessors in interest in the Subject Properties failed to comply with the requirement to submit an interim management plan to avoid the mine being deemed abandoned pursuant to state and local law. (Pub. Resources Code, § 2770; Nevada County Development Code Section L-II 3.22(L); and Staff Report, section VII(F)(4).)
 - d. The Idaho Maryland Mine is registered as “abandoned” as of September 5, 1997, in the Mine Safety and Health Administration’s register. (Mine Safety and Health Administration Mine Data Retrieval System (Re Idaho-Maryland Mine (September 1997) (County Exhibit 1021).)
7. The County Board of Supervisors is the only entity that can make a determination regarding nonconforming uses on the Subject Property, and such determination is made after a noticed hearing. The staff member comment in a 1980 County Planning Commission staff report referenced by the Petitioner is not a finding by the Board of Supervisors as to the legal status of a land use¹. Therefore, such staff comment provides neither a legal conclusion nor precedent as to any use or alleged vested rights. (Petitioner’s Exhibit 252.) The Reclamation Plan for the 1980 project required 40 acres of the Subject Property (Centennial) to be reclaimed and restored to a condition that was either (1) graded to the contours of the land before it was covered with waste rock from the historic gold mine operations, or (2) leveled with a culvert drainage pipe installed to prepare the land for an “easy transition” to alternate uses. The Reclamation Plan further provides reclamation of the site, “will end surface mining and storage of the waste rock.” (Petition, Exhibit 251, Reclamation Plan, ¶ 23(a) and 29.) This language demonstrates the County was not making a finding of vested rights, but instead was considering a short-term use permit and seeking the reclamation of previously mined lands to non-mining, development uses. The Petition is the first and only time a determination of a vested right to mine has been sought for the Subject Property. (Supplemental Staff Report, pp. 3-4)
 8. Under *Hanson Brothers* and the legal doctrine of vested rights, mere ownership of a property is not sufficient to preserve a vested right. Accordingly, a reservation of mineral right alone does not constitute an objective manifestation of an intent to mine. (Supplement to Staff Report, Attachment B.)

¹ “The property owner has indicated that mine rock has been sold and taken from the property continuously since the mine closed, and so this use permit application is for expansion of an existing, non-conforming use by the addition of a crusher and screening plant.” (County of Nevada Planning Commission Staff Report - Use Permit Application (U79-41) (Feb. 20, 1980) at p. 2)

9. To the extent that any mineral rights were reserved in any transactions, said reservations alone, do not constitute the objective manifestation of an intent to continue a vested nonconforming mining use. It also does not negate the objective manifestations of intent to abandon mining as set forth in the evidence that, during the period of 1956-1963, the Idaho Maryland Mine Corporation completely divested itself from the mine and abandoned any intention to continue nonconforming mining activities. (Staff Report, sections V-VIII; and Historians' Finding No. 75 ["The history of mineral development in the United States is marked by speculative practices to reserve 'rights' that may in the future be sold, and which may or may not be bona fide. Not all historical actors who have reserved such 'rights,' moreover, have possessed a viable future plan for exploitation of those 'rights.'"].)
10. In conclusion, the Board makes the following two ultimate findings in response to the Petitioners requests as to vested rights:
 - a. Mining operations were abandoned at the Subject Property commencing as early as 1956; (Staff Report, sections V-VIII.)
 - b. Neither the Petitioner nor any other party has a vested right to mine at the Subject Property. (Staff Report, sections V-VIII.)

ATTACHMENT B

ATTACHMENT B

ANALYSIS OF RESERVATION OF MINERAL RIGHTS ALLEGED IN THE PETITION

County's Response to Facts No. 5:

Page 35 of the Petition states that, in 1954: "Several surface properties are sold, with reservation of mineral rights, as well as reservation of rights necessary to facilitate mining operations, including roadways and maintenance." (Citing Footnote 376.) Footnote 376 cites the deeds that are identified as Exhibits 181, 182, 183 and 184.

Page 69 of the Petition states:

"Beginning in 1954, the Idaho Maryland Mines Corporation sold several surface properties, while expressly reserving mineral and mining rights, [citing footnote 668] using the below language, or in some cases, substantially similar thereto:

EXCEPTING AND RESERVING THEREFROM all the mineral, metal matter and rock contained under said premises, with the right to extract at any time hereafter all the mineral, metal matter and rock contained under said property, from any depth up to and within 75 feet of the surface of said property, without disturbing the surface thereof.

...

all necessary or convenient rights of way for roads, pipelines, or other easements necessary or convenient for working said Independence Quartz Mine, Patented, and in consideration of said right to so follow the Independence Quartz Ledge and said rights of way. [Citing Footnote 669]"

Footnote 668 states: "Exhibits 181, 182, 183, 184." Footnote 669 states: "Exhibit 182."

The County's Responses were as follows:

- It appears from the face of the Deed from Idaho Maryland Mines Corporation to Dean and Gladys Perkins (Jan. 1954) [Exhibit 181] that the Deed did NOT contain any "reservation of rights necessary to facilitate mining operations." Thus, Idaho Maryland Mines Corporation certainly demonstrated an intent to abandon mine operations on the property transferred by that Deed.
- It appears from the face of the Deed from Idaho Maryland Mines Corporation to Glen and Mary Jones (Oct. 1954) [Exhibit 183] that the Deed did NOT contain any "reservation of rights necessary to facilitate mining operations." Thus, Idaho

Maryland Mines Corporation certainly demonstrated an intent to abandon mine operations on the property transferred by that Deed.

- Thus, in half of the deeds that Idaho Maryland Mines Corporation granted in 1954 (cited by Petitioner), the company sold off properties and did not retain any mineral or access rights, certainly demonstrated an intent to abandon mine operations on those properties.

Observations:

1. The Grant Deed identified as Exhibit 181 transferred “All” of the property, described solely by meets and bounds. Contrary to Petitioner’s assertions, in that deed there is NO limitation of surface rights, there is NO language of any reservation of any mineral rights, and there is NO reservation of rights necessary to facilitate mining operations, including roadways and maintenance. Thus, the rule that “[t]he owner of land in fee has the right to the surface and to everything permanently situated beneath or above it” (Civ. Code §829) applies to this transferred property. Petitioner’s assertion that the Grant Deed identified as Exhibit 181 “expressly reserve[ed] mineral and mining rights, using the below language, or in some cases, substantially similar thereto” is patently false. Therefore, the County is accurate in concluding that on that transferred property, the Idaho Maryland Mine Co. did not retain any mineral or access rights. Idaho Maryland Mine Inc. unequivocally demonstrated an intent to abandon all mining operations on that property (surface and subsurface), contrary to Petitioner’s assertions.
2. The Grant Deed identified as Exhibit 182 contains an express reservation of mineral rights “within 75 feet of the surface of said property, without disturbing the surface thereof.” The County did not dispute that in its Responses. Therefore, on that specific property identified in Exhibit 182, where there are express mineral rights that are reserved, “the surface area of such lands may be subjected only to such burdens as are reasonably necessary to the full enjoyment of the mineral estate in such particular specific parcels.” (*Wall v. Shell Oil Co.* (1962) 209 Cal.App.2d 504, 513.) “Generally, the owner of the mineral rights has an implied easement that burdens the surface estate and allows the mineral owner to use the surface as is reasonably required to access the minerals.” (*Vaquero Energy, Inc. v. County of Kern* (2019) 42 Cal.App.5th 312, 319.)
3. The Deed identified as Exhibit 183 granted “[t]he surface rights to a depth of Seventy-Five (75) feet” in the described real property. Contrary to Petitioner’s assertions on page 35 of the Petition, in that deed there is NO language of any reservation of any mineral rights, and there is NO reservation of rights necessary to facilitate mining operations, including roadways and maintenance. And contrary to the assertions on page 69 of

the Petition, the Deed identified as Exhibit 183 did NOT “expressly” reserve mineral and mining rights and did NOT include the reservation language in Exhibit 182, or substantially similar language. Without an express reservation of mineral rights, there are no implied rights or easements for access on the property transferred by Exhibit 183. Therefore, the County is accurate in concluding that on that transferred property, the Idaho Maryland Mine Co. did not retain any mineral or access rights. Accordingly, Idaho Maryland Mine Co. demonstrated an intent to abandon mining operations on that property (i.e., the surface estate that was transferred).

County’s Response to Facts No. 8:

- Page 36 of the Petition states that, in 1955: “Several more surface properties are sold, again with reservations of mineral rights. [Citing Footnote 387.] For example, the grant from Idaho Maryland Mines Corporation to the County of Nevada dated October 24th, reserves the following:

“the right to mine for extract and take minerals from beneath the surface of, and the subsurface of that portion of the property lying more than 50 feet beneath the surface thereof. [Citing Footnote 388.]”

Footnote 387 cites the deeds that are identified as Exhibits 189, 190, 191, 192, 193 and 194. Footnote 388 cites Exhibit 194.

- Page 69 of the Petition states: “The only plausible reason for requiring these exclusions in the deeds is that the company intended to resume underground mining operations at these properties in the future....”

The County’s Responses were as follows:

- Contrary to Petitioner’s assertion, it appears from the face of the Deed from Idaho Maryland Mines Corporation to George Maurer (July 1955) [Exhibit 189], and it appears from the face of the Deed from Idaho Maryland Mines Corporation to Walter and Ida Canon (July 1955) [Exhibit 190] that the Deeds did NOT include any “reservation of mineral rights.” Thus, Idaho Maryland Mines Corporation certainly demonstrated an intent to abandon mine operations on the property transferred by that Deed.
- Contrary to Petitioner’s assertion, it appears from the face of the Deed from Idaho Maryland Mines Corporation to Walter and Ida Canon (July 1955) [Exhibit 190] that the Deed did NOT contain any “reservation of rights necessary to facilitate mining operations.” Thus, Idaho Maryland Mines Corporation certainly

demonstrated an intent to abandon mine operations on the property transferred by that Deed.

- Contrary to Petitioner’s assertion, it appears from the face of the Deed from Idaho Maryland Mines Corporation to Walter Cannon Jr. (July 1955) [Exhibit 191] that the Deed did NOT contain any “reservation of rights necessary to facilitate mining operations.” Thus, Idaho Maryland Mines Corporation certainly demonstrated an intent to abandon mine operations on the property transferred by that Deed.
- Contrary to Petitioner’s assertion, it appears from the face of the Deed from Idaho Maryland Mines Corporation to Roy and Pauline Dodge (July 1955) [Exhibit 192] that the Deed did NOT contain any “reservation of rights necessary to facilitate mining operations.” Thus, Idaho Maryland Mines Corporation certainly demonstrated an intent to abandon mine operations on the property transferred by that Deed.
- Exhibit 193 is incomplete, and so it does not support Petitioner’s assertion.
- Thus, contrary to Petitioner’s assertion, in the far majority of deeds that Idaho Maryland Mines Corporation granted in 1955 where the company sold off properties (cited by Petitioner), the deeds do NOT contain any “reservation of rights necessary to facilitate mining operations.” Thus, Idaho Maryland Mines Corporation certainly demonstrated an intent to abandon mine operations on the properties transferred by those deeds.

Observations:

1. The Deed identified as Exhibit 189 granted “[t]he surface to a depth of 75 feet” in the described real property. Contrary to Petitioner’s assertions on page 36 of the Petition, in that deed there is NO language of any reservation of any mineral rights. Without an express reservation of mineral rights, there are no implied rights or easements for access on the property transferred by Exhibit 189. Therefore, the County is accurate in concluding that on that transferred property, the Idaho Maryland Mine Co. did not retain any mineral rights. Idaho Maryland Mine Co. demonstrated an intent to abandon mining operations on that property (i.e., the surface estate that was transferred).
2. The Deed identified as Exhibit 190 granted “[t]he surface, to a depth of seventy-five (75) feet” in the described real property. Contrary to Petitioner’s assertions on page 36 of the Petition, in that deed there is NO language of any reservation of any mineral rights. Without an express reservation of mineral rights, there are no implied rights or easements for access on the property transferred by Exhibit 190. Therefore, the County is

accurate in concluding that on that transferred property, the Idaho Maryland Mine Co. did not retain any mineral rights. Idaho Maryland Mine Co. demonstrated an intent to abandon mining operations on that property (i.e., the surface estate that was transferred).

3. The Deed identified as Exhibit 191 granted “[t]he surface to a depth of seventy-five (75) feet” in the described real property. Contrary to Petitioner’s assertions on page 36 of the Petition, in that deed there is NO language of any reservation of any mineral rights. Without an express reservation of mineral rights, there are no implied rights or easements for access on the property transferred by Exhibit 191. Therefore, the County is accurate in concluding that on that transferred property, the Idaho Maryland Mine Co. did not retain any mineral rights. Idaho Maryland Mine Co. demonstrated an intent to abandon mining operations on that property (i.e., the surface estate that was transferred).
4. The Deed identified as Exhibit 192 granted “[t]he surface to a depth of Seventy-five (75) feet” in the described real property. Contrary to Petitioner’s assertions on page 36 of the Petition, in that deed there is NO language of any reservation of any mineral rights. Without an express reservation of mineral rights, there are no implied rights or easements for access on the property transferred by Exhibit 192. Therefore, the County is accurate in concluding that on that transferred property, the Idaho Maryland Mine Co. did not retain any mineral rights. Idaho Maryland Mine Co. demonstrated an intent to abandon mining operations on that property (i.e., the surface estate that was transferred).
5. Exhibit 193 DOES include an express reservation of mineral rights up to 75 feet from the surface.
6. Exhibit 194 DOES include an express reservation of minerals lying more than 50 feet beneath the surface.
7. Therefore, the County is accurate in concluding that on in the far majority of deeds that Idaho Maryland Mines Corporation granted in 1955 where the company sold off properties (cited by Petitioner), the deeds do NOT contain any “reservation of rights necessary to facilitate mining operations.”

County’s Response to Facts No. 11:

Page 37 of the Petition states that, in 1956: “The Idaho Maryland Mines Corporation also sells several surface properties, including the Brunswick sawmill site, to Milton and Ina Balmain, but again reserves the mineral estate.” (Citing Footnote 400.) Footnote 400 cites the deeds that are identified as Exhibits 200, 201, 202, 203, 206, 208.

The County's Responses were as follows:

- Contrary to Petitioner's assertion, it appears from the face of the Deed from Idaho Maryland Mines Corporation to John and Donna Grimes (Apr. 1956) [Exhibit 200] that the Deed did NOT "reserve[] the mineral estate." Thus, Idaho Maryland Mines Corporation certainly demonstrated an intent to abandon mine operations on the property transferred by that Deed.
- Contrary to Petitioner's assertion, it appears from the face of the Deed from Idaho Maryland Mines Corporation to Carl and Gwen Richardson (Jun. 1956) [Exhibit 201] that the Deed did NOT "reserve[] the mineral estate." Thus, Idaho Maryland Mines Corporation certainly demonstrated an intent to abandon mine operations on the property transferred by that Deed.
- Contrary to Petitioner's assertion, it appears from the face of the Deed from Idaho Maryland Mines Corporation to Malcolm and Elizabeth Hammill (Dec. 1956) [Exhibits 202, 208] that the Deed did NOT "reserve[] the mineral estate." Thus, Idaho Maryland Mines Corporation certainly demonstrated an intent to abandon mine operations on the property transferred by that Deed.
- Contrary to Petitioner's assertion, it appears from the face of the Deed from Idaho Maryland Mines to Vivian and Francis Normille (Aug. 1956) [Exhibit 203] that the Deed did NOT "reserve[] the mineral estate." Thus, Idaho Maryland Mines Corporation certainly demonstrated an intent to abandon mine operations on the property transferred by that Deed.
- Contrary to Petitioner's assertion, it appears from the face of the Deed from Idaho Maryland Mines Corporation to Milton and Ina Balmain (Dec. 1956) [Exhibit 206] that the Deed did NOT "reserve[] the mineral estate." Thus, Idaho Maryland Mines Corporation certainly demonstrated an intent to abandon mine operations on the "Brunswick sawmill site" that was sold off in its entirety (surface and subsurface) to Milton and Ina Balmain. (Exhibit 205.)
- Thus, in NONE of the deeds that Idaho Maryland Mines Corporation granted where the company sold off properties (cited by Petitioner), did the company "reserve[] the mineral estate," as Petitioner alleges. Idaho Maryland Mines Corporation certainly demonstrated an intent to abandon mine operations on the properties transferred by those deeds.

Observations:

1. The Deed identified as Exhibit 200 granted "THE SURFACE to a depth of Seventy-five (75) feet" in the described real property. Contrary to Petitioner's assertions on page 37 of the Petition, in that deed there is NO

language of any reservation of any mineral estate. Without an express reservation of the mineral estate, there are no implied rights or easements for access on the property transferred by Exhibit 200. Therefore, the County is accurate in concluding that on that transferred property, the Idaho Maryland Mine Co. did not retain any mineral estate. Idaho Maryland Mine Co. demonstrated an intent to abandon mining operations on that property (i.e., the surface estate that was transferred).

