

Brunswick Pines Road Association



Sierra Nevada Group



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April 5, 2023

To:
Members of the Nevada County Planning Commission,
Nevada County Board of Supervisors,
and Nevada County Planning Department Staff
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To All Concerned:

MineWatch is a coalition of community and environmental organizations in Nevada County and throughout the State. We appreciate the opportunity to provide public comment on the Final Environmental Impact Report (FEIR) on the proposed reopening of the Idaho Maryland Mine (Mine Project, Mine, or Project).

We are concerned about both the short-term and long-lasting environmental impacts that the Mine Project would cause and that the environmental analysis of the FEIR is inadequate.

On behalf of:

Community Environmental Advocates Foundation,
The Sierra Fund,
South Yuba River Citizens League,
Wolf Creek Community Alliance,
Wells Coalition,
Patagonia,
California Native Plant Society Redbud Chapter,
Sierra Foothills Audubon Society,
Sierra Nevada Group Sierra Club,
Center for Biological Diversity,
Friends of Bear River,
Sierra Streams Institute,
Nevada County Climate Action Now,
Elders Action Network,
Friends of Banner Mountain,
Brunswick Pine Road Association,
Brunswick Manor HOA,
San Juan Ridge Taxpayers Association,
Earth Justice Ministries,
Earthworks,
Fly Fishers International, Northern California Council,
American Rivers,
Nevada County Sunrise,
Sierra Watch,
Nevada City Rancheria,

And members of the Nevada County community at large who have identified many issues of concern regarding the potential reopening of the Idaho-Maryland Mine in Grass Valley.

We respectfully request and recommend that the County deny the approval of the Idaho-Maryland Mine Project and not certify the FEIR.

The County is under no obligation to approve the Mine Project:

- **You as decision makers have the discretion to deny this project simply based on your understanding of the needs of your community.**
In addition, the many environmental impacts associated with the mine, as well as its inconsistency with Grass Valley's and the County's land use plans provide ample justification for denying the mine project.
- **The Mine Project is inconsistent with the General Plan.**
The Mine project is inconsistent with numerous Nevada County General Plan goals and policies. The Plan's goal 17.1 calls for recognizing and protecting mineral resources in a manner that does not create land use conflicts. You, as our decision makers, can logically

conclude that a Mine project of this magnitude in an urban area will have multiple conflicts with adopted goals for not only land use, but also economic development, safety, climate change, noise, aesthetics, water, and coordination with cities and towns. These are all solid justification for your denial of the Mine. [1]

Both the Brunswick and Centennial properties are currently zoned “Light Industrial”, which provides for reasonable and better alternative uses of the properties.

- **There is no adequate economic justification for the Mine.**

In fact, it is likely that issues with mine waste disposal and unforeseen production limits will shorten or halt mine operations early on.

We assembled a panel of local experts who reviewed the Economic Impact Report on the Mine. They concluded that:

--The Economic Report showed a huge range of possible revenue outcomes from very low to very high, making actual revenue potential uncertain. Even low-end revenue figures were overly optimistic with a heavy reliance on information provided by the applicant.

--The assertion in the economic study that property values wouldn't decline was demonstrated to be invalid; it failed to utilize local realtors' consensus or to use accepted home appraisal methods.

--The Mine will likely result in less than 132 locally held jobs.

--The economic benefit per capita will be approximately only \$7/year/resident, a minimal benefit compared to the environmental risks posed by the mine.

(See presentation at [youtube.com/watch?v=sffB7TY78Pw](https://www.youtube.com/watch?v=sffB7TY78Pw))

- **Environmental impacts will be severe and unavoidable.**

The FEIR lists several significant and unavoidable environmental impacts that endanger this community's health and quality of life. These include aesthetics, traffic, and noise.