2. The Deed identified as Exhibit 201 granted “the surface to a depth of seventy-five (75) feet” in the described real property. Contrary to Petitioner’s assertions on page 37 of the Petition, in that deed there is NO language of any reservation of any mineral estate. Without an express reservation of the mineral estate, there are no implied rights or easements for access on the property transferred by Exhibit 201. Therefore, the County is accurate in concluding that on that transferred property, the Idaho Maryland Mine Co. did not retain any mineral estate. Idaho Maryland Mine Co. demonstrated an intent to abandon mining operations on that property (i.e., the surface estate that was transferred).
3. The Deed identified as Exhibit 202 granted “THE SURFACE to a depth of 75 feet” in the described real property. Contrary to Petitioner’s assertions on page 37 of the Petition, in that deed there is NO language of any reservation of any mineral estate. Without an express reservation of the mineral estate, there are no implied rights or easements for access on the property transferred by Exhibit 202. Therefore, the County is accurate in concluding that on that transferred property, the Idaho Maryland Mine Co. did not retain any mineral estate. Idaho Maryland Mine Co. demonstrated an intent to abandon mining operations on that property (i.e., the surface estate that was transferred).
4. The Deed identified as Exhibit 203 granted “THE SURFACE to a depth of Seventy-five (75) feet” in the described real property. Contrary to Petitioner’s assertions on page 37 of the Petition, in that deed there is NO language of any reservation of any mineral estate. Without an express reservation of the mineral estate, there are no implied rights or easements for access on the property transferred by Exhibit 203. Therefore, the County is accurate in concluding that on that transferred property, the Idaho Maryland Mine Co. did not retain any mineral estate. Idaho Maryland Mine Co. demonstrated an intent to abandon mining operations on that property (i.e., the surface estate that was transferred).
5. The Deed identified as Exhibit 206 granted “THE SURFACE and subsurface to a depth of 75 feet” in the described real property. Contrary to Petitioner’s assertions on page 37 of the Petition, in that deed there is NO language of any reservation of any mineral estate. Without an express

reservation of the mineral estate, there are no implied rights or easements for access on the property transferred by Exhibit 206. Therefore, the County is accurate in concluding that on that transferred property, the Idaho Maryland Mine Co. did not retain any mineral rights. Idaho Maryland Mine Co. demonstrated an intent to abandon mining operations on that property (i.e., the surface estate that was transferred).

6. The Deed identified as Exhibit 208 granted “THE SURFACE to a depth of 75 feet” in the described real property. Contrary to Petitioner’s assertions on page 37 of the Petition, in that deed there is NO language of any reservation of any mineral estate. Without an express reservation of the mineral estate, there are no implied rights or easements for access on the property transferred by Exhibit 208. Therefore, the County is accurate in concluding that on that transferred property, the Idaho Maryland Mine Co. did not retain any mineral rights. Idaho Maryland Mine Co. demonstrated an intent to abandon mining operations on that property (i.e., the surface estate that was transferred).

County’s Response to Facts No. 13:

Page 38 of the Petition states that, in 1957: “Several other properties are sold but always with a reservation of the mineral estate and the continuing right to explore and develop the Mine in the future.” (Citing Footnote 406.) Footnote 406 cites the deeds that are identified as Exhibits 212, 213 and 214.

The County’s Responses were as follows:

- Contrary to Petitioner’s assertion, it appears from the face of the Deed from Idaho Maryland Mines Corporation to John and Mary Gwin (Aug. 1957) [Exhibit 212] that the Deed did NOT include “a reservation of the mineral estate and the continuing right to explore and develop the Mine in the future.” Thus, the properties are NOT “always” sold “with a reservation of the mineral estate and the continuing right to explore and develop the Mine in the future,” contrary to Petitioner’s statements.

Observations:

1. The Deed identified as Exhibit 212 granted “[t]he surface and the subsurface to a depth of 75 feet” in the described real property. Contrary to Petitioner’s assertions on page 37 of the Petition, in that deed there is NO language of any reservation of any mineral estate. Without an express reservation of the mineral estate, there are no implied rights or easements for access on the property transferred by Exhibit 212. Therefore, the County is accurate in concluding that on that transferred property, the Idaho Maryland Mine Co. did not retain any mineral estate or continuing right to explore and develop

the Mine in the future. Idaho Maryland Mine Co. demonstrated an intent to abandon mining operations on that property (i.e., the surface estate that was transferred). That is especially true since the deed identified as Exhibit 212 does NOT contain any language of any reservation of a continuing right to explore and develop the Mine in the future, contrary to what is alleged on page 38 of the Petition.

END OF ANALYSIS

ATTACHMENT C

EXHIBIT 1028

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3 Nevada City, CA 95959
(530) 265-1218
4

5 Diane G. Kindermann
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6 2100 21st Street
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(916) 456-9595
7

8 **IN AND FOR THE STATE OF CALIFORNIA**
9 **COUNTY OF NEVADA**

10 In Re:

11 IDAHO-MARYLAND MINE
12 VESTED RIGHTS PETITION
13 Dated September 1, 2023

**DECLARATION OF ROLF D.
KLEINHANS IN SUPPORT OF
COUNTY'S RESPONSES TO
PETITIONER'S
FACTS AND EVIDENCE IN THE
VESTED RIGHTS PETITION**

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16 Board of Supervisors Hearing:
December 13-14, 2023
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19 I, Rolf D. Kleinhans, declare:

20 1. I am the duly elected Assessor for the County of Nevada ("**the County**"). I have
21 held such office since January 3, 2023. Prior to serving as the Nevada County Assessor, I was
22 employed as the Chief Fiscal and Administration Office for the Nevada County Sheriff's Office
23 from May, 2011 to January, 2023.

24 2. I am familiar with the mine property referred to in the Vested Rights Petition
25 ("**Petition**") as the former Idaho Maryland Mine, including the Brunswick and Centennial sites
26 ("**Subject Property**").

27 3. My office assesses real property values for parcels in Nevada County.

28 4. My office has assessed the parcels included in the Subject Property.

1 5. In general, mineral rights may be assessed separately from the underlying subject
2 real property parcel.

3 6. In Nevada County, mineral rights are not separately assessed from the underlying
4 parcel until such time as the minerals begin to be extracted on a production level.

5 7. Mineral rights values are typically added to the value of the underlying parcel,
6 although there are times when the land value is removed when production begins.

7 8. Based on a review of the files, Nevada County has not separately assessed the
8 mineral rights on any of the parcels of the Subject Property. The files date back to the mid-1970s.

9 9. Current assessments are based on the purchase price plus annual increases
10 allowed for by law.

11 10. No request was made by the Petitioner at the time of property acquisition nor the
12 time of enrollment for any special allocation of property values.

13
14 I declare under penalty of perjury under the laws of the State of California that the foregoing is
15 true and correct, except as to those matters alleged on information and belief and, as to those
16 matters, I believe them to be true. Executed on December 7, 2023, at Nevada City, California.


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ROLF D. KLEINHAUS

EXHIBIT 1029

1 Katharine L. Elliott
2 Nevada County
3 Office of the County Counsel
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6 (530) 265-1218

7 Diane G. Kindermann
8 Abbott & Kindermann, Inc.
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11 (916) 456-9595

12 **IN AND FOR THE STATE OF CALIFORNIA**
13 **COUNTY OF NEVADA**

14 In Re:

15 IDAHO-MARYLAND MINE
16 VESTED RIGHTS PETITION
17 Dated September 1, 2023

DECLARATION OF BRIAN FOSS
IN SUPPORT OF COUNTY’S
RESPONSES TO PETITIONER’S
FACTS AND EVIDENCE IN THE
VESTED RIGHTS PETITION

Board of Supervisors Hearing:
December 13-14, 2023

18 I, Brian Foss, declare:

19 1. I am the Planning Director for Nevada County (“**the County**”). I have been the
20 County Planning Director for 11 years. Prior to that I worked at the County from 2005 to 2012
21 as a Principal Planner.

22 2. As the County Planning Director, one of my roles is to oversee and manage all
23 land use permit application submittals to the County. I also monitor and participate in land use
24 applications submitted to cities within the County’s sphere of influence. Grass Valley is in the
25 County.

26 3. My role also requires that I stay current on land use activity, both legal and
27 illegal, within the County and on property within the County’s sphere of influence.
28

1 4. I am familiar with the mine property referred to in the Vested Rights Petition
2 (“**Petition**”) as the former Idaho Maryland Mine, including the Brunswick and Centennial sites
3 (“**Subject Property**”).

4 5. I am aware that in the mid 2000’s, Emgold submitted to the City of Grass Valley
5 a request for a use permit to reopen the former Idaho-Maryland Mine and for annexation of the
6 Subject Property into the City. My role for that project was to review project application
7 materials and environmental reports related to the mine proposal to be informed of any potential
8 issues or impacts that may affect County infrastructure or County land uses.

9 6. Prior to Rise Grass Valley, Inc. (“**Rise**”) purchasing the Subject Property, the
10 only use on the Brunswick site was a stump/wood grinding business which received a temporary
11 use permit from the County. That use was shut down shortly thereafter because the County
12 confirmed that the Planning Director, Jory Stewart at the time, did not have the administrative
13 authority to issue temporary use permits. All use permits were and are required to be submitted
14 to the Planning Commission for review. I recall that we also received some noise complaints
15 regarding the Brunswick site around this time, in approximately 2009 or 2010.

16 7. In 2018, the Planning Department approved a Biological Management Plan for
17 work within 100-feet of Wolf Creek as a part of Rise’s exploratory efforts at that time, which
18 applied to APN 009-630-037 of the Subject Property. This was necessary because Rise’s
19 staging area/rock shaker was within 100-feet of the watercourse.

20 8. More recently, the County hosted a handful of neighborhood vegetation disposal
21 events at the Brunswick Site, and it appears that the local senior firewood program has been
22 storing firewood on the Brunswick site for several years.

23 9. Aside from the Subject Property uses identified in this declaration, I am unaware
24 of any other activities occurring at the Subject Property. There have been no mining activities.
25 To my knowledge, the subsurface of the Subject Property is flooded and has been in such a state
26 for many decades prior to my employment at the County.

27 10. Prior to the filing of the Petition on September 1, 2023, I was unaware of any
28 claims of vested rights concerning the Subject Property. In fact, in 2019 Rise submitted an

1 application for a use permit to the County for authorization to mine at the Subject Property.
2 Vested rights were not mentioned to the County until the Petition was recently filed.

3 11. Throughout the entirety of my career with the County, the site has been vacant or
4 used for temporary activities described above. The previously approved uses of the Subject
5 Property, Brunswick site, related to lumber/timber processing, were approved pursuant to
6 Conditional Use Permits in years prior to my employment with the County.

7 I declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct, except as to those matters alleged on information and belief and, as
9 to those matters, I believe them to be true. Executed on December 6, 2023, at

10 Nevada City, California.

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14 BRIAN FOSS

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EXHIBIT 1030

1 Katharine L. Elliott
2 Nevada County
3 Office of the County Counsel
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5 Nevada City, CA 95959
6 (530) 265-1218

7 Diane G. Kindermann
8 Abbott & Kindermann, Inc.
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11 (916) 456-9595

12 **IN AND FOR THE STATE OF CALIFORNIA**
13 **COUNTY OF NEVADA**

14 In Re:

15 IDAHO-MARYLAND MINE
16 VESTED RIGHTS PETITION
17 Dated September 1, 2023

DECLARATION OF TYLER
BARRINGTON IN SUPPORT OF
COUNTY'S RESPONSES TO
PETITIONER'S
FACTS AND EVIDENCE IN THE
VESTED RIGHTS PETITION

18 Board of Supervisors Hearing:
19 December 13-14, 2023

20 I, Tyler Barrington, declare:

21 1. I am the Principal Planner for Nevada County (“**the County**”). I have worked in
22 the County’s Planning Department since 2005.

23 2. I am familiar with the mine property referred to in the Vested Rights Petition
24 (“**Petition**”) as the former Idaho Maryland Mine, including the Brunswick and Centennial sites
25 (“**Subject Property**”).

26 3. When I first started at the County in 2005, Emgold applied to the City of Grass
27 Valley for a use permit to reopen the former Idaho-Maryland Mine (the “**Mine**”) and an
28 annexation of the Mine property into the City; however, I did not have any personal involvement
in that project.

1 4. Prior to Rise Grass Valley, Inc. (“Rise”) purchasing the property, the only use on
2 the Brunswick site that I recall is a stump/wood grinding business which was temporarily
3 permitted by the County. That use was shut down shortly thereafter because the County
4 determined that Planning Director, Jory Stewart at the time, did not have the authority to
5 administratively issue temporary use permits. All use permits were and are required to be
6 submitted to the Planning Commission and the County Zoning Administrator for review. I
7 recall that we also received some noise complaints regarding the Brunswick site around this
8 time, approximately 2009 or so.

9 5. In 2018, the Planning Department approved a Biological Management Plan for
10 work within 100-feet of Wolf Creek as a part of Rise’s exploratory efforts at that time, which
11 applied to APN 009-630-037. This was necessary because Rise’s staging area/rock shaker was
12 within 100-feet of the watercourse.

13 6. More recently, the County has hosted a handful of neighborhood vegetation
14 disposal events, and it appears that the local senior firewood program has been storing firewood
15 on the Brunswick property for several years.

16 7. Aside from the property uses identified in this declaration, I am unaware of any
17 other activities occurring at the Mine. There have been no mining activities. To my knowledge,
18 the Mine is still flooded and had been in such a state for many decades prior to my employment
19 in the County’s Planning Department.

20 8. Prior to Rise filing the Petition on September 1, 2023, I was unaware of any
21 claims of vested rights concerning the Subject Property. In fact, Rise submitted an application
22 for a use permit to the County for authorization to mine at the Subject Property. Vested rights
23 were not mentioned to the County until the Petition was recently filed.

24 9. To my knowledge, the site has been primarily vacant throughout my career with no
25 uses occurring other than those discussed above (temporary wood grinding/exploration/community
26 vegetation events/senior wood program storage).

27 I declare under penalty of perjury under the laws of the State of California that the
28 foregoing is true and correct, except as to those matters alleged on information and belief and, as

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to those matters, I believe them to be true. Executed on December 6, 2023, at
Nevada City, California.



TYLER BARRINGTON

EXHIBIT 1031

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12 **IN AND FOR THE STATE OF CALIFORNIA**
13 **COUNTY OF NEVADA**

14 In Re:

15 IDAHO-MARYLAND MINE
16 VESTED RIGHTS PETITION
17 Dated September 1, 2023

**DECLARATION OF SCOTT
MILTENBERGER IN SUPPORT OF
COUNTY'S RESPONSES TO
PETITIONER'S FACTS AND
EVIDENCE IN THE VESTED
RIGHTS PETITION**

Board of Supervisors Hearing:
December 13-14, 2023

18 I, Scott Miltenberger, Ph.D., declare:

19 1. I am a professional consulting historian, specializing in water and natural
20 resources issues. I am a partner at JRP Historical Consulting, LLC (JRP), located at
21 2850 Spafford Street, Davis, CA 95618. My qualifications to render the opinions contained in
22 this Declaration are set forth in my professional resume, attached hereto as **Attachment 1** and
23 incorporated herein by this reference.

24 2. I am familiar with the mine property referred to in the Vested Rights Petition
25 ("Petition") as the former Idaho Maryland Mine, including the Brunswick and Centennial sites
26 ("Subject Property").
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1 3. I have been retained as an expert by Abbott & Kindermann, Inc., on behalf of
2 Nevada County, State of California, to provide expert peer review findings concerning the
3 Idaho-Maryland Mine Vested Rights Petition (“**Petition**”) submitted by Rise Grass Valley, Inc.
4 (“**Petitioner**”) on September 1, 2023.

5 4. To develop my expert opinions, I examined the Petition and the documents
6 produced by Petitioner in support thereof and performed a peer review of the factual support for
7 the allegations made in the Petition.

8 5. Based on my review and the review of my colleague, Heather Norby, M.A., of
9 the Petition and supporting documents, we have jointly prepared a matrix of our findings
10 concerning specific factual statements and representations made in the Petition. A true and
11 correct copy of our findings is attached hereto as **Attachment 2**.

12 6. Ms. Norby and I also directed focused research of archival documents and
13 published primary and secondary sources. This material was obtained by other JRP staff under
14 our direction (all of whom possess graduate degrees in history) from state and local records
15 repositories. These repositories and sources include:

- 16 a. California Geological Survey (CGS) Library;
- 17 b. the *Engineering & Mining Journal (EMJ)*, a major mining trade publication;
- 18 c. reports and maps of the State Minerologist and successor state agencies;
- 19 d. corporate annual reports of Idaho-Maryland Mining Corporation for 1937,
20 1938, and 1939;
- 21 e. the California State Library;
- 22 f. *Moody’s Manual of Industrial Securities*;
- 23 g. Jack Clark’s *Gold in Quartz* (2005);
- 24 h. Gage McKinney’s *MacBoyle’s Gold* (2016); and,
- 25 i. relevant excerpts from F.D. Calhoun’s *California Gold and the Highgraders*
26 (1988)

27 We reviewed the collected material and provided it to Nevada County Staff and Counsel.
28

1 7. In addition to the findings concerning specific allegations in the Petition, I have
2 several additional opinions concerning the Petition and the historical basis upon which its
3 allegations and conclusions rest.

4 8. The Petition imposes the historical constructs, the “the Mine” and the “Vested
5 Mine Property,” onto the historical period when the Idaho-Maryland Mine was operational as a
6 gold mine. In doing so, the Petition obscures the complicated and dynamic history of ownership
7 of land and mineral rights over time. The Petition fails to differentiate between historical eras of
8 different endeavors at the subject Property in question – gold mining, tungsten mining, timber
9 harvesting and milling, waste rock crushing and sales, residential, commercial, and recreational
10 development.

11 9. The Petition lacks a discussion of research methodology, and of the sources,
12 collections, and repositories consulted. Such a discussion is an essential element of any work of
13 historical scholarship – academic (such as the case with a dissertation or a published monograph
14 with a university press) or public (such as the expert reports and other gray literature that JRP or
15 similar firms would prepare). The absence of a discussion of research methodology, and of the
16 sources, collections and repositories consulted, makes assessment of the quality of the research
17 effort difficult, and the research itself suspect.

18 10. The Petition uses a broad array of sources, but these are often not the best sources
19 to support the alleged facts, and in some instances do not appear to support the alleged facts.
20 Some sources that a historian presented with this research task would be expected to consult
21 (and which may or may not support the petition) are absent, such as reporting from the
22 *Engineering and Mining Journal*, or sources related to the history of local timber production.

23 11. Two sources that the Petition heavily relies upon – Clark’s *Gold in Quartz*
24 (excerpted as Appendix C) and the Johnson declaration (Exhibit 227) – are, for a historian,
25 problematic. Clark’s *Gold in Quartz* is a secondary source and its factual assertions lack
26 professional citation. Historians consider primary sources more reliable to supply facts for
27 analysis in secondary literature. Clark was previously employed at the Idaho-Maryland Mine,
28 Old and New Brunswick mines, and the Bullion Mine but his employment did not extend back

1 to the 19th century, a period the work covers. Source citation, moreover, is a fundamental
2 component of historical scholarship. Despite a list of references appearing in the complete work
3 (but not in the excerpt provided in Appendix C), Clark’s specific purported facts lack source
4 attribution, and thus cannot be evaluated as to accuracy, credibility, or significance.

5 12. The Johnson declaration is problematic because both historical study and
6 scientific research have revealed the unreliability (and even instability) of human memory.
7 Historical interpretation is based upon a critical examination of documentation made at or near
8 the occurrence of an event. Memoirs and reminiscences often drafted years after an event are
9 consulted as sources but treated with caution. Corroboration from sources closer or
10 contemporaneous in time with the events described are frequently sought. Relying on this
11 declaration to ascertain William and Marian Ghidotti's thoughts or intentions – in the absence of
12 independent supporting documentation – is methodologically suspect for a historian.

13 13. The Johnson declaration, moreover, is not a first-person narrative. Second-hand
14 accounts like Johnson’s declaration that purport to recount the thoughts and intentions of
15 historical actors are generally avoided.

16 14. The Petition, as a work of historical scholarship, does not engage with nuance or
17 ambiguity. The Petition does not wrestle with the fundamentally speculative nature of resources
18 development in the United States. It does not address how speculation is distinguishable from an
19 intent to continue gold mining operations when, for example, discussing the motivations of the
20 Ghidottis between their acquisition of component parts of the historical Idaho-Maryland Mine
21 property beginning in 1963 and the execution of the licensing agreement with North Star Rock
22 Company in 1979 with the Subject Property.

23 I declare under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct, except as to those matters alleged on information and belief and, as
25 to those matters, I believe them to be true. Executed on 12/6/2023, at Davis, California.

26 

27 Scott Miltenberger, Ph.D.

ATTACHMENT 1

Scott A. Miltenberger, Ph.D. Principal · Historian

Summary

Dr. Miltenberger is a professional consulting historian, specializing in environmental and natural resources issues. Since joining JRP in 2006, he has researched historical land and water use in California and elsewhere in the American West. Dr. Miltenberger has also led historical investigations of survey / boundary disputes, potentially responsible parties for toxic clean-up under the provisions of CERCLA, river meanders, levee construction and performance, and flood management operations. His clients have included local, state, and federal agencies, as well as private parties. Dr. Miltenberger has qualified as an expert historian and given expert witness testimony before the California State Water Resources Control Board; in Sacramento County Superior Court; in Santa Clara County Superior Court; in Santa Barbara Superior Court; in Sonoma County Superior Court; in Maricopa County (Arizona) Superior Court; in United States District Court, Northern District of California; and in a United States Supreme Court original action.

Selected Professional Experience

Expert Witness Work, Deposition, and Trial / Hearing Testimony

William Tourady, Ginger Tourady, Kelly Jenette, Carol J. Groves as Trustee of the Groves Family Trust, Plaintiffs, vs. Katherine Kemerait, et al., Defendants, Case No. SCV-265679, Superior Court of the State of California, County of Sonoma. Provided expert witness testimony for Katherine Kemerait evaluating historical evidence presented by plaintiffs of California riparian, prescriptive, and pre-1914 water rights. Petaluma, CA: Law Office of Peter Kiel, 2022.

Las Posas Valley Water Rights Coalition, et al., Plaintiffs, vs. Fox Canyon Groundwater Management Agency, et al, Defendants, Case No. VENC100509700, Superior Court of the State of California, County of Santa Barbara. Prepared expert historian report (based on library and archival research and review of corporate records) and provided expert deposition and trial testimony for Las Posas Valley Water Rights Coalition on the history of Del Norte Water Company and the historical relationship between the Company



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Education

Ph.D., United States History,
University of California, Davis,
2006
M.A. United States History,
University of California, Davis,
2001
A.B. History, *summa cum laude*,
Colgate University, New York,
1999

Academic Honors, Fellowships, and Grants

Agricultural History Center
Dissertation Grant, University
of California, Davis, 2005-2006
Reed-Smith Dissertation-Year
Fellowship, University of
California, Davis, 2004-2005
Legacy Fellowship, American
Antiquarian Society, 2004
Distinction, Ph. D. Comprehensive
Examinations, University of
California, Davis, December
2001
Jacob K. Javits Graduate
Fellowship, United States
Department of Education,
2000-2004
Reed-Smith Incoming Graduate
Student Fellowship, University
of California, Davis, 1999.
Charles A. Dana Fellowship,
Colgate University, 1997-1999
Alumni Memorial Scholarship,
Colgate University, 1995-1999
Phi Beta Kappa, Colgate University,
September 1998 (inducted)
Phi Alpha Theta, Colgate
University, September 1997
(inducted)

Professional Affiliations

American Historical Association
(Pacific Coast Branch)
American Society for
Environmental History
National Council on Public History

and its shareholders with regard to the development, distribution, and use of Las Posas Valley Groundwater Basin groundwater. Sacramento, CA: Downey Brand, LLP, 2021-2022.

In the Matter of Applications of North Kern Water Storage District and City of Shafter (Application 31673), City of Bakersfield (Application 31674), Buena Vista Water Storage District (Application 31675), Kern Water Bank Authority (Application 31676), Kern County Water Agency (Application 31677), and Rosedale-Rio Bravo Water Storage District (Application 31819), Phase 1B Hearing, California State Water Resources Control Board, Administrative Hearings Office. Provided expert witness testimony for the Kern Water Bank Authority regarding historical land and water use within present-day Buena Vista Water Storage District as well as the "Lower River Rights." Sacramento, CA: Downey Brand, LLP, 2018-2022.

State of Texas v. State of New Mexico and State of Colorado, No. 141, Original, Supreme Court of the United States. Prepared expert historian reports and declarations (based on extensive archival and library research in California, Colorado, Massachusetts, New Mexico, Texas, Washington, DC, and Wyoming), and provided expert witness deposition and trial testimony for the State of Texas concerning the development of the Rio Grande Compact of 1938. Sacramento, CA: Somach Simmons & Dunn, 2012-2021.

The Vineyard House, LLC, Plaintiff, vs. Constellation Brands U.S. Operations, Inc., Defendant, Case No. 4:19-cv-1424-YGR, United States District Court, Northern District of California – Oakland. Prepared expert historian report (based on county records, and archival and library research), and provided expert witness deposition and trial testimony for The Vineyard House, LLC, regarding the name "To Kalon," its historical association with a specific geographic place within the Oakville, California area, and the influence of H.W. Crabb, the original owner of To Kalon. San Francisco, CA: Buchalter, APC, 2019-2020.

Matt Pear and Mark Pear, Plaintiffs, vs. City and County of San Francisco, a municipal corporation, Does, 1-50, inclusive, Case No. 112CV227801, Superior Court of the State of California, County of Santa Clara. Provided expert witness testimony (based on research in federal, state, county, and municipal [San Francisco] records) for the City and County of San Francisco concerning historical land use and urban / suburban / industrial development of Santa Clara County in the 1950s as related to the Hetch Hetchy Aqueduct Right of Way. City and County of San Francisco, CA: City Attorney's Office, San Francisco Public Utilities Commission, 2017.

Modesto Irrigation District vs. Heather Robinson Tanaka, et al. Case No. 34-2011-00112886, Superior Court of the State of California, County of Sacramento. Provided expert witness deposition and trial testimony (based on research in state and county records) for Modesto Irrigation District concerning the riparian status of a parcel in San Joaquin County and historical land and water uses on that parcel. Sacramento, CA: O'Laughlin & Paris LLP, 2014-2015.

In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source. Civil Nos. W-1, W-2, W-3, and W-4, Contested Case No. W-1-11-605, Maricopa County Superior Court, State of Arizona. Prepared expert historian report (based on extensive archival and library research

in Arizona, California, Colorado, and Washington, DC), and provided expert witness deposition and trial testimony for the United States Army and Fort Huachuca, Arizona concerning the history of the fort, its changing missions, population, and water use, for the purposes of a federal reserved water right claim. Washington, DC and Denver, CO: United States Department of Justice, 2012-2016.

Selected Consulting Historian Services Since 2006

Historical Investigation of Land Use and Water Right Entitlements in the Kings River Basin, 2022-Present.

Historical Investigation of Land Use and Water Right Entitlements in Calaveras County, CA, 2022-Present.

Historical Investigation of Groundwater Development in the Orange County Groundwater Basin, Orange County, CA, 2022-Present.

Historical Investigation of Native American / Federal Reserved Water Rights Claims for Blue Lake Rancheria, Humboldt County, CA, 2017-2018 and 2022-Present.

Historical Research and Analysis of "Cultivation," Agricultural Practices, and the Origins of California Water Code Section 1004. San Francisco, CA: Duane Morris, 2020-Present.

Historical Investigation of Groundwater Development and Use in the Tulare Lake Basin, Kings and Tulare counties, CA, 2020-Present.

Historical Investigation of Riparian and Pre-1914 Appropriative Water Rights Claims along Bear Creek, Merced County, CA, 2020-Present.

Historical Investigation of Pre-1914 Water Rights for Agricultural Lands within the Fresno River Basin, Madera County, CA, 2020-Present.

Historical Investigation of Riparian and Pre-1914 Appropriative Water Rights for Agricultural Lands in Merced County, CA. San Francisco: Duane Morris, 2019-Present.

Historical Investigation of Riparian and Pre-1914 Appropriative Water Rights for Sacramento-San Joaquin Delta Island Lands, 2016-Present.

Historical Investigation of Possible Water Right Entitlements in the Butte Basin, 2021-2023.

Historical Investigation of Historical Investigation of Riparian Water Rights for Coastal Property in San Mateo County, 2023.

Historical Investigation of Water Right Priorities in Tehama County, CA, 2022-2023.

Historical Investigation of Native American / Federal Reserved Water Rights Claims for Southern California "Mission Indians." Sacramento, CA: Downey Brand, 2022.

Due Diligence Research of Historical Water Right Entitlements and Easements for a Recreational Property in Monterey County, CA. San Francisco: Duane Morris, 2021-2022.

Historical Investigation of Riparian and Pre-1914 Appropriative Water Rights for Parcels along Merced River, Merced County, CA, 2018-2022.

Historical Research of Levee Construction and Flood Control Efforts along Bear River, Yuba County, CA, 2021.

Historical Research of Easements for the City of Benicia's Raw Water Transmission Line, Solano County, CA. City of Benicia, 2021.

Riparian Water Rights Investigation of the Cal West-South Meridian Road Property, Sutter County, CA. Marysville, CA: Stromer Realty, 2020.

Clear Lake Littoral Rights Investigations, Lake County, CA. Woodland, CA: Yolo County Flood Control and Water Conservation District, 2019-2021.

Historical Investigation of Water Right Entitlements within the Stanislaus River Basin, Stanislaus County, CA, 2018-2020.

Riparian Water Rights Investigation of Parcels in San Joaquin County, CA, 2018-2019.

Historical Research of California Public Utilities Records, 2018.

Historical Research of Military Operations at McClellan United States Air Force Base, Sacramento, CA, concerning use of chromium and chromium products, 2018.

Historical Investigation of Water Rights Entitlements for James Irrigation District, Fresno County, CA. Sacramento, CA: Bartkiewicz Kronick & Shanahan, 2017-2021.

Historical Investigation of Riparian and Pre-1914 Appropriative Water Rights for an Agricultural Parcel in Merced County, CA. San Francisco: Duane Morris, 2017-2019.

Historical Research of Water Rights for a Parcel in Stanislaus County, CA. Sacramento, CA: O'Laughlin & Paris, LLP, 2017-2018.

Historical Research of Water Rights acquired by the City of Santa Cruz, CA. Santa Cruz, CA: Atchison, Barisone, Condotti & Kovacevich, 2016-2017.

Historical Research of Reclamation District Assessments in Colusa County. Sacramento, CA: Somach Simmons & Dunn, 2016.

Historical Research of Shipbuilding Operations at Swan Island Shipyards, Port of Portland, Oregon. San Francisco: Bassi, Edlin, Huie and Blum, 2015 and 2019-2021.

Historical Investigation of Dams and Flood Control Operations on the Boise River. Boise, ID: Natural Resources Division, Office of the Attorney General, State of Idaho, 2015-2017.

Historical Research of Pre-1914 Water Rights of Woods Irrigation Company, San Joaquin County, CA. Sacramento, CA: State Water Contractors and San Luis and Delta-Mendota Water Authority, 2015-2016.

Historical Investigation of Riparian Water Rights for Agricultural and Wetlands in the Cosumnes River watershed, Sacramento County, CA. Sacramento, CA: Sacramento County Counsel, 2015-2016.

Historical Investigation of Riparian and Pre-1914 Water Rights for Agricultural Lands in the Salinas River Basin, Monterey County, CA, 2015-2016.

Historical Investigation of Riparian and Pre-1914 Water Rights for Agricultural Lands adjacent to the Sacramento River, Yolo County, CA, 2015-2016.

Historical Research and Analysis of the Construction of Cline Falls Dam and Power Plant on Deschutes River, Oregon. Bend, OR: Holland & Knight, LLP, 2015.

Historical Research of Land Uses and Development West of Hunters Point, San Francisco. San Francisco, CA: Bassi, Edlin, Huie and Blum, 2015.

Historical Investigation of Riparian and Pre-1914 Appropriative Water Right Claims for Three Parcels in Contra County, CA, 2014.

Historical Research of Groundwater Pumping and Litigation in the 1950s among Orange County, Riverside, and San Bernardino area water interests in the Upper Santa Ana River Basin in Southern California. Redlands, CA: Thomas McPeters, Esq., McPeters McAlearney Shimoff & Hatt, 2013-2015.

Gallo Cattle Company v. Lincoln White Crane Hunter Farms; Merced Irrigation District, et. al. Case No. CV00105, Superior Court, State of California, County of Merced. Assisted in the collection of historical documentation in support of an expert witness deposition and planned testimony regarding Crocker Huffman Land and Water Company history, development of its irrigation and drainage system (later acquired by Merced Irrigation District [MID]), and the background of a 1918 agreement to flow water from Merced County Drainage District #1 (later acquired by MID) to a private landowner. Walnut Creek, CA: Miller Starr Regalia; and San Francisco, CA: Duane Morris, LLP, 2013-2014.

Historical Research of Land Use, Union Lumber Company and adjacent properties, Fort Bragg, CA. San Francisco, CA: Bassi, Edlin, Huie and Blum, 2013-2014.

Historical Research of a Pre-1914 Appropriative Water Rights Claim for a Ranch in Merced County, CA, 2013.

Cortopassi Partners v. California Department of Water Resources, et al. Case No. CV034843, Superior Court, State of California, County of San Joaquin. Assisted in the collection of historical documentation in support of an expert witness deposition and planned testimony concerning

public and private dredging on the Mokelumne River. Sacramento, CA: California Department of Justice, 2012-2013.

Historical Research of United States Army Corps of Engineers' Dredging and Flood Control Activities on the Yuba River. Sacramento, CA: MBK Engineers, 2012.

Historical Investigation of Reclamation and Land Use of Union Island, San Joaquin Delta, CA. Sacramento, CA: O'Laughlin & Paris LLP for Modesto Irrigation District; Kronick, Moskovitz, Tiedemann & Girard for State Water Contractors; and Diepenbrock Harrison for San Luis and Delta-Mendota Water Authority, 2011-2013.

In Re the General Adjudication of Rights to the Use of Water from the Coeur d'Alene-Spokane River Basin Water System. District Court of the Fifth Judicial District of the State of Idaho, Twin Falls, ID. Assisted in the research, document / data management, and preparation of an expert report regarding Coeur d'Alene tribal water rights claims made in the general adjudication of water rights in the Coeur d'Alene-Spokane River Basin, Idaho. Boise, ID: Natural Resources Division, Office of the Attorney General, State of Idaho, 2010-2020.

Historical Investigation of Reclamation and Land Use of Roberts Island, San Joaquin Delta, CA. Sacramento, CA: O'Laughlin & Paris LLP for Modesto Irrigation District; Kronick, Moskovitz, Tiedemann & Girard for State Water Contractors; and Diepenbrock Harrison for San Luis and Delta-Mendota Water Authority, 2010-2014.

Historical Investigation of Delineations of the Rialto Groundwater Basin, San Bernardino, CA. Redlands, CA: Thomas McPeters, Esq., McPeters McAlearney Shimoff & Hatt, 2010-2013.

Historical Investigation of Water Development at Two Well Sites in the Chino Groundwater Basin, CA. Rancho Cucamonga, CA: Cucamonga Valley Water District, 2010-2012.

State Plan of Flood Control: Preparation of history of flood control plans and measures in California. Sacramento: MWH Americas, Inc, 2010-2012.

Historical Research of Groundwater Development and Use in Antelope Valley to Fulfill the Changing Military Missions of Edwards Air Force Base, Kern, San Bernardino, and Los Angeles counties, CA. Denver, CO: United States Department of Justice, 2009, 2012-2014.

Historical Research of Water Storage, Diversion and Use by American Falls Reclamation District No. 2, *In Re the General Adjudication of Rights to the Use of Water from the Snake River Drainage Basin Water System, State of Idaho v. United States; State of Idaho; and all unknown claimants to the use of water from the Snake River Drainage Basin Water System*, Subcase No. 39576, District Court of the Fifth Judicial District of the State of Idaho, Twin Falls, ID. Boise, ID: Natural Resources Division, Office of the Attorney General, State of Idaho, 2011.

Historical Research of Operations and Water Use at a Power Plant on Lytle Creek, San Bernardino County, CA for California Public Utilities Commission Hearings. Fontana, CA: Fontana Water District; and Rosemead, CA: San Gabriel Water District, 2011.

Historical Investigation of Water Right Entitlements on the Mokelumne River, San Joaquin, Amador, and Calaveras counties, CA, 2011.

Historical Investigation of Susan River Pre-1914 Water Right Entitlements, Lassen County, CA. Chico, CA: O’Laughlin & Paris LLP, 2010.

Historical Research of Construction and Water Use of Lower Lytle Creek Power Plant and Appurtenant Facilities. Redlands, CA: Thomas McPeters, Esq., McPeters McAlearney Shimoff & Hatt, 2010.