There are also serious deficiencies in the FEIR that underestimate numerous other significant and unavoidable environmental impacts which our organizations and the community have identified throughout this process. We summarize many of these later in this letter and in our more detailed letters submitted separately. [2]

Economic risks and unsubstantiated benefits clearly show that there are not adequate overriding considerations to justify acceptance of these impacts within our community.

- **There is a strong legal basis allowing the County to deny the project without certifying the EIR.**

There is ample case law to uphold the rejection of FEIR certification if a project is denied. (Las Lomas Land Co., LLC v. City of Los Angeles (2009)). [3]

We believe that continuing to process the EIR will just cost the County staff and the community a loss of time, money, and energy. We can better spend this time on critical issues like wildfire safety, watershed restoration, and response to climate change.

- **The bottom line is that the community overwhelmingly does not want the Idaho Maryland Mine to reopen.**

The Mine will be counter to the adopted General Plan land use vision which the community supports. It will hamper the growth of the green technology economy we are successfully attracting in a place where quality of life counts.

Critical Issues

A number of our key concerns on both the project and the FEIR are summarized below.

More detailed comments from the CEA Foundation and the CEA Foundation attorneys can be found at www.cea-nc.org/idaho-maryland-mine-final-eir-comments.

1

Centennial Site. The FEIR has left us guessing as to what the true impacts of the Mine Project will be since it does not include a discussion of the critical impacts associated with the Centennial mine waste disposal site. This is a clear reason to deny the project.

- **Centennial Site Remedial Action Plan is still not approved.** One of our biggest concerns regarding the FEIR is the continued failure to adequately address impacts associated with the Centennial Industrial Site (Centennial). This site is the location of hazardous mine waste left over from past Idaho Maryland Mine operations.
- **The FEIR does not adequately define the Mine Project to include the Centennial site and, as a result, fails to identify all potential impacts.** The FEIR assumes that the Centennial site will be cleaned up before the use of the site for deposition of new mine waste. Yet the significant work which is needed to accomplish this clean-up is not evaluated in the FEIR. For instance, the draft Remedial Action Plan proposes stripping contaminated materials, destroying wetlands and woodland. Yet these impacts are not discussed in the FEIR. Rather, the FEIR assumes that the clean-up has already been accomplished and improperly uses the post clean-up conditions as the baseline for its environmental impact assessments. As a result, assumptions about baseline conditions for purposes of assessing impacts are speculative at best.

2

Groundwater and well impacts. The FEIR's assumption that groundwater impacts from the mine project will not be significant was not substantiated. The project should be denied out of concern over unanswered questions on impacts to area wells and groundwater supply.

- **Baseline groundwater conditions not determined.** CEQA requires a current baseline to assess potential impacts and determine mitigations. The questionable computer model used for the analysis did not use current monitoring data from any of the over 300 domestic wells in the mineral rights area. It relied only on

sparse patches of data from over 15 years ago. [4] The FEIR acknowledges that data is needed, but the approach calls for drilling 15 new monitoring wells as a basis for verifying the computer model **after** the FEIR is certified! Not having a baseline established by a domestic well monitoring program before publishing the FEIR on this project is unacceptable.

- **Domestic well monitoring plan inadequate.**
The FEIR adds an inadequate supplemental domestic monitoring plan for 378 newly identified properties. Among the many deficiencies, the new program only includes about half the wells in the mineral rights vicinity and provides neither additional NID infrastructure to speed water replacement nor a third-party liaison to negotiate issues if problems arise. [5]
- **Learn from the Siskon Mine well disaster.** Given the catastrophic well failures that happened as a result of the Siskon Mine in our own county, the lack of baseline monitoring of area wells before any underground mine project is approved is unconscionable. [6]

3

Mine Waste Management Inadequacies Risk Water Quality. The FEIR fails to provide evidence that there are no water quality impacts related to mine waste disposal. Actual hazard levels of the mine waste, adequacy of proposed storage, and feasibility of disposal via off-site sales are all in question.