Due Diligence Research of Historical Land Uses, and Riparian and Pre-1914 Water Rights associated with an 8,000-acre historic ranch in Madera County, CA, 2009-2010.

Legislative History of California’s “Area of Origins” laws (County of Origin, Water Code Sections 10500-10506, and the Watershed Protection Statute, Water Code Sections 11460-11465). Stockton, CA: Herum/Crabtree Attorneys, 2009-2010.

Historical Investigation of Fontana Union Water Company’s Lytle Creek Diversion on the San Bernardino National Forest. Fontana, CA: Fontana Union Water Company; Rancho Cucamonga: Cucamonga Valley Water District; and Rosemead, CA: San Gabriel Water District for submission to the Chief Counsel for Natural Resources, United States Department of Agriculture, 2009.

Historical Research of Water Development on the Merced River for Irrigation, Mining, and Power Purposes, and the Existence of Anadromous Fisheries Prior to the Organization of the Merced Irrigation District, 1860-1926. Merced, CA, 2008-2012.

Historical Research of Sacramento River and San Joaquin River Levee Construction, Maintenance, Repair, and Performance. Sacramento, CA: Kleinfelder, 2008-2012.

Historical Investigation of Oakdale Irrigation District Water Rights. Chico, CA: O’Laughlin & Paris, 2008–2009.

Historic Research of Meandering of the River Bend Section of the Russian River, Sonoma County, CA. Sacramento, CA: Lennihan Law, APC, 2008.

Historical Investigation of Riparian Lands and Agricultural Land Uses for Major Reclaimed Islands in the Southern San Joaquin Delta, San Joaquin County, CA. Chico, CA: O’Laughlin & Paris LLP, 2007-2009.

Historical Research of Franks Tract Levees, Pre- and Post-Island Flooding, Contra Costa County, CA. Benjamin & Associates, 2007–2008.

Historical Investigation of Pre-1914 Water Rights for Idyllwild Water District regarding Strawberry Creek, a tributary to the San Jacinto River. California State Water Resources Control Board, Complaint No. 33-05-01 In Re Strawberry Creek, Riverside County, CA. Sacramento, CA: Ellison, Schneider & Harris, Attorneys at Law, LLP, 2007-2008.

Historical Investigation of Federal Reserved Water Rights Claims for Fort Boise Military Reservation. Boise, ID: Natural Resources Division, Office of the Attorney General, State of Idaho, 2007.

In Re the General Adjudication of Rights to the Use of Water from the Snake River Drainage Basin Water System, State of Idaho v. United States; State of Idaho; and all unknown claimants to the use of water from the Snake River Drainage Basin Water System, District Court of the Fifth Judicial District of the State of Idaho, Twin Falls, ID. Assisted in the research, document / data management, and preparation of several expert and consultant reports related to Idaho state water rights from statehood to the present of the more than 158,000 water claimants in the Snake River Drainage Basin, Idaho. These studies involved reservoir storage rights, appropriative water claims, groundwater use, submerged lands, hydro-electric power generation, municipal water uses, federal reserved water rights for military, forest, and Native American reservations, Native American water and fisheries claims, and legislative histories. Boise, ID: Natural Resources Division, Office of the Attorney General, State of Idaho, 2006-2016.

Historical Research of Property Ownership for a Mine in Lake County, CA. Houston, TX: El Paso Corporation, 2006

Publications Authored in the Previous 10 Years

Co-author with Stephen Wee, M.A., *Working River: Agriculture, Hydropower, and the Reshaping of Idaho's Snake River* (Carlton, OR: Ridenbaugh Press, 2023).

"Viewing the Anthrozootic City: Humans, Domesticated Animals, and the Making of Early Nineteenth-Century New York," in *The Historical Animal*, ed. Susan Nance (Syracuse, NY: Syracuse University Press, 2015), pp. 261-271.

ATTACHMENT 2

Comment No.	Section, Page(s)	Paragraph / Heading / Passage / Footnote / Exhibit or Appendix	Peer Review Comments, <i>Idaho-Maryland Mine Vested Right Petition</i> Scott A. Miltenberger, Ph.D., Principal & Heather K. Norby, M.A., Senior Historian
1	I, 1	"Since the Mine was first established in 1851..."	Stating that "the Mine" was first established in 1851 is an ahistorical characterization because as used in the petition, "the Mine" refers to a collection of mines with independent origins that were later consolidated by ownership. There is evidence to support that two of the mines that were consolidated by ownership in the twentieth century, Union Hill and Eureka, located claims in 1851.
2	I, 2	A. Historical Overview	No discussion is offered as to who prepared the overview or compiled the cited documents (exhibits and appendices) later appearing in the "Factual Background" section. Likewise no discussion is offered as to research methodology - what repositories, collections, and sources were consulted - and little indication of document provenance is given in the petition.
3	I, 3	"The first mention of mining activity..."	This assertion is uncited, and thus cannot be evaluated as to accuracy or credibility.
4	I, 3	3. Post War Production, 1943-1953.	Discussion of the international context (i.e., the development of a global monetary system) helps explain the external factors that impacted mining operations in the Grass Valley Mining District.
5	I, 4	5. Cessation of Gold Mining Activities and Sal of the Mine, 1956-1963. / "...entered into a period of dormancy in 1956."	"Cessation" and "dormancy" have different meanings, and it is unclear here if the interpretation is that gold mining at the historical Idaho-Maryland Mine ended in this period (i.e., "cessation") or was merely inactive (i.e., "dormancy").
6	I, 4	6. Resurgence of Mining Operations at the Mine Property, 1964-1980. / "In the 1960's and 1970's, the Mine Property saw a resurgence of activity."	It is unclear from this statement when exactly the resurgence occurred, and the degree to which it was connected with the historical mining operations briefly addressed in the sections above. The activities noted appear to involving utilization of previously excavated materials for different purposes rather than gold mining. Any connection between these activities and mining is not clearly explained.
7	I, 5	6. Resurgence of Mining Operations at the Mine Property, 1964-1980. / "In the Planning Commission hearing for this use permit..."	This statement, which goes onto quote from the Planning Commission hearing, indicates that Marion Ghidotti (the owner, ca. 1980) was using the property as "a horse ranch" and was "consider[ing]...re-opening the mine because of the price of the gold." This implies that the historical Idaho-Maryland Mine was closed and no mining operations were occurring.
8	I, 5	7. BET Group Inherits the Mine Property from Marian Ghidotti, 1981-1986. / "...because of her belief that they had the wherewithal and skillset to facilitate the development of the Mine	The source(s) of Ghidotti's belief - both why she possessed this stated conviction and the recordation of her conviction - are unstated here. Individual beliefs, without attribution to documentation, cannot be evaluated historically.
9	I, 5	8. Recent Efforts to Reopen and Resume Gold Mining Operations at the Mine, 1987 - Present. / "Emgold subsequently withdrew its application..."	The reasons for Emgold's withdrawal are not discussed, which raises questions as to the reasons why. Such reasons may be significant in understanding the state of knowledge of prospective purchasers / operators regarding the historical Idaho-Maryland Mine's viability.
10	III, 7	Footnote 7 / Appendix A	There is no indication that the document cited in Footnote 7 (and elsewhere) and produced as Appendix A was authored by "Macboyle" as the footnote indicates. Rather the document appears to be an excerpt of a State Mineralogist report - but necessary identifying information (such as the title page with publication date and table of contents) are not provided. In the absence of either producing the entire work or its title page and table of contents, what the document precisely is and who prepared it cannot be known and the accuracy and credibility of the work cannot be evaluated.
11	III, 7	Footnote 8 / Appendix B & Appendix C	The cited Bean source, produced as Appendix B, is a primary source - i.e., it is a historical document contemporaneous to the facts or events described - and the kind of document or record that a historian would rely upon. By contrast, the cited Clark source, produced as Appendix C (and cited repeatedly in the "Factual Background"), is a secondary source - a work discussing history. As such it carries less weight for a historian than the Bean source. Moreover, Clark's work, while highly detailed, is not provided in its entirety (and no table of contents is reproduced) and its assertions of facts lack citation. Clark was previously employed at the Idaho-Maryland Mine, Old and New Brunswick mines, and the Bullion Mine but his employment did not extend back to the 19th century. Source citation is a fundamental component of historical scholarship. Clark's purported facts, in the absence of citation, cannot be evaluated as to accuracy, credibility, or significance.
12	III, 7	Footnote 9 / Appendix D	The cited Lindgren source, produced as Appendix D, appears to be an excerpt of a US Geological Survey report - but necessary identifying information (such as the title page with publication date and table of contents) are not provided. In the absence of either producing the entire work or its title page and table of contents, what the document precisely is and who prepared it cannot be known and the accuracy and credibility of the work cannot be evaluated.

Comment No.	Section, Page(s)	Paragraph / Heading / Passage / Footnote / Exhibit or Appendix	Peer Review Comments, <i>Idaho-Maryland Mine Vested Right Petition</i> Scott A. Miltenberger, Ph.D., Principal & Heather K. Norby, M.A., Senior Historian
13	III, 10	Footnote 47	Here and throughout the "Factual Background" section, local and regional newspapers (such as the <i>San Francisco Examiner</i>) provide evidence of mining operations and other activities in the Grass Valley Mining District. Almost no use of trade publications, however, is made. The <i>Engineering and Mining Journal</i> , for instance, one of the pre-eminent trade journals on the mining industry since the 19th century, may be expected to provide more details not only of operations but also corporate plans.
14	III, 12	1893	Here and elsewhere in the "Factual Background" section, changes of ownership or acquisition are discussed. No clear chain of title, however, is presented. Its absence complicates understanding of if, how, and when the historical Idaho-Maryland Mine and attendant mineral rights came to vest and came to be acquired ultimately by Rise. Likewise no articles of incorporation are cited as evidence of intent to pursue mining operations at the historical Idaho-Maryland Mine.
15	III, 15	1900 / Exhibits 22-25	The four historic photographs presented as Exhibits 22 through 25 do not "clearly demonstrate the magnitude of the mining operation at this time" as stated. The photographs show built environment features of the site. Three of the photographs depict building interiors and one is an undated photograph showing a collection of wood-frame industrial buildings. There is no historic context presented that establishes a criteria for determining the "magnitude of the mining operation."
16	III, 16	Footnotes 114-116 / Exhibit 30	The newspaper source cited (Exhibit 30) to support continued surface mining operations at Union Hill Mine does not include the passage that the tunnel was driven "After going quite a distance." It is not clear from the source where, geographically, the vein was intersected.
17	III, 18	Footnote 138 / Exhibit 42	The newspaper source cited (Exhibit 42) to support Union Hill service "roads" being repaired only refers to work on a single road, Union Hill Road.
18	III, 19	1912 - "Further, the Mine is considered 'one of the biggest...' / Footnote 155 / Exhibit 50	Per the source cited (Exhibit 50), "the Mine" refers specifically to the Union Hill mine.
19	III, 22	Footnote 198	Corporate annual reports, cited here and elsewhere, are an appropriate source of historical information regarding operations and intent. The provenance of these documents, however, is not explicitly addressed which raises questions as to the integrity of the documentation itself. Additionally the "Factual Background" section does not utilize information that may be gleaned from investment reporting services - such as Moody's or Walker's. There is no indication that either was consulted.
20	III, 24	1925 - "Idaho-Maryland Consolidated Mines, Inc. acquires the Mine Property from Metals Exploration Company..." / Footnote 222 / Exhibit 85	Newspaper accounts of property transactions (Footnote 222 / Exhibit 85) are not the best source of historical title information. Recorded documents that provide a description of the property being conveyed would provide a clearer picture of the property ownership history.
21	III, 25	1926 - "The Brunswick site is closed and a controlling interest is purchased by..." / Footnote 224 / Exhibits 87 and 88	Again, newspaper accounts of property transactions (Footnote 224 / Exhibits 87 and 88) are not the best source of historical information. Recorded documents that provide a description of the property being conveyed would provide a clearer picture of the property ownership history.
22	III, 28	Footnote 264 / Appendix E	The cited Logan source, produced as Appendix E, appears to be another excerpt of a State Mineralogist (or State Mining Bureau) report - but necessary identifying information (such as the title page with publication date and table of contents) are not provided. In the absence of either producing the entire work or its title page and table of contents, what the document precisely is and who prepared it cannot be known and the accuracy and credibility of the work cannot be evaluated. Additionally, the Logan source is not the best source for understanding the consolidation of Idaho Maryland Mines Company and Idaho Maryland Consolidated Mines Inc. into Idaho Maryland Mines Corporation. The Logan source also does not provide any details regarding the holdings of each company. Corporate documents, recorded conveyances, or amended articles of incorporation are better sources.
23	III, 29	Footnote 288 / Exhibit 137	Aerial imagery can yield historical information - however, no acknowledgement is given to its inherent limitations. As with any photograph, a single moment in time and place is captured. Unless analyzed sequentially, such images can create a distorted interpretation of any land use activity over time. Even when aerial photographs are viewed sequentially, chronological gaps or shifts between the photographs may obscure more than may be revealed by examination.
24	III, 31	1941 - "Idaho Maryland Mines Corporation purchases land and mineral rights from Lawrence and Vivian Mazzanti..." / Footnote 319 / Exhibit 151	The petition does not describe the location of the Mazzanti property nor the character of its use prior to the Idaho Maryland Mines Corporation acquisition. It is not clear how and if the surface rights excepted by the Grant Deed (Footnote 319 / Exhibit 151) refer to any historical land uses, nor is it clear how these exceptions may or may not affect how the property was constituted and used after 1941.

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25	III, 32	1944 - "The Idaho-Maryland-Brunswick Mine is granted permission to reopen..." / Footnote 331 / Exhibit 156	The newspaper source (Footnote 331 / Exhibit 156) relied upon to support this statement reported that permission was granted to re-open the "Idaho-Maryland and Empire Star mines at Grass Valley." Brunswick mine is not named in the source. Exhibit 161 suggests that in 1946 Idaho-Maryland and Brunswick were understood to be separate mines/mills/plants.
26	III, 32	1943 - "The Idaho-Maryland-Brunswick Mine is operating on care and maintenance with no production...."	The meaning of "operating on care and maintenance" relative to mining operations is not explained here.
27	III, 33	1948 / Footnote 346 / Exhibit 165	Petition does not specify location of new vein. The cited source (Footnote 346 / Exhibit 165) indicates it was on the Idaho shaft.
28	III, 33	1948 - "The sawmill continues to run and cuts 12, 201,546 feet of lumber." / Exhibits 166 and 167	Exhibit 166 cited in Footnote 351 notes that 1,928,182 feet of the lumber was delivered to mine stocks and the remainder sold. Exhibit 167 contains a section "Runs Sawmill" noting that Idaho-Maryland is cutting timber on its own property and that "there may be more money this year in the above ground enterprise than in the entire underground activities." By the date of this publication, the company appears to have been cutting and milling wood for commercial purposes outside of mining activity.
29	III, 34	1952 - "Exhibits 173 and 174 depict the Mine Property and many of the mines that collectively comprise the present day Mine."	Exhibit 173 is an undated map that appears to have been an attachment to a title report that is not provided in the exhibits. The legend shows "Surface & Mineral Owned" and "Mineral Only Owned" but the demarcations in the legend and on the map are difficult to discern. Exhibit 174 is an undated map with no legend. It is not clear who produced the color annotations on the map and for what purpose.
30	III, 35	1954 - "Active mining occurs in at least 14 areas throughout the Mine..." / Exhibit 179	The source provided (Exhibit 179) is records for September and October 1954 only, showing only mining activities at the "Brunswick Unit." The language presented in the petition - "throughout the Mine" - suggests something more expansive.
31	III, 36	1955	The events discussed for 1955 convey the interpretation that gold mining operations came to an end in that year, notwithstanding "tungsten exploration and mining."
32	III, 37	1956 - "To acquire this money, Idaho Maryland Mines Corporation applies for a \$122,000 grant from the Defense Mineral Administration but is denied."	The reasons for DMA's denial of the grant application are not discussed, which raises questions as to the reasons why. Such reasons may be significant in understanding the state of knowledge regarding the Idaho-Maryland Mine's viability.
33	III, 37	1956 - paragraph beginning, "As part of the retrenchment..."	Recorded documents are provided for the property transfers described in this paragraph <u>except</u> for the sale of the Idaho-Maryland surface plant to Oro Lumber Company. The chain of title provided as Exhibit 205 also indicates that the Brunswick site was owned by lumber interests from 1957 through 2018.
34	III, 38	1957 - "When questioned, mine officials stated...." / Exhibit 209	The quotation that follows in this sentence overlooks that that the sentence immediately before the quotation in the <i>Nevada State Journal</i> was: "Mine officials, questioned concerning the future are hopeful but not optimistic" (Exhibit 209). The newspaper went on to note that "equipment had been removed," and that "other salvage jobs [were] going ahead" with "[a] handful of men...manning pumps and performing other maintenance duties." The paper also observed that "Large-scale mining at the Idaho-Maryland [mine] ended when the company filed its stockpile quote of tungsten for the government."
35	III, 38	1957 - "The locations of the sand flume and ditch indicates..."	Given the previous observation that mining came to an end in 1956, it is not apparent how the transfer of tailings" represented a continuation of mining operations. Such an activity would seem to be more in line with clean-up or reclamation than excavation of ore.
36	III, 38	1958 / Exhibit 215	Nevada County issued Use Permit U58-15 (Exhibit 215) to Summit Valley Pine Mill, Inc. not only to operate a sawmill, but to construct a sawmill.
37	III, 38	1959 - "On March 13th, ..." / Exhibit 216	An excerpt of the minutes of one meeting of the Board of Directors of Idaho Maryland Mines Corporation (Exhibit 216) is provided to demonstrate the decision by the company to sell a portion of the surface properties and reserve mill site areas. These minutes are not produced in their entirety, however - in fact it does not appear that any of the corporate minutes proffered as evidence in the petition are - which makes it making it difficult to evaluate if all relevant information is presented. A detailed examination of the company's minutes from 1956 through 1959, and fully produced, could provide a more complete picture of the decision to sell and the intent for the future uses of the property.
38	III, 39	1959 - "On August 3rd,..." / Exhibit 219	The newspaper source cited (Exhibit 219) not only reported on the sale of the Idaho-Maryland tract, but also observed that "The mining firm...closed down its last gold mining operation in Nevada County about eight years ago [i.e., in 1951]."

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39	III, 39	1960 / Exhibit 221	<p>A corporate name change notwithstanding, no evidence of activity or efforts to re-initiate mining at the historical Idaho-Maryland Mine is offered for this year. Reporting of the corporate name change (Exhibit 221) explained that as the "corporation grew, it became more and more apparent that the original name, Idaho Maryland Mines Corporation, presented a misleading and limited picture of their capabilities" and that the stockholders "immediately voted to change the name" at the annual stockholders meeting, thus eliminating "Mines" from the name.</p> <p>Additionally, it is worth noting the following from the corporate minutes for January 29, 1960 (Exhibit 217, pdf p. 198): "discussion was held in connection with the advisability of selling certain mineral rights belonging to the Corporation. Considering that these particular mineral rights have been abandoned by non-payment of taxes, one of the reasons being that they are not contiguous to the Corporation's other mining properties and are not accessible through the main mine shafts...", the directors voted to convey these mineral rights to Sum-Gold Corporation.</p> <p>No affirmative evidence (such as in the form of tax assessment records) is clearly presented in the petition that Idaho-Maryland Industries or any of its immediate successors-in-interest continued to pay taxes relative to mineral rights or the property that they possessed during periods of mining inactivity. The statement from the minutes would seem to suggest that this is vital component to avoiding "abandonment," and thus to foreclose an argument for abandonment ought to be presented. The order settling Marian Ghidotti's estate in 1983 does acknowledge that "[a]ll personal property taxes due and payable by the estate have been paid" (Exhibit 248, pdf p. 70). What those taxes were and for what property is not stated.</p>
40	III, 39	1961	<p>No evidence is presented here or elsewhere that Robinson's appeal (Exhibit 222) was made on behalf of Idaho-Maryland Industries. In fact, while he identifies himself as a director of the company, Robinson goes on to state that his "suggestion is submitted not as a technical mining expert or operator but as an observer who has watched the gold situation since 1942 with full cognizance of the economic and related factors involved." Moreover, no evidence is presented that Robinson's suggestion bore fruit.</p>
41	III, 40	1964	<p>From an historical perspective, it is not clear how the additional surface property purchased by William and Marian Ghidotti was "previously part of the fully-assembled Mine Property." What date or era of the property's past ownership or uses is meant by "previously"?</p> <p>Additionally, the activity described at the site is not focused on any revival of mining under the Ghidottis' ownership but rather on the sale "of crushed rock left over from past mining operations."</p> <p>Furthermore, that Ghidottis reportedly was open to offers to purchase "the mineral rights" raises a historical question as to his motivations. Was his interest mostly or exclusively speculative? If so, how much intent to mine or revive mining operations can be fairly ascribed to Ghidotti?</p>
42	III, 40	1967-1976	<p>During this nine-year period the only evidence of activity at the historical Idaho-Maryland Mine presented is of the operation of a rock crusher and the removal of "mine rock wastes and mill sand." It is unclear of how indicative this was of an intent to resume gold mining operations.</p>
43	III, 41	1969	<p>The information presented as to William Ghidotti's investment in other mining companies does not provide any evidence as to his intent to develop or re-initiate mining operations at the historical Idaho-Maryland Mine - nor does the observation that Marian Ghidotti acquired and sold other mining claims. The latter in fact raises once again the question of Ghidottis' interest in the historical Idaho-Maryland Mine. Was it speculative, and if so, how does that speak to their intent to pursue mining?</p>

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44	III, 41	1976 / Footnote 437 / Exhibit 227	As a historical source, a declaration such as Lee Johnson's (Exhibit 227) is problematic, particularly for the factual assertions made here. Both historical study and scientific research have revealed the unreliability (and even instability) of human memory. Historical interpretation is based upon a critical examination of documentation made at or near the occurrence of an event. Memoirs and reminiscences often drafted years after an event are consulted as sources, but treated with caution. Corroboration from sources closer or contemporaneous in time with the events described are frequently sought. Relying on this declaration to ascertain William and Marian Ghidotti's thoughts or intentions - in the absence of independent supporting documentation - is methodologically suspect for a historian.
45	III, 41-42	1976 / Footnote 438 / Exhibit 249	The sawmill does not appear to have a direct relationship to any mining activities despite the cited source (Exhibit 249) stating that the Brunswick mill used water in the Brunswick mine as a source of water supply. The letter does not indicate that water was being pumped from the mine to support any mining activities.
46	III, 42	1977	As discussed in the comment above, there are issues with the Johnson declaration as a historical source. In this specific instance, a better source for Marian Ghidotti insuring the "Mine Property" would be policy documents from Gold Cities Insurance Company (the carrier, according to Johnson) or some other formal evidence of the insurance. Additionally, it was Johnson's "impression that Marian wanted the Mine property insured because she viewed it as valuable asset that contained a large amount of unextracted gold and would one day generate significant amounts of income when mining resumed" - and not (as claimed here) her belief.
47	III, 42	1979	Referring to the location of the licensing agreement between Marion Ghidotti and North Star Rock Products as the "Centennial Industrial Site" is an ahistorical construct. The license agreement refers to the property in question as "the 'Morehouse' Dump and/or the 'Idaho-Maryland Mine' dumps." Moreover the intended activities to be covered by the use permit do not appear consistent with historical gold mining activity.
48	III, 42	1980 - "the County recognizes mining operations..."	The Use Permit application package U79-41 includes an Environmental Information Form (Exhibit 251, pdf p. 18) that outlines the plans to crush and remove mine wastes left from gold mining operations and reclaim the site. Under "Water," the report notes that "When the site area[sic] is reclaimed following the gravel operation, the intermittent drainage flows will be re-established to the pre-mining patterns" (Exhibit 251, pdf p. 32). Where the environmental discussion addresses the project's conflict with the General Plan 1990, it notes that the "owner of the property [Marian Ghidotti] has established the non-conforming use by removing small amounts of rock and mill sand over a continuous period" and that the "project will continue a general pattern of mineral recovery in the area" (Exhibit 251, pdf p. 35). Per the timeline provided in the petition, the Ghidottis began the activity of rock crushing at the site in 1964.
49	III, 42	1980 - "Marian also knew that each of these individuals...." / Footnote 447 / Exhibit 248	The claim as to Marian's knowledge of her heirs' desire "to resume operations" and her belief as "their professional skills and training" is not supported by the cited document (Exhibit 248) which is merely the order settling Marian Ghidotti's estate. The Johnson declaration (Exhibit 227) opines that Ghidotti "knew the Mine was a valuable mining asset, and that this group would be capable of resurrecting the Mine due to their collective expertise as land use / title professionals and accountants." This statement alone, notwithstanding the question of what Ghidotti may or may not have know, indicates that mine property was inactive for a number of years prior to her death. The declaration further opines as to Johnson's "understanding" of Ghidotti's beliefs but there no corroborating evidence is offered either by the declaration or elsewhere in the petition (see Comment No. 44 above).
50	III, 42	1980 - "In the County's Staff Report regarding Use Permit U79-41..." / Footnote 446 / Exhibit 254	The source cited (Exhibit 254) for this statement is not a County Staff Report, but rather reported in the minutes of a meeting where the use permit was under discussion. Marian Ghidotti was not present at the meeting. Although not entirely clear, it appears that Clayton Abbott, attending on behalf of the application, made the statement that was recorded in the minutes as "Mrs. Ghidotti who owns the property intends to put it to some use other than a horse ranch in the future, because it is zoned Industrial, and there has been some consideration of re-opening the mine because of the price of gold."

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51	III, 43	1980 - "During Marian's and William's ownership of the Mine..."	The claim about the Ghidottis being "convinced" the mine would again be operational does not take into account the speculative nature of investing in properties with the hope that they may become more valuable in the future.
52	III, 43	1984 - "In the 1980s, an anti-mine sentiment...."	The discussion here suggests that little or no mining operations were occurring in Nevada County as of 1984, and offers no evidence of Ghidotti's efforts prior to her death or of the BET Group that acquired the historical Idaho-Maryland Mine to advance work in the face of prevailing county-wide opposition to mining.
53	III, 43	1985 / Footnote 459 / Exhibit 260	Into 1985, no evidence is presented as to an effort to revive mining at the historical Idaho-Maryland Mine. North Star Rock Company instead continued its operations under an amended use permit. The Notice of Conditional Approval of Use Permit Application (Exhibit 260) for an amendment to U79-41 states that the "use permit covers only removal of mine waste and processing to restore the site to its original contours. Earth excavation for a borrow pit is not included."
54	III, 43-44	1986 - "By May, most of the tailings have been re-mined..." / Footnote 460 / Exhibit 261	The cited source (Exhibit 261) does not use the term "re-mined" or "Centennial site." Use of these words by this petition is ahistorical in nature and does not accurately characterize how the activity or the place were conceptualized by the author in May 1986.
55	III, 44	1986 - "In that same month, the BET Group enters into negotiations with Ross Guenther to sell the Mine Property for development purposes." / Footnote 463 / Exhibits 261-262	The "development purposes" addressed in Exhibit 261 is residential. A Status Report (Exhibit 262) prepared by Ross Guenther in 1989 for Northern Mines noted that steps were being taken to upgrade the title. Figure 2 of the report (Exhibit 262, pdf p. 136) shows the Idaho Maryland Brunswick Property boundary, with Surface Rights called out at the Brunswick Shaft. The document does not clearly explain the documentation for these boundaries. The Permitting Feasibility Study (Exhibit 262) prepared for Reactivation Project for the Idaho-Maryland-Brunswick Mine notes that the mine "has been idle for the last 32 years [i.e., since 1954]" and that the property was composed of 2,760 acres of mineral rights and 37 acres of surface rights "centered at the New Brunswick Shaft" (Exhibit 262, pdf p. 154).
56	III, 44	1987	Reservation of mineral and other subsurface rights with the creation of residential subdivisions is fairly typical, and in the absence of other evidence of an intent by BET Group to mine this alone does not support such a claim.
57	III, 44	1988	BET Group's optioning of the Idaho-Maryland/Brunswick mine to Mother Lode Gold Mines may be fairly interpreted as speculative, with their interest being in selling rather than operating. Activity at the property, other than the option to Mother Lode, seems focus on management and removal of surface debris (tailings) from past mining.
58	III, 45	1989 / Footnote 477 / Exhibit 275	The filing of a Notice of Intent to Preserve Interest (Exhibit 275) appears to be affirmative evidence of an intent to retain whatever mineral rights may have been held by Bouma, Erickson, and Toms. However, no explanation is offered as to why Bouma, et al., made this filing in 1989. From a reading of the historical evidence presented thus far in the petition, the filing would appear to reflect concern that a question surrounded the purported efficacy of the rights, that a threat of extinguishment
59	III, 45	1991	No explanation is given why Mother Lode Gold Mines "relinquishes and returns the Mine Property" to BET Group only 3 years after acquiring its option. This once again raises questions as to the state of knowledge regarding the historical Idaho-Maryland Mine's viability. Then again, Consolidated Del Norte Ventures leases the property with the "hope" of reopening and expresses an opinion that there is gold to be extracted.
60	III, 46	1993	No explanation is given for why Consolidated Del Norte Ventures relinquished its lease 2 years later.
61	III, 48	2013	After nearly 20 years of exploratory activity, Emgold Mining Corporation permits its lease and purchase agreement (previously re-negotiated once before in 2002) to expire - the 3rd mining company to walk away from the historical Idaho-Maryland Mine property. No explanation is offered. The property itself is marketed for sale for 4 years before being acquired by Rise Resources, and no evidence is presented as to activities or operations at the site during this time.
62	V, 57	1. Geographic Scope - "...the surface was used for the primary purpose of supporting subsurface gold mining operations..."	The use of the "surface" property at the historical Idaho-Maryland Mine has changed over time. Historical uses include support of gold mining during the period of gold mining, commercial timber harvesting and milling, and a rock crushing operation. The "surface" has also been developed for residential, commercial, and recreational purposes.
63	V, 57	1. Geographic Scope - "(1) the surface of the Vested Mine Property, which includes the Brunswick Industrial Site and the Centennial Industrial Site..."	These geographic terms - Brunswick Industrial Site and Centennial Industrial Site - appear to be modern constructs that do not have a clear grounding in the history of the Grass Valley Mining District. Use of these modern terms obscures the land use and ownership history of these areas.

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64	V, 58	1. Geographic Scope - "Since mining first commenced on the Mine Property, the operators' manifestations of intent to continue mining the Mine Property have never wavered..."	From an historical perspective, this is overstated and collapses a more complicated and dynamic history of the Grass Valley Mining District. Multiple owners and entities speculated in and operated various gold and tungsten mines in the district with uneven levels of success and commitment over time.
65	V, 58	1. Geographic Scope - "Rise now holds the property assembled in 1941..."	The petition does not clearly define which historical mining properties were assembled by ownership in 1941, nor does it clearly present the ownership history after 1941.
66	V, 59-60	1b. As noted above, the Vested Mine Property's surface consisted of two separate sites: the Brunswick Industrial Site and the Centennial Industrial Site."	See Comment No. 63
67	V, 60	1b. The Entire Surface of the Vested Mine Property is Vested as it has Been and will Again be Used for Mining Purposes. / "Aerial photographs..."	See Comment No. 23 Observation of roads in aerial photographs is not sufficient to support any definitive statements about the purpose of the roads. Roads may have been present to support mining activities or they may have been present to provide access to timber stands, or to serve other types of infrastructure that may or may not relate to mining activities. Note that Exhibit 167 reports that in 1948 Idaho-Maryland was cutting timber on its own property and that "there may be more money this year in the above ground enterprise than in the entire underground activities."
68	V, 60-61	1b. "As mentioned above, the sawmill was originally constructed for the exclusive use and benefit of mining operations, and continued to operate during the 1960s and 1970s pursuant to Use Permits..."	There is evidence (Exhibit 167) that by the 1940s, the Idaho-Maryland sawmill was operating in part to produce commercial lumber. Exhibit 215 is suggestive that a new sawmill was constructed after Summit Valley Pine Mill, Inc. was issued a use permit by Nevada County.
69	V, 61	1b. - "...primarily for the purpose of storing mine tailings and waste from the Brunswick Industrial Site."	It is unclear how the cited sources (Exhibits 218 and 230) support this connection between the two sites.
70	V, 61	1b. - "...the entire 175 surface-acre and 2,560 subsurface-acre Vested Mine Property."	It is unclear at what point in the history of the mines in question the surface area constituted 175 acres. The newspaper article presented as Exhibit 219 noted that Idaho-Maryland Mines Corporation had sold 1,100 acres for residential, commercial, industrial, and recreation use and that 70 acres would be retained around three mine shafts.
71	V, 63	2 - "Thus, the sawmill was, at the time of its construction..."	The presented history of this sawmill is not complete and does not follow the operations or longevity of this sawmill. It is unclear how long the initial sawmill was operational, and to what degree, if any, it was supporting mining after the 1940s.
72	V, 64	2 - "This sawmill was originally built by the Idaho Maryland Mines Corporation to support mine operations..."	Exhibits 159, 162, and 386 cited in Footnote 631 and Exhibit 387 cited in Footnote 632 date to the 1940s and do not give any indication as to whether or not the Brunswick sawmill supported mining activities in the 1950s. The only cited source that dates to the 1950s is Exhibit 380 in Footnote 631 and it is a "Flowsheet of the Brunswick Mill," with no apparent reference to a sawmill.
73	V, 66-67	C. "The County's issuance of Use Permit U79-41 explicitly states..."	It is unclear if and how the use permit and associated documentation ties the non-conforming use to historical gold mining. The permit appears to tie the non-conforming use to William and Marian's Ghidotti's (and their licensee's) historical (since 1964) waste rock crushing and sales operation.
74	V, 69	C.i. - "In 1954, active mining was occurring in at least 14 locations throughout the Mine..."	As noted above, the source provided (Exhibit 179) to support this only shows mining activities at the "Brunswick Unit." The language presented in the petition - "throughout the Mine" - suggests something more expansive.
75	V, 69	C.i. - "The only plausible reason for requiring these exclusions in the deeds is that the company intended to resume underground mining operations at these properties in the"	The history of mineral development in the United States is marked by speculative practices to reserve "rights" that may in the future be sold, and which may or may not be bona fide. Not all historical actors who have reserved such "rights," moreover, have possessed a viable future plan for exploitation of those "rights."
76	V, 70	C.i. - "That fixed price combined with the rising extraction costs over the years caused an epidemic of mine closures in California."	This petition does not present sufficient historical information to explain if "rising extraction costs" may have also been related to material conditions specific to the mines in question.
77	V, 71	C.i. - Para. "William Ghidotti, and after his death his wife Marian Ghidotti, purchased..."	It is not clear from the sources provided that the Ghidottis intended to use what this petition refers to as the "Centennial Industrial Site" for any activities outside of crushing and selling waste rock.
78	V, 72	C.ii. - "In and after 1980, Rise's predecessor-in-interest continued to mine crush rock..." & "While North Star Rock Company Inc. was conducting mining operations..."	The use permit does not describe the activity as "mining," but as "rock crushing / gravel sales operation" (Exhibit 259).

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79	V, 73	C.ii. - "In 1992, the County granted a use permit in favor of North Star Rock Products, Inc. extending the existing mining operation..."	The permit application states the use is "To expand existing rock harvesting operation to the west and to the south. To create a terraced building site for future development, this is a surface quarry. No expansion of current methods or sales are proposed. Plant and related items pertaining to operation to remain in the same locations they currently exist." Under Type of Deposit, the application states, "Aggregate only; no precious metal extraction."
80	V, 75	D - "On the date of the vesting, the Mine Property...was conducting a large-scale, modern gold mining operation..."	While it is not clear what date is alleged here, historical evidence presented in this petition suggests that gold mining operations at Idaho-Maryland Mine reached their zenith before World War II. Gold mining activities were confined to the "Brunswick Unit" in late 1954, and then ceased altogether by 1957. Describing the mine's activities as "large-scale" and "modern" at any time after 1942 appears overstated.
81	V, 75	D - "As a result of a shortage in financing...the Mine was held in a state of suspension..."	Component parts of Idaho-Maryland Mine were sold to various entities after the gold mine closed. There does not appear to have been a single entity holding the historical mine "in suspension" for future gold mining development. The waste rock crushing, removal, and sales that began in 1964 was not described contemporaneously as a resumption of historical gold mining operations.