Due to the risk of pollution from the discharge or leaching of heavy metals, or the release of other hazardous substances, the Mine Project should be denied.

- **Inadequate rock testing for hazard levels.**
The Central Valley Regional Water Quality Control Board (Water Board) made it clear in their Draft EIR comments that more rock testing is needed to assess the likely concentration levels of hazardous elements in the rock to be mined. The FEIR's plan for storing and disposing of mine waste has extensive gaps, resulting in a risk of long-term mine water pollution similar to what this community has seen in the past.

Rise Gold plans to deposit 1000 tons of tailings and waste rock per day on the Centennial and Brunswick sites for the first 11 years. After that, the plan is to dispose of it via off-site sales. However, only waste classified as Group C can be used for engineered fill deposits or off-site sales. The more hazardous Groups A and B require special handling. The FEIR asserts that "mine materials will likely be classified as Group C", but its conclusions rely on just 11 feet of drill core samples. The mine drain is currently discharging excessive levels of arsenic. We simply do not know how much of the more hazardous Groups A and B will result.

- **Adequate provision for storage or removal of more hazardous level waste rock levels not provided.**
The FEIR does not provide adequate provisions for the storage of the more hazardous Group A or Group B mine waste, which will be required by the Water Board. Since any

waste that is not Group C cannot be used for engineered fill or off-site sales, viable alternative strategies must be defined. The FEIR introduced a new suggestion that if the mine waste is not determined to be Group C "...the waste rock would be placed underground." Under CEQA, plans for how the management and storage of hazardous mine waste would be safely achieved must be included in the FEIR.

- **The market for off-site sales of waste rock is already saturated.**

The FEIR does not provide adequate information regarding the viability of the plan to dispose of mine waste through off-site sales and does not have provisions for adequate on-site temporary storage or permanent disposal, leading to potentially significant impacts.

The FEIR states that after the Centennial and Brunswick sites are full, "...hauling of engineered fill (barren rock and sand tailings) would shift entirely to be utilized in local and regional construction markets." (FEIR Page 2-59). Yet, the market demand for this mine waste (barren rock and sand tailings) has not been established.

The FEIR notes that the Sacramento County aggregate production-construction area has less than 50% of its 50-year aggregate demand currently permitted. The FEIR then concludes "...that there is sufficient market demand for engineered fill (barren rock and sand tailings)." This is a false conclusion.

In fact, Department of Conservation data shows that, in addition to the 327 million tons of aggregate supplies already permitted for Sacramento County, enough to meet 21 to 30 years of demand, surrounding counties have more than enough surplus aggregate to provide for the needs of Sacramento County. Placer County has more than double the estimated 50 year aggregate demand already permitted (387 million tons vs 188 million tons needed), Nevada County has 125% of the 50 year aggregate demand already permitted (52 of 41 needed), and Yuba City-Marysville has almost 200% already permitted (679 of 344 needed). [7]

In addition, due to the potential for the occurrence of asbestos-bearing rock in the Idaho-Maryland Mine, all materials extracted from the Idaho-Maryland Mine are considered "Restricted Materials" (Draft EIR, E.2 ASUR Plan, 9.2). This requires written documentation to accompany any handling, transport and application of the materials, including testing information, amounts, dates, etc. Reportedly, area aggregate suppliers avoid using Restricted Materials because there isn't a market for them.

A realistic analysis of the market for aggregates reveals that there are abundant aggregate supplies in the region, the aggregate market is very competitive, demand varies significantly by season, and most importantly, the mine waste is ill-suited to compete in the aggregate market.

4

Air quality impacts

Asbestos

The Idaho-Maryland Mine Final EIR does not provide enough baseline data to determine the potential impacts of airborne asbestos and plans for preventing hazardous emissions are inadequate. The unanswered questions related to exposure to this highly hazardous substance calls for denial of the Mine project.

Asbestos is a highly hazardous substance. Even minute amounts can cause lung cancer and other diseases. And Nevada County already suffers 2 times the average occurrence of lung cancer.