EXHIBIT 1032

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12 **IN AND FOR THE STATE OF CALIFORNIA**
13 **COUNTY OF NEVADA**

14 In Re:

15 IDAHO-MARYLAND MINE
16 VESTED RIGHTS PETITION
17 Dated September 1, 2023

**DECLARATION OF HEATHER
NORBY IN SUPPORT OF COUNTY'S
RESPONSES TO PETITIONER'S
FACTS AND EVIDENCE IN THE
VESTED RIGHTS PETITION**

18 Board of Supervisors Hearing:
19 December 13-14, 2023

20 I, Heather Norby, M.A., declare:

21 1. I am a professional consulting historian, specializing in cultural resources
22 management and water and natural resources issues. I am a senior historian at JRP Historical
23 Consulting, LLC (JRP), located at 2850 Spafford Street, Davis, CA 95618. My qualifications to
24 render the opinions contained in this Declaration are set forth in my professional resume,
25 attached hereto as **Attachment 1** and incorporated herein by this reference.

26 2. I am familiar with the mine property referred to in the Vested Rights Petition
27 (“**Petition**”) as the former Idaho Maryland Mine, including the Brunswick and Centennial sites
28 (“**Subject Property**”).

1 3. I have been retained as an expert by Abbott & Kindermann, Inc., on behalf of
2 Nevada County, State of California, to provide expert peer review findings concerning the
3 Idaho-Maryland Mine Vested Rights Petition (“**Petition**”) submitted by Rise Grass Valley, Inc.
4 (“**Petitioner**”) on September 1, 2023.

5 4. To develop my expert opinions, I examined the Petition and the documents
6 produced by Petitioner in support thereof and performed a peer review of the factual support for
7 the allegations made in the Petition.

8 5. Based on my review and the review of my colleague, Scott Miltenberger, Ph.D.,
9 of the Petition and supporting documents, we have jointly prepared a matrix of our findings
10 concerning specific factual statements and representations made in the Petition. A true and
11 correct copy of our findings is attached hereto as **Attachment 2**.

12 6. Dr. Miltenberger and I also directed focused research of archival documents and
13 published primary and secondary sources. This material was obtained by other JRP staff under
14 our direction (all of whom possess graduate degrees in history) from state and local records
15 repositories. These repositories and sources include:

- 16 a. California Geological Survey (CGS) Library;
- 17 b. the *Engineering & Mining Journal (EMJ)*, a major mining trade publication;
- 18 c. reports and maps of the State Minerologist and successor state agencies;
- 19 d. corporate annual reports of Idaho-Maryland Mining Corporation for 1937,
20 1938, and 1939;
- 21 e. the California State Library;
- 22 f. *Moody’s Manual of Industrial Securities*;
- 23 g. Jack Clark’s *Gold in Quartz* (2005);
- 24 h. Gage McKinney’s *MacBoyle’s Gold* (2016); and,
- 25 i. relevant excerpts from F.D. Calhoun’s *California Gold and the Highgraders*
26 (1988)

27 We reviewed the collected material and provided it to Nevada County Staff and Counsel.
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, except as to those matters alleged on information and belief and, as to those matters, I believe them to be true. Executed on 12/06/2023, at Davis, California.


Heather Norby, M.A.

ATTACHMENT 1

Heather Norby, M.A. **Senior Historian**



Summary

Ms. Norby's experience since joining JRP in 2008 encompasses many elements of historical research and cultural resource management related to land and water use and water infrastructure. She has been the lead researcher on several historical land and water use investigations, and the primary author of numerous technical studies to assist clients with compliance with the cultural resources requirements of their Federal Energy Regulatory Commission licenses. Ms. Norby has researched alleged riparian and appropriative water rights, federal reserved water rights, groundwater development, land use, flood control, property ownership, and US Forest Service Special Use Permits. She has worked extensively on infrastructure projects related to hydropower, water conveyance, and flood control for power companies, irrigation districts, and federal agencies. Ms. Norby has conducted peer reviews and presented at local planning meetings for local government agencies and private property owners to confirm CEQA adequacy and Section 106 compliance. She has also assisted with the research and preparation of expert historian reports in a California State Water Resources Control Board proceeding and a groundwater adjudication in Ventura County. Ms. Norby is an experienced researcher with extensive knowledge of primary and secondary source materials held at public and private repositories, including the California State Archives and National Archives in Washington, D.C., College Park, MD, San Francisco and Riverside, CA.

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Education

M.A. History, University of
California, Berkeley,
2002

B.A. with High Honors in
History, University of
California, Davis, 2000

Professional Affiliations

National Council on Public
History

Certifications

Meets SOI Professional
Qualification Standards
under History and
Architectural History

Selected Consulting Historian Services Since 2008

El Dorado Irrigation District Projects, FERC License 184 (El Dorado Hydroelectric Project). Section 106 Compliance, 2012–Present. Performed fieldwork, research, and contributed to multiple technical studies to assist the company with compliance with cultural resources provisions of FERC licenses. Built environment resources included historic-era mining ditches.

PG&E Pit River Projects, FERC License Numbers 233 (Pit 3-4-5 Hydroelectric Project), 2661 (Hat Creek Hydroelectric Project), 2687 (Pit 1 Hydroelectric Project). Performed fieldwork, research, and contributed to multiple technical studies to assist the company with compliance with cultural resources provisions of FERC licenses, 2012–Present.

Las Posas Valley Water Rights Coalition, et al., Plaintiffs, vs. Fox Canyon Groundwater Management Agency, et al, Defendants, Case No. VENCI00509700, Superior Court of the State of California,

County of Santa Barbara. Assisted in research and preparation of expert historian report (based on library and archival research and review of corporate records of Del Norte Water Company) on the history of Del Norte Water Company and the historical relationship between the Company and its shareholders with regard to the development, distribution, and use of Las Posas Valley Groundwater Basin groundwater. Sacramento, CA: Downey Brand, LLP, 2021-Present.

Graduate School of Education Project, Peer Review Services, Stanford University, Santa Clara County, California, 2021–2022. Provided a peer review of the historic architectural resources evaluations and Statement of Compatibility for the Graduate School of Education Project on the Stanford University campus. Assisted the Santa Clara County Office of Planning and Development with adequacy of compliance with the historical resources requirements and conditions of the Stanford General Use Permit and Stanford Community Plan. Prepared for Santa Clara County.

Stanford Bridge Building, Peer Review Services, Stanford University, Santa Clara County, California, 2021–2022. Provided a peer review of the historic architectural resources evaluations and Statement of Compatibility for the Bridge Building Project on the Stanford University campus. Assisted the Santa Clara County Office of Planning and Development with adequacy of compliance with the historical resources requirements and conditions of the Stanford General Use Permit and Stanford Community Plan. Prepared for Santa Clara County.

Historical Investigation of Riparian and Pre-1914 Appropriative Water Rights Claims along Bear Creek, Merced County, CA, 2020.

In the Matter of Applications of North Kern Water Storage District and City of Shafter (Application 31673), City of Bakersfield (Application 31674), Buena Vista Water Storage District (Application 31675), Kern Water Bank Authority (Application 31676), Kern County Water Agency (Application 31677), and Rosedale-Rio Bravo Water Storage District (Application 31819), Phase 1B Hearing, California State Water Resources Control Board, Administrative Hearings Office. Assisted in research and preparation of expert testimony on behalf of the Kern Water Bank Authority regarding the historical water right entitlement of Buena Vista Water Storage District and the "Lower River Rights." Sacramento, CA: Downey Brand, LLP, 2018-2022.

Historical Investigation of Native American / Federal Reserved Water Rights Claims for Southern California "Mission Indians." Sacramento, CA: Downey Brand, 2022.

Due Diligence Research of Historical Water Right Entitlements and Easements for a Recreational Property in Monterey County, CA. San Francisco: Duane Morris, 2021-2022.

Riparian and Pre-1914 Appropriative Water Rights Investigation of Sacramento-San Joaquin Delta Islands, 2016-2022.

US Forest Service Region 5 (Pacific Southwest), Section 110 compliance, Determinations of National Register of Historic Places Eligibility, 2018–2021. Contributed to the preparation of Determinations of Eligibility for 70 administrative sites across 18 national forests in California as part of USFS Region 5's on-going Section 110 compliance.

Historical Research of Levee Construction and Flood Control Efforts along Bear River, Yuba County, CA, 2021.

The Vineyard House, LLC, Plaintiff, vs. Constellation Brands U.S. Operations, Inc., Defendant, Case No. 4:19-cv-1424-YGR, United States District Court, Northern District of California – Oakland. Research in support of expert historian report (based on county records, and archival and library research), regarding the name “To Kalon,” its historical association with a specific geographic place within the Oakville, California area, and the influence of H.W. Crabb, the original owner of To Kalon. San Francisco: Buchalter, APC, 2019-2020.

Investigation of Historical Water Right Entitlements within the Stanislaus River Basin, Stanislaus County, CA, 2018-2020.

Historical Research, Preliminary Report, and Deposition Support related to Water Rights of a Property in Butte County. Sacramento: Kronick Moskovitz Tiedemann & Girard, 2018.

Mt. Umunhum Radar Tower Peer Review 2015-2016. Provided peer review of two previous evaluation studies regarding the historical significance of Mt. Umunhum Radar Tower, a Cold War-era radar tower atop Mt. Umunhum in Sierra Azul Open Space Preserve in Santa Clara County. Conducted a site visit, reviewed previous studies, and prepared a report for Santa Clara County to present her findings. Attended and spoke at an open meeting of the Santa Clara County Historical Heritage Commission who voted in favor of her conclusions. Attend Board of Supervisors meeting where the Supervisors voted unanimously in favor of the opinion she presented in the peer review report.

San Joaquin River Restoration Project. Performed fieldwork, research, and primary author of multiple technical studies for the US Bureau of Reclamation for compliance with Section 106 of the National Historic Preservation Act in support of the San Joaquin River Restoration Project. Resources include components of the Lower San Joaquin River Flood Control Project, components of the Central Valley Project, and privately held canals and irrigation works. Sacramento: US Bureau of Reclamation, 2016-2019.

Historical Research related to pre-1914 water rights and US Forest Service Special Use Permits for Cucamonga Valley Water District. Riverside: Best Best & Krieger, 2015.

Historical Research of Water Development and Reservoir Operations on the Merced River in Merced and Mariposa counties, 2014.

Historical Research of Water Rights and Land Use of Three Parcels located adjacent to the San Joaquin River in Fresno County. Sacramento: Kronick Moskovitz Tiedemann & Girard, 2014.

Historical Research of Water Rights for a Vineyard in Napa County prepared for property owner, 2012.

State Plan of Flood Control: Preparation of history of flood control plans and measures in California. Sacramento: MWH Americas, Inc, 2010–2012.

Historical Research of Groundwater Development and Use in Antelope Valley to Fulfill the Changing Military Missions of Edwards Air Force Base, Kern, San Bernardino, and Los Angeles counties, CA. Denver, CO: US Department of Justice, 2009, 2012-2014.

Historical Research of Water Development on the Merced River for Irrigation, Mining, and Power Purposes Prior to the Organization of the Merced Irrigation District, 1860-1926. Merced, CA, 2008-2012.

Sacramento River and San Joaquin River Levees: Research on history of construction, maintenance, repair, and performance. Sacramento, CA: Kleinfelder, 2008-2012.

ATTACHMENT 2

Comment No.	Section, Page(s)	Paragraph / Heading / Passage / Footnote / Exhibit or Appendix	Peer Review Comments, <i>Idaho-Maryland Mine Vested Right Petition</i> Scott A. Miltenberger, Ph.D., Principal & Heather K. Norby, M.A., Senior Historian
1	I, 1	"Since the Mine was first established in 1851..."	Stating that "the Mine" was first established in 1851 is an ahistorical characterization because as used in the petition, "the Mine" refers to a collection of mines with independent origins that were later consolidated by ownership. There is evidence to support that two of the mines that were consolidated by ownership in the twentieth century, Union Hill and Eureka, located claims in 1851.
2	I, 2	A. Historical Overview	No discussion is offered as to who prepared the overview or compiled the cited documents (exhibits and appendices) later appearing in the "Factual Background" section. Likewise no discussion is offered as to research methodology - what repositories, collections, and sources were consulted - and little indication of document provenance is given in the petition.
3	I, 3	"The first mention of mining activity..."	This assertion is uncited, and thus cannot be evaluated as to accuracy or credibility.
4	I, 3	3. Post War Production, 1943-1953.	Discussion of the international context (i.e., the development of a global monetary system) helps explain the external factors that impacted mining operations in the Grass Valley Mining District.
5	I, 4	5. Cessation of Gold Mining Activities and Sal of the Mine, 1956-1963. / "...entered into a period of dormancy in 1956."	"Cessation" and "dormancy" have different meanings, and it is unclear here if the interpretation is that gold mining at the historical Idaho-Maryland Mine ended in this period (i.e., "cessation") or was merely inactive (i.e., "dormancy").
6	I, 4	6. Resurgence of Mining Operations at the Mine Property, 1964-1980. / "In the 1960's and 1970's, the Mine Property saw a resurgence of activity."	It is unclear from this statement when exactly the resurgence occurred, and the degree to which it was connected with the historical mining operations briefly addressed in the sections above. The activities noted appear to involving utilization of previously excavated materials for different purposes rather than gold mining. Any connection between these activities and mining is not clearly explained.
7	I, 5	6. Resurgence of Mining Operations at the Mine Property, 1964-1980. / "In the Planning Commission hearing for this use permit..."	This statement, which goes onto quote from the Planning Commission hearing, indicates that Marion Ghidotti (the owner, ca. 1980) was using the property as "a horse ranch" and was "consider[ing]...re-opening the mine because of the price of the gold." This implies that the historical Idaho-Maryland Mine was closed and no mining operations were occurring.
8	I, 5	7. BET Group Inherits the Mine Property from Marian Ghidotti, 1981-1986. / "...because of her belief that they had the wherewithal and skillset to facilitate the development of the Mine	The source(s) of Ghidotti's belief - both why she possessed this stated conviction and the recordation of her conviction - are unstated here. Individual beliefs, without attribution to documentation, cannot be evaluated historically.
9	I, 5	8. Recent Efforts to Reopen and Resume Gold Mining Operations at the Mine, 1987 - Present. / "Emgold subsequently withdrew its application..."	The reasons for Emgold's withdrawal are not discussed, which raises questions as to the reasons why. Such reasons may be significant in understanding the state of knowledge of prospective purchasers / operators regarding the historical Idaho-Maryland Mine's viability.
10	III, 7	Footnote 7 / Appendix A	There is no indication that the document cited in Footnote 7 (and elsewhere) and produced as Appendix A was authored by "Macboyle" as the footnote indicates. Rather the document appears to be an excerpt of a State Mineralogist report - but necessary identifying information (such as the title page with publication date and table of contents) are not provided. In the absence of either producing the entire work or its title page and table of contents, what the document precisely is and who prepared it cannot be known and the accuracy and credibility of the work cannot be evaluated.
11	III, 7	Footnote 8 / Appendix B & Appendix C	The cited Bean source, produced as Appendix B, is a primary source - i.e., it is a historical document contemporaneous to the facts or events described - and the kind of document or record that a historian would rely upon. By contrast, the cited Clark source, produced as Appendix C (and cited repeatedly in the "Factual Background"), is a secondary source - a work discussing history. As such it carries less weight for a historian than the Bean source. Moreover, Clark's work, while highly detailed, is not provided in its entirety (and no table of contents is reproduced) and its assertions of facts lack citation. Clark was previously employed at the Idaho-Maryland Mine, Old and New Brunswick mines, and the Bullion Mine but his employment did not extend back to the 19th century. Source citation is a fundamental component of historical scholarship. Clark's purported facts, in the absence of citation, cannot be evaluated as to accuracy, credibility, or significance.
12	III, 7	Footnote 9 / Appendix D	The cited Lindgren source, produced as Appendix D, appears to be an excerpt of a US Geological Survey report - but necessary identifying information (such as the title page with publication date and table of contents) are not provided. In the absence of either producing the entire work or its title page and table of contents, what the document precisely is and who prepared it cannot be known and the accuracy and credibility of the work cannot be evaluated.

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13	III, 10	Footnote 47	Here and throughout the "Factual Background" section, local and regional newspapers (such as the <i>San Francisco Examiner</i>) provide evidence of mining operations and other activities in the Grass Valley Mining District. Almost no use of trade publications, however, is made. The <i>Engineering and Mining Journal</i> , for instance, one of the pre-eminent trade journals on the mining industry since the 19th century, may be expected to provide more details not only of operations but also corporate plans.
14	III, 12	1893	Here and elsewhere in the "Factual Background" section, changes of ownership or acquisition are discussed. No clear chain of title, however, is presented. Its absence complicates understanding of if, how, and when the historical Idaho-Maryland Mine and attendant mineral rights came to vest and came to be acquired ultimately by Rise. Likewise no articles of incorporation are cited as evidence of intent to pursue mining operations at the historical Idaho-Maryland Mine.
15	III, 15	1900 / Exhibits 22-25	The four historic photographs presented as Exhibits 22 through 25 do not "clearly demonstrate the magnitude of the mining operation at this time" as stated. The photographs show built environment features of the site. Three of the photographs depict building interiors and one is an undated photograph showing a collection of wood-frame industrial buildings. There is no historic context presented that establishes a criteria for determining the "magnitude of the mining operation."
16	III, 16	Footnotes 114-116 / Exhibit 30	The newspaper source cited (Exhibit 30) to support continued surface mining operations at Union Hill Mine does not include the passage that the tunnel was driven "After going quite a distance." It is not clear from the source where, geographically, the vein was intersected.
17	III, 18	Footnote 138 / Exhibit 42	The newspaper source cited (Exhibit 42) to support Union Hill service "roads" being repaired only refers to work on a single road, Union Hill Road.
18	III, 19	1912 - "Further, the Mine is considered 'one of the biggest...' / Footnote 155 / Exhibit 50	Per the source cited (Exhibit 50), "the Mine" refers specifically to the Union Hill mine.
19	III, 22	Footnote 198	Corporate annual reports, cited here and elsewhere, are an appropriate source of historical information regarding operations and intent. The provenance of these documents, however, is not explicitly addressed which raises questions as to the integrity of the documentation itself. Additionally the "Factual Background" section does not utilize information that may be gleaned from investment reporting services - such as Moody's or Walker's. There is no indication that either was consulted.
20	III, 24	1925 - "Idaho-Maryland Consolidated Mines, Inc. acquires the Mine Property from Metals Exploration Company..." / Footnote 222 / Exhibit 85	Newspaper accounts of property transactions (Footnote 222 / Exhibit 85) are not the best source of historical title information. Recorded documents that provide a description of the property being conveyed would provide a clearer picture of the property ownership history.
21	III, 25	1926 - "The Brunswick site is closed and a controlling interest is purchased by..." / Footnote 224 / Exhibits 87 and 88	Again, newspaper accounts of property transactions (Footnote 224 / Exhibits 87 and 88) are not the best source of historical information. Recorded documents that provide a description of the property being conveyed would provide a clearer picture of the property ownership history.
22	III, 28	Footnote 264 / Appendix E	The cited Logan source, produced as Appendix E, appears to be another excerpt of a State Mineralogist (or State Mining Bureau) report - but necessary identifying information (such as the title page with publication date and table of contents) are not provided. In the absence of either producing the entire work or its title page and table of contents, what the document precisely is and who prepared it cannot be known and the accuracy and credibility of the work cannot be evaluated. Additionally, the Logan source is not the best source for understanding the consolidation of Idaho Maryland Mines Company and Idaho Maryland Consolidated Mines Inc. into Idaho Maryland Mines Corporation. The Logan source also does not provide any details regarding the holdings of each company. Corporate documents, recorded conveyances, or amended articles of incorporation are better sources.
23	III, 29	Footnote 288 / Exhibit 137	Aerial imagery can yield historical information - however, no acknowledgement is given to its inherent limitations. As with any photograph, a single moment in time and place is captured. Unless analyzed sequentially, such images can create a distorted interpretation of any land use activity over time. Even when aerial photographs are viewed sequentially, chronological gaps or shifts between the photographs may obscure more than may be revealed by examination.
24	III, 31	1941 - "Idaho Maryland Mines Corporation purchases land and mineral rights from Lawrence and Vivian Mazzanti..." / Footnote 319 / Exhibit 151	The petition does not describe the location of the Mazzanti property nor the character of its use prior to the Idaho Maryland Mines Corporation acquisition. It is not clear how and if the surface rights excepted by the Grant Deed (Footnote 319 / Exhibit 151) refer to any historical land uses, nor is it clear how these exceptions may or may not affect how the property was constituted and used after 1941.

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25	III, 32	1944 - "The Idaho-Maryland-Brunswick Mine is granted permission to reopen..." / Footnote 331 / Exhibit 156	The newspaper source (Footnote 331 / Exhibit 156) relied upon to support this statement reported that permission was granted to re-open the "Idaho-Maryland and Empire Star mines at Grass Valley." Brunswick mine is not named in the source. Exhibit 161 suggests that in 1946 Idaho-Maryland and Brunswick were understood to be separate mines/mills/plants.
26	III, 32	1943 - "The Idaho-Maryland-Brunswick Mine is operating on care and maintenance with no production...."	The meaning of "operating on care and maintenance" relative to mining operations is not explained here.
27	III, 33	1948 / Footnote 346 / Exhibit 165	Petition does not specify location of new vein. The cited source (Footnote 346 / Exhibit 165) indicates it was on the Idaho shaft.
28	III, 33	1948 - "The sawmill continues to run and cuts 12, 201,546 feet of lumber." / Exhibits 166 and 167	Exhibit 166 cited in Footnote 351 notes that 1,928,182 feet of the lumber was delivered to mine stocks and the remainder sold. Exhibit 167 contains a section "Runs Sawmill" noting that Idaho-Maryland is cutting timber on its own property and that "there may be more money this year in the above ground enterprise than in the entire underground activities." By the date of this publication, the company appears to have been cutting and milling wood for commercial purposes outside of mining activity.
29	III, 34	1952 - "Exhibits 173 and 174 depict the Mine Property and many of the mines that collectively comprise the present day Mine."	Exhibit 173 is an undated map that appears to have been an attachment to a title report that is not provided in the exhibits. The legend shows "Surface & Mineral Owned" and "Mineral Only Owned" but the demarcations in the legend and on the map are difficult to discern. Exhibit 174 is an undated map with no legend. It is not clear who produced the color annotations on the map and for what purpose.
30	III, 35	1954 - "Active mining occurs in at least 14 areas throughout the Mine..." / Exhibit 179	The source provided (Exhibit 179) is records for September and October 1954 only, showing only mining activities at the "Brunswick Unit." The language presented in the petition - "throughout the Mine" - suggests something more expansive.
31	III, 36	1955	The events discussed for 1955 convey the interpretation that gold mining operations came to an end in that year, notwithstanding "tungsten exploration and mining."
32	III, 37	1956 - "To acquire this money, Idaho Maryland Mines Corporation applies for a \$122,000 grant from the Defense Mineral Administration but is denied."	The reasons for DMA's denial of the grant application are not discussed, which raises questions as to the reasons why. Such reasons may be significant in understanding the state of knowledge regarding the Idaho-Maryland Mine's viability.
33	III, 37	1956 - paragraph beginning, "As part of the retrenchment..."	Recorded documents are provided for the property transfers described in this paragraph <u>except</u> for the sale of the Idaho-Maryland surface plant to Oro Lumber Company. The chain of title provided as Exhibit 205 also indicates that the Brunswick site was owned by lumber interests from 1957 through 2018.
34	III, 38	1957 - "When questioned, mine officials stated...." / Exhibit 209	The quotation that follows in this sentence overlooks that that the sentence immediately before the quotation in the <i>Nevada State Journal</i> was: "Mine officials, questioned concerning the future are hopeful but not optimistic" (Exhibit 209). The newspaper went on to note that "equipment had been removed," and that "other salvage jobs [were] going ahead" with "[a] handful of men...manning pumps and performing other maintenance duties." The paper also observed that "Large-scale mining at the Idaho-Maryland [mine] ended when the company filed its stockpile quote of tungsten for the government."
35	III, 38	1957 - "The locations of the sand flume and ditch indicates..."	Given the previous observation that mining came to an end in 1956, it is not apparent how the transfer of tailings" represented a continuation of mining operations. Such an activity would seem to be more in line with clean-up or reclamation than excavation of ore.
36	III, 38	1958 / Exhibit 215	Nevada County issued Use Permit U58-15 (Exhibit 215) to Summit Valley Pine Mill, Inc. not only to operate a sawmill, but to construct a sawmill.
37	III, 38	1959 - "On March 13th, ..." / Exhibit 216	An excerpt of the minutes of one meeting of the Board of Directors of Idaho Maryland Mines Corporation (Exhibit 216) is provided to demonstrate the decision by the company to sell a portion of the surface properties and reserve mill site areas. These minutes are not produced in their entirety, however - in fact it does not appear that any of the corporate minutes proffered as evidence in the petition are - which makes it making it difficult to evaluate if all relevant information is presented. A detailed examination of the company's minutes from 1956 through 1959, and fully produced, could provide a more complete picture of the decision to sell and the intent for the future uses of the property.
38	III, 39	1959 - "On August 3rd,..." / Exhibit 219	The newspaper source cited (Exhibit 219) not only reported on the sale of the Idaho-Maryland tract, but also observed that "The mining firm...closed down its last gold mining operation in Nevada County about eight years ago [i.e., in 1951]."

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39	III, 39	1960 / Exhibit 221	<p>A corporate name change notwithstanding, no evidence of activity or efforts to re-initiate mining at the historical Idaho-Maryland Mine is offered for this year. Reporting of the corporate name change (Exhibit 221) explained that as the "corporation grew, it became more and more apparent that the original name, Idaho Maryland Mines Corporation, presented a misleading and limited picture of their capabilities" and that the stockholders "immediately voted to change the name" at the annual stockholders meeting, thus eliminating "Mines" from the name.</p> <p>Additionally, it is worth noting the following from the corporate minutes for January 29, 1960 (Exhibit 217, pdf p. 198): "discussion was held in connection with the advisability of selling certain mineral rights belonging to the Corporation. Considering that these particular mineral rights have been abandoned by non-payment of taxes, one of the reasons being that they are not contiguous to the Corporation's other mining properties and are not accessible through the main mine shafts...", the directors voted to convey these mineral rights to Sum-Gold Corporation.</p> <p>No affirmative evidence (such as in the form of tax assessment records) is clearly presented in the petition that Idaho-Maryland Industries or any of its immediate successors-in-interest continued to pay taxes relative to mineral rights or the property that they possessed during periods of mining inactivity. The statement from the minutes would seem to suggest that this is vital component to avoiding "abandonment," and thus to foreclose an argument for abandonment ought to be presented. The order settling Marian Ghidotti's estate in 1983 does acknowledge that "[a]ll personal property taxes due and payable by the estate have been paid" (Exhibit 248, pdf p. 70). What those taxes were and for what property is not stated.</p>
40	III, 39	1961	<p>No evidence is presented here or elsewhere that Robinson's appeal (Exhibit 222) was made on behalf of Idaho-Maryland Industries. In fact, while he identifies himself as a director of the company, Robinson goes on to state that his "suggestion is submitted not as a technical mining expert or operator but as an observer who has watched the gold situation since 1942 with full cognizance of the economic and related factors involved." Moreover, no evidence is presented that Robinson's suggestion bore fruit.</p>
41	III, 40	1964	<p>From an historical perspective, it is not clear how the additional surface property purchased by William and Marian Ghidotti was "previously part of the fully-assembled Mine Property." What date or era of the property's past ownership or uses is meant by "previously"?</p> <p>Additionally, the activity described at the site is not focused on any revival of mining under the Ghidottis' ownership but rather on the sale "of crushed rock left over from past mining operations."</p> <p>Furthermore, that Ghidottis reportedly was open to offers to purchase "the mineral rights" raises a historical question as to his motivations. Was his interest mostly or exclusively speculative? If so, how much intent to mine or revive mining operations can be fairly ascribed to Ghidotti?</p>
42	III, 40	1967-1976	<p>During this nine-year period the only evidence of activity at the historical Idaho-Maryland Mine presented is of the operation of a rock crusher and the removal of "mine rock wastes and mill sand." It is unclear of how indicative this was of an intent to resume gold mining operations.</p>
43	III, 41	1969	<p>The information presented as to William Ghidotti's investment in other mining companies does not provide any evidence as to his intent to develop or re-initiate mining operations at the historical Idaho-Maryland Mine - nor does the observation that Marian Ghidotti acquired and sold other mining claims. The latter in fact raises once again the question of Ghidottis' interest in the historical Idaho-Maryland Mine. Was it speculative, and if so, how does that speak to their intent to pursue mining?</p>

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44	III, 41	1976 / Footnote 437 / Exhibit 227	As a historical source, a declaration such as Lee Johnson's (Exhibit 227) is problematic, particularly for the factual assertions made here. Both historical study and scientific research have revealed the unreliability (and even instability) of human memory. Historical interpretation is based upon a critical examination of documentation made at or near the occurrence of an event. Memoirs and reminiscences often drafted years after an event are consulted as sources, but treated with caution. Corroboration from sources closer or contemporaneous in time with the events described are frequently sought. Relying on this declaration to ascertain William and Marian Ghidotti's thoughts or intentions - in the absence of independent supporting documentation - is methodologically suspect for a historian.
45	III, 41-42	1976 / Footnote 438 / Exhibit 249	The sawmill does not appear to have a direct relationship to any mining activities despite the cited source (Exhibit 249) stating that the Brunswick mill used water in the Brunswick mine as a source of water supply. The letter does not indicate that water was being pumped from the mine to support any mining activities.
46	III, 42	1977	As discussed in the comment above, there are issues with the Johnson declaration as a historical source. In this specific instance, a better source for Marian Ghidotti insuring the "Mine Property" would be policy documents from Gold Cities Insurance Company (the carrier, according to Johnson) or some other formal evidence of the insurance. Additionally, it was Johnson's "impression that Marian wanted the Mine property insured because she viewed it as valuable asset that contained a large amount of unextracted gold and would one day generate significant amounts of income when mining resumed" - and not (as claimed here) her belief.
47	III, 42	1979	Referring to the location of the licensing agreement between Marion Ghidotti and North Star Rock Products as the "Centennial Industrial Site" is an ahistorical construct. The license agreement refers to the property in question as "the 'Morehouse' Dump and/or the 'Idaho-Maryland Mine' dumps." Moreover the intended activities to be covered by the use permit do not appear consistent with historical gold mining activity.
48	III, 42	1980 - "the County recognizes mining operations..."	The Use Permit application package U79-41 includes an Environmental Information Form (Exhibit 251, pdf p. 18) that outlines the plans to crush and remove mine wastes left from gold mining operations and reclaim the site. Under "Water," the report notes that "When the site area[sic] is reclaimed following the gravel operation, the intermittent drainage flows will be re-established to the pre-mining patterns" (Exhibit 251, pdf p. 32). Where the environmental discussion addresses the project's conflict with the General Plan 1990, it notes that the "owner of the property [Marian Ghidotti] has established the non-conforming use by removing small amounts of rock and mill sand over a continuous period" and that the "project will continue a general pattern of mineral recovery in the area" (Exhibit 251, pdf p. 35). Per the timeline provided in the petition, the Ghidottis began the activity of rock crushing at the site in 1964.
49	III, 42	1980 - "Marian also knew that each of these individuals...." / Footnote 447 / Exhibit 248	The claim as to Marian's knowledge of her heirs' desire "to resume operations" and her belief as "their professional skills and training" is not supported by the cited document (Exhibit 248) which is merely the order settling Marian Ghidotti's estate. The Johnson declaration (Exhibit 227) opines that Ghidotti "knew the Mine was a valuable mining asset, and that this group would be capable of resurrecting the Mine due to their collective expertise as land use / title professionals and accountants." This statement alone, notwithstanding the question of what Ghidotti may or may not have know, indicates that mine property was inactive for a number of years prior to her death. The declaration further opines as to Johnson's "understanding" of Ghidotti's beliefs but there no corroborating evidence is offered either by the declaration or elsewhere in the petition (see Comment No. 44 above).
50	III, 42	1980 - "In the County's Staff Report regarding Use Permit U79-41..." / Footnote 446 / Exhibit 254	The source cited (Exhibit 254) for this statement is not a County Staff Report, but rather reported in the minutes of a meeting where the use permit was under discussion. Marian Ghidotti was not present at the meeting. Although not entirely clear, it appears that Clayton Abbott, attending on behalf of the application, made the statement that was recorded in the minutes as "Mrs. Ghidotti who owns the property intends to put it to some use other than a horse ranch in the future, because it is zoned Industrial, and there has been some consideration of re-opening the mine because of the price of gold."

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51	III, 43	1980 - "During Marian's and William's ownership of the Mine..."	The claim about the Ghidottis being "convinced" the mine would again be operational does not take into account the speculative nature of investing in properties with the hope that they may become more valuable in the future.
52	III, 43	1984 - "In the 1980s, an anti-mine sentiment...."	The discussion here suggests that little or no mining operations were occurring in Nevada County as of 1984, and offers no evidence of Ghidotti's efforts prior to her death or of the BET Group that acquired the historical Idaho-Maryland Mine to advance work in the face of prevailing county-wide opposition to mining.
53	III, 43	1985 / Footnote 459 / Exhibit 260	Into 1985, no evidence is presented as to an effort to revive mining at the historical Idaho-Maryland Mine. North Star Rock Company instead continued its operations under an amended use permit. The Notice of Conditional Approval of Use Permit Application (Exhibit 260) for an amendment to U79-41 states that the "use permit covers only removal of mine waste and processing to restore the site to its original contours. Earth excavation for a borrow pit is not included."
54	III, 43-44	1986 - "By May, most of the tailings have been re-mined..." / Footnote 460 / Exhibit 261	The cited source (Exhibit 261) does not use the term "re-mined" or "Centennial site." Use of these words by this petition is ahistorical in nature and does not accurately characterize how the activity or the place were conceptualized by the author in May 1986.
55	III, 44	1986 - "In that same month, the BET Group enters into negotiations with Ross Guenther to sell the Mine Property for development purposes." / Footnote 463 / Exhibits 261-262	The "development purposes" addressed in Exhibit 261 is residential. A Status Report (Exhibit 262) prepared by Ross Guenther in 1989 for Northern Mines noted that steps were being taken to upgrade the title. Figure 2 of the report (Exhibit 262, pdf p. 136) shows the Idaho Maryland Brunswick Property boundary, with Surface Rights called out at the Brunswick Shaft. The document does not clearly explain the documentation for these boundaries. The Permitting Feasibility Study (Exhibit 262) prepared for Reactivation Project for the Idaho-Maryland-Brunswick Mine notes that the mine "has been idle for the last 32 years [i.e., since 1954]" and that the property was composed of 2,760 acres of mineral rights and 37 acres of surface rights "centered at the New Brunswick Shaft" (Exhibit 262, pdf p. 154).
56	III, 44	1987	Reservation of mineral and other subsurface rights with the creation of residential subdivisions is fairly typical, and in the absence of other evidence of an intent by BET Group to mine this alone does not support such a claim.
57	III, 44	1988	BET Group's optioning of the Idaho-Maryland/Brunswick mine to Mother Lode Gold Mines may be fairly interpreted as speculative, with their interest being in selling rather than operating. Activity at the property, other than the option to Mother Lode, seems focus on management and removal of surface debris (tailings) from past mining.
58	III, 45	1989 / Footnote 477 / Exhibit 275	The filing of a Notice of Intent to Preserve Interest (Exhibit 275) appears to be affirmative evidence of an intent to retain whatever mineral rights may have been held by Bouma, Erickson, and Toms. However, no explanation is offered as to why Bouma, et al., made this filing in 1989. From a reading of the historical evidence presented thus far in the petition, the filing would appear to reflect concern that a question surrounded the purported efficacy of the rights, that a threat of extinguishment
59	III, 45	1991	No explanation is given why Mother Lode Gold Mines "relinquishes and returns the Mine Property" to BET Group only 3 years after acquiring its option. This once again raises questions as to the state of knowledge regarding the historical Idaho-Maryland Mine's viability. Then again, Consolidated Del Norte Ventures leases the property with the "hope" of reopening and expresses an opinion that there is gold to be extracted.
60	III, 46	1993	No explanation is given for why Consolidated Del Norte Ventures relinquished its lease 2 years later.
61	III, 48	2013	After nearly 20 years of exploratory activity, Emgold Mining Corporation permits its lease and purchase agreement (previously re-negotiated once before in 2002) to expire - the 3rd mining company to walk away from the historical Idaho-Maryland Mine property. No explanation is offered. The property itself is marketed for sale for 4 years before being acquired by Rise Resources, and no evidence is presented as to activities or operations at the site during this time.
62	V, 57	1. Geographic Scope - "...the surface was used for the primary purpose of supporting subsurface gold mining operations..."	The use of the "surface" property at the historical Idaho-Maryland Mine has changed over time. Historical uses include support of gold mining during the period of gold mining, commercial timber harvesting and milling, and a rock crushing operation. The "surface" has also been developed for residential, commercial, and recreational purposes.
63	V, 57	1. Geographic Scope - "(1) the surface of the Vested Mine Property, which includes the Brunswick Industrial Site and the Centennial Industrial Site..."	These geographic terms - Brunswick Industrial Site and Centennial Industrial Site - appear to be modern constructs that do not have a clear grounding in the history of the Grass Valley Mining District. Use of these modern terms obscures the land use and ownership history of these areas.

Comment No.	Section, Page(s)	Paragraph / Heading / Passage / Footnote / Exhibit or Appendix	Peer Review Comments, <i>Idaho-Maryland Mine Vested Right Petition</i> Scott A. Miltenberger, Ph.D., Principal & Heather K. Norby, M.A., Senior Historian
64	V, 58	1. Geographic Scope - "Since mining first commenced on the Mine Property, the operators' manifestations of intent to continue mining the Mine Property have never wavered..."	From an historical perspective, this is overstated and collapses a more complicated and dynamic history of the Grass Valley Mining District. Multiple owners and entities speculated in and operated various gold and tungsten mines in the district with uneven levels of success and commitment over time.
65	V, 58	1. Geographic Scope - "Rise now holds the property assembled in 1941..."	The petition does not clearly define which historical mining properties were assembled by ownership in 1941, nor does it clearly present the ownership history after 1941.
66	V, 59-60	1b. As noted above, the Vested Mine Property's surface consisted of two separate sites: the Brunswick Industrial Site and the Centennial Industrial Site."	See Comment No. 63
67	V, 60	1b. The Entire Surface of the Vested Mine Property is Vested as it has Been and will Again be Used for Mining Purposes. / "Aerial photographs..."	See Comment No. 23 Observation of roads in aerial photographs is not sufficient to support any definitive statements about the purpose of the roads. Roads may have been present to support mining activities or they may have been present to provide access to timber stands, or to serve other types of infrastructure that may or may not relate to mining activities. Note that Exhibit 167 reports that in 1948 Idaho-Maryland was cutting timber on its own property and that "there may be more money this year in the above ground enterprise than in the entire underground activities."
68	V, 60-61	1b. "As mentioned above, the sawmill was originally constructed for the exclusive use and benefit of mining operations, and continued to operate during the 1960s and 1970s pursuant to Use Permits..."	There is evidence (Exhibit 167) that by the 1940s, the Idaho-Maryland sawmill was operating in part to produce commercial lumber. Exhibit 215 is suggestive that a new sawmill was constructed after Summit Valley Pine Mill, Inc. was issued a use permit by Nevada County.
69	V, 61	1b. - "...primarily for the purpose of storing mine tailings and waste from the Brunswick Industrial Site."	It is unclear how the cited sources (Exhibits 218 and 230) support this connection between the two sites.
70	V, 61	1b. - "...the entire 175 surface-acre and 2,560 subsurface-acre Vested Mine Property."	It is unclear at what point in the history of the mines in question the surface area constituted 175 acres. The newspaper article presented as Exhibit 219 noted that Idaho-Maryland Mines Corporation had sold 1,100 acres for residential, commercial, industrial, and recreation use and that 70 acres would be retained around three mine shafts.
71	V, 63	2 - "Thus, the sawmill was, at the time of its construction..."	The presented history of this sawmill is not complete and does not follow the operations or longevity of this sawmill. It is unclear how long the initial sawmill was operational, and to what degree, if any, it was supporting mining after the 1940s.
72	V, 64	2 - "This sawmill was originally built by the Idaho Maryland Mines Corporation to support mine operations..."	Exhibits 159, 162, and 386 cited in Footnote 631 and Exhibit 387 cited in Footnote 632 date to the 1940s and do not give any indication as to whether or not the Brunswick sawmill supported mining activities in the 1950s. The only cited source that dates to the 1950s is Exhibit 380 in Footnote 631 and it is a "Flowsheet of the Brunswick Mill," with no apparent reference to a sawmill.
73	V, 66-67	C. "The County's issuance of Use Permit U79-41 explicitly states..."	It is unclear if and how the use permit and associated documentation ties the non-conforming use to historical gold mining. The permit appears to tie the non-conforming use to William and Marian's Ghidotti's (and their licensee's) historical (since 1964) waste rock crushing and sales operation.
74	V, 69	C.i. - "In 1954, active mining was occurring in at least 14 locations throughout the Mine..."	As noted above, the source provided (Exhibit 179) to support this only shows mining activities at the "Brunswick Unit." The language presented in the petition - "throughout the Mine" - suggests something more expansive.
75	V, 69	C.i. - "The only plausible reason for requiring these exclusions in the deeds is that the company intended to resume underground mining operations at these properties in the	The history of mineral development in the United States is marked by speculative practices to reserve "rights" that may in the future be sold, and which may or may not be bona fide. Not all historical actors who have reserved such "rights," moreover, have possessed a viable future plan for exploitation of those "rights."
76	V, 70	C.i. - "That fixed price combined with the rising extraction costs over the years caused an epidemic of mine closures in California."	This petition does not present sufficient historical information to explain if "rising extraction costs" may have also been related to material conditions specific to the mines in question.
77	V, 71	C.i. - Para. "William Ghidotti, and after his death his wife Marian Ghidotti, purchased..."	It is not clear from the sources provided that the Ghidottis intended to use what this petition refers to as the "Centennial Industrial Site" for any activities outside of crushing and selling waste rock.
78	V, 72	C.ii. - "In and after 1980, Rise's predecessor-in-interest continued to mine crush rock..." & "While North Star Rock Company Inc. was conducting mining operations..."	The use permit does not describe the activity as "mining," but as "rock crushing / gravel sales operation" (Exhibit 259).

Comment No.	Section, Page(s)	Paragraph / Heading / Passage / Footnote / Exhibit or Appendix	Peer Review Comments, <i>Idaho-Maryland Mine Vested Right Petition</i> Scott A. Miltenberger, Ph.D., Principal & Heather K. Norby, M.A., Senior Historian
79	V, 73	C.ii. - "In 1992, the County granted a use permit in favor of North Star Rock Products, Inc. extending the existing mining operation..."	The permit application states the use is "To expand existing rock harvesting operation to the west and to the south. To create a terraced building site for future development, this is a surface quarry. No expansion of current methods or sales are proposed. Plant and related items pertaining to operation to remain in the same locations they currently exist." Under Type of Deposit, the application states, "Aggregate only; no precious metal extraction."
80	V, 75	D - "On the date of the vesting, the Mine Property...was conducting a large-scale, modern gold mining operation..."	While it is not clear what date is alleged here, historical evidence presented in this petition suggests that gold mining operations at Idaho-Maryland Mine reached their zenith before World War II. Gold mining activities were confined to the "Brunswick Unit" in late 1954, and then ceased altogether by 1957. Describing the mine's activities as "large-scale" and "modern" at any time after 1942 appears overstated.
81	V, 75	D - "As a result of a shortage in financing...the Mine was held in a state of suspension..."	Component parts of Idaho-Maryland Mine were sold to various entities after the gold mine closed. There does not appear to have been a single entity holding the historical mine "in suspension" for future gold mining development. The waste rock crushing, removal, and sales that began in 1964 was not described contemporaneously as a resumption of historical gold mining operations.

EXHIBIT 1033

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7 Diane G. Kindermann
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9 2100 21st Street
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12 **IN AND FOR THE STATE OF CALIFORNIA**
13 **COUNTY OF NEVADA**

14 In Re:

15 IDAHO-MARYLAND MINE
16 VESTED RIGHTS PETITION
17 Dated September 1, 2023

**DECLARATION OF DAVID
COMSTOCK IN SUPPORT OF
COUNTY'S RESPONSES TO
PETITIONER'S
FACTS AND EVIDENCE IN THE
VESTED RIGHTS PETITION**

Board of Supervisors Hearing:
December 13-14, 2023

18
19 I, David Comstock, declare:

20 1. I lived in the Grass Valley area from 1969 until 2013. I am a historian and have
21 been involved in the writing and publishing of books about the history of mining in California
22 through my publishing company, Comstock Bonanza Press.

23 2. I am familiar with the mine property referred to in the Vested Rights Petition
24 ("**Petition**") as the former Idaho Maryland Mine, including the Brunswick and Centennial sites
25 ("**Subject Property**").

26 3. Prior to moving to Grass Valley permanently in 1969, I would come up to the
27 area on the weekend to paint watercolors among the serene landscapes. I moved to the area
28

1 when I married Ardis Hatton, who had lived in Grass Valley most of her life and grew up across
2 the road from the Brunswick site of the Subject Property.

3 4. Ardis’s family owned a lumber company and were involved with operations at
4 the Mine. I learned a lot about the mine from her and her family members.

5 5. My involvement in writing books about California mining started when I was
6 contacted by Jack Clark (“**Clark**”), a retired miner who was writing a book about the history of
7 the Idaho-Maryland Mine (the “**Mine**”). Clark worked in the Mine for a very long time and told
8 me that, when the mine closed in 1956, he was “the last one out of there.” I published Clark’s
9 book, *Gold in Quartz, The Legendary Idaho Maryland Mine*, in 2005.

10 6. After the mining operations ceased at the Subject Property in 1956, various
11 companies made purported attempts to obtain use permits to resume mining activity at the
12 Subject Property. These attempts appeared to be a strategy to attract investors.

13 7. A sawmill took over the Brunswick site and operated there for many years until
14 the lumber industry began to slow down. I am aware of no mining activity occurring at the
15 Brunswick site after the sawmill activity.

16 8. I have been aware of the Centennial site of the Subject Property since
17 approximately the 1980’s. In the entire time I have lived in the area and been aware of this site,
18 no mining activity occurred there.

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct, except as to those matters alleged on information and belief and, as
21 to those matters, I believe them to be true. Executed on December 7, 2023, at
22 Santa Rosa, California.

23
24 David Comstock
25 DAVID COMSTOCK
26
27
28

EXHIBIT 1034

1 Katharine L. Elliott
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12 **IN AND FOR THE STATE OF CALIFORNIA**
13 **COUNTY OF NEVADA**

14 In Re:

15 IDAHO-MARYLAND MINE
16 VESTED RIGHTS PETITION
17 Dated September 1, 2023

DECLARATION OF KEITH BROWN
IN SUPPORT OF COUNTY'S
RESPONSES TO PETITIONER'S
FACTS AND EVIDENCE IN THE
VESTED RIGHTS PETITION

18 Board of Supervisors Hearing:
19 December 13-14, 2023

20 I, Keith Brown, declare:

21 1. I have been a resident of Grass Valley, CA since 1977. Since 1984, I have lived
22 at my current residence which is located about a half mile from the Brunswick Site of the
23 historic Idaho-Maryland Mine.

24 2. I am familiar with the mine property referred to in the Vested Rights Petition
25 ("Petition") as the former Idaho Maryland Mine, including the Brunswick and Centennial sites
26 ("Subject Property").

27 3. I am familiar with the Brunswick Site from the proximity of my residence and
28 from driving past it daily to work at my architectural firm since I moved to the area in 1984.

1 4. I recall seeing the cylindrical concrete structure at the Brunswick site and have
2 observed the Brunswick site being used as a lumber mill. The lumber mill ceased operation and
3 all of the mine buildings have been demolished since approximately the early 1990's.

4 5. Over the forty-six (46) years that I have lived in Grass Valley, I have never seen
5 or heard any mining activity conducted at the Subject Property. The only activity I have
6 observed at the Brunswick site has been related to lumber mill operations.

7 6. I have always thought the mining operations were abandoned. I have neither
8 seen nor heard of any mining-related activities. I heard the mine would need to be de-watered
9 and environmental contamination addressed for mining to resume. I have heard that a
10 resumption of abandoned mining activities at the Mine would be contradictory to the philosophy
11 of the State of California and, accordingly, I believe that such an attempt would not get very far.

12 7. I recall that, in the early to mid-1990's, there was an attempt to reopen the Mine
13 by Emperor Gold. I attended the first public meeting regarding Emperor Gold's application for
14 a use permit to reopen the Mine and spoke during public comment regarding the negative
15 impacts I believe would occur if the Mine were to be reopened.

16 8. Emperor Gold monitored the groundwater well on my property from
17 approximately 1990 to 2010 after they submitted a request for a use permit to reopen the Mine.

18 9. If the Mine were reopened, I believe it would have negative impacts on the
19 surrounding community, particularly concerning access to water, traffic, and wear on local
20 roads.

21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct, except as to those matters alleged on information and belief and, as
23 to those matters, I believe them to be true. Executed on December 6, 2023, at
24 GRASS VALLEY, California.

25
26 A handwritten signature in blue ink, consisting of a stylized 'K' and 'B', is written over a horizontal line. The signature is positioned to the right of the name 'KEITH BROWN'.
27 KEITH BROWN
28

EXHIBIT 1035

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12 **IN AND FOR THE STATE OF CALIFORNIA**
13 **COUNTY OF NEVADA**

14 In Re:

15 IDAHO-MARYLAND MINE
16 VESTED RIGHTS PETITION
17 Dated September 1, 2023

18 **DECLARATION OF KARRY**
19 **PRZEPIORSKI IN SUPPORT OF**
20 **COUNTY'S RESPONSES TO**
21 **PETITIONER'S**
22 **FACTS AND EVIDENCE IN THE**
23 **VESTED RIGHTS PETITION**

24 Board of Supervisors Hearing:
25 December 13-14, 2023

26 I, Karry Przepiorski, declare:

27 1. I worked for the County of Nevada (the "County") from 1978 to 2010 as an
28 Associate Planner in the Planning Department. I ended my career as an Associate Planner, and I
began as a Planning Technician. I am now retired, but I still live in Nevada County.

1 2. I am familiar with the mine property referred to in the Vested Rights Petition
2 ("Petition") as the former Idaho Maryland Mine, including the Brunswick and Centennial sites
3 ("Subject Property").

4 3. Since 1992, I have lived in the unincorporated area of Grass Valley, California,
5 approximately three (3) miles from the former Subject Property. Prior to that, I lived north of
6 Nevada City, California.

EXHIBIT 1036

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12 **IN AND FOR THE STATE OF CALIFORNIA**
13 **COUNTY OF NEVADA**

14 In Re:

15 IDAHO-MARYLAND MINE
16 VESTED RIGHTS PETITION
17 Dated September 1, 2023

**DECLARATION OF DANIEL
KETCHAM IN SUPPORT OF
COUNTY'S RESPONSES TO
PETITIONER'S
FACTS AND EVIDENCE IN THE
VESTED RIGHTS PETITION**

Board of Supervisors Hearing:
December 13-14, 2023

18
19 I, Daniel Ketchum, declare:

20 1. I am a professional Real Estate Appraiser and the current President of the Nevada
21 County Historical Society. I am familiar with the former Idaho-Maryland Mine property (the
22 "Mine") both from my work as a local real estate professional and as a resident of the area. I
23 have lived in Grass Valley, CA since 1988 and live between the Brunswick and Centennial sites
24 of the former Mine.

25 2. I am familiar with the mine property referred to in the Vested Rights Petition
26 ("Petition") as the former Idaho Maryland Mine, including the Brunswick and Centennial sites
27 ("Subject Property").
28

1 3. When I first moved to Grass Valley, I recall being able to see the tall concrete
2 silo on the Brunswick property. At the time, the site was used as a lumber mill known as the
3 “Bohemia Lumber Mill.” To my knowledge, the lumber mill operating on the site never
4 performed any mining activities.

5 4. After the Bohemian Mill closed down in the early 1990’s, Emperor Gold sought a
6 use permit to resurrect mining activities at the Subject Property.

7 5. In 1997, Emperor Gold became one of my clients and I assisted them with trying
8 to acquire properties in the area that were pertinent to their attempts to resume mining activities
9 in Nevada County. I aided Emperor Gold in purchasing a property in Whispering Mines, which
10 was near one of the vertical shafts that previously provided access to the Idaho-Maryland Mine.
11 Through my work with Emperor Gold in acquiring this property, I was informed that they
12 needed the Whispering Pines property in order to reopen the mine because the property provided
13 access to reach some the former mining structures. It would allow them to access a major
14 electrical transmission line that crossed over the Whispering Pines property and the electricity
15 was needed for any mining activity.

16 6. Throughout the thirty-five (35) years I have lived in the area, I have neither
17 observed nor been aware of any mining activity occurring on the Centennial site.

18 7. At no time have I observed any mining activities at either the Centennial or
19 Brunswick sites of the former Subject Property.

20 I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct, except as to those matters alleged on information and belief and, as
22 to those matters, I believe them to be true. Executed on December 6, 2023, at

23 Grass Valley, California.

24 
25 DANIEL KETCHAM