Very limited asbestos testing was done, constituting less than 2/10,000 of the total rock to be mined over the project lifespan. As the Air Quality Board stated: "It would be short-sighted to commit to the ASUR Plan [asbestos management plan] for the entire life of the mine based on the few samples that have been tested so far." (FEIR Page 2-360).

The ASUR Plan fails to provide the needed protections. Under the ASUR Plan, if the asbestos concentrations on any 1000 ton lot of mined materials would put the 3-month rolling average asbestos concentration over 0.01%, it would not be allowed to be exported. The problem is, it will take 2 weeks to get results. The project and the FEIR mitigations have no provisions for temporarily stockpiling materials during this wait period.

Instead, to avoid the need for stockpiling mined materials, awaiting testing, the FEIR states that exploratory drilling tests will determine what can be mined in advance. Then grab tests will be taken as the material is loaded into silos and sent off. But the testing is too sparse. The processing of 1000 tons requires about 166 - 6 ton skip loads. This means that the grab test will only capture, on average, about 1 out of 55 skip loads, and even then, the three grab samples will be mixed together in a combined test. Even accurate sample testing before shipping will not always prevent exceeding the threshold. Examples of how this system may fail are detailed in "Mine Waste and Asbestos Impacts," [8] showing that large quantities of mine waste could exceed the threshold and still pass through undetected.

And though the ASUR plan talks about what happens when the 0.01% threshold is detected after-the-fact, it doesn't actually provide a credible solution or adequate oversight.

Finally, it's important to note that ALL exported mine waste from this mine must be classified as "Restricted Materials." (Ibid ASUR 9.2). Aggregate suppliers in the region have indicated that they do not handle Restricted Materials because there is no market for them.

In addition, the market for aggregate material is already saturated for decades to come in the Sacramento region, and the output of the mine (fine sand tailings and barren rock) would be unsuitable for most of the aggregate market in any case. This means that mine waste may not be

able to be exported, which is a critical part of the Mine plan. Placing the material back in the tunnels has been suggested which has its own water quality issues. We question the ability to mitigate asbestos impacts of the Mine at all.

In conclusion, the Final EIR does not provide adequate asbestos baseline data, and fails to adequately address the hazards of airborne asbestos in the proposed ASUR plan. Yet air quality is concluded to be a less than significant impact. We are left not understanding the amount of asbestos that we may be exposed to and where it will go if thresholds are exceeded. These unanswered questions on this extremely critical health hazard call for denial of the Mine project.

Other Air Quality Impacts.

The FEIR underestimated air quality impacts and provided inadequate mitigation measures. A project of this scale cannot be approved with questions remaining about critical air quality impacts.

The FEIR review letter by our attorneys, Shute, Mihaly and Weinberger, noted: “The DEIR recognized that the Project’s operational impacts from ROG, NO_x, and PM₁₀ emissions would be ‘potentially significant,’ based on the North Sierra Air Quality Management District’s (NSAQMD) significance threshold.” [9] The DEIR identified a significant impact, and then did nothing to mitigate it. And, inexplicably claiming that construction related mitigations will impact operational air pollution impacts, the FEIR and DEIR assert that the Project’s operational air quality impacts *have* been mitigated to less-than-significant levels.

“In short, the EIR relies on a single faulty legal justification to excuse itself from CEQA’s basic mitigation requirements.” [10] With an operational phase of close to 80 years, and a community that already is suffering from air quality that is rated “F”, the FEIR should have incorporated robust and fully compliant air emissions mitigations.

The FEIR is legally deficient under CEQA. The FEIR should not be certified and the Mine project should be denied.

5

Greenhouse Gas Emission Impacts dismissed in FEIR.

The Mine is inconsistent with latest State Greenhouse Gas (GHG) thresholds and the Nevada County Energy Action Plan. The FEIR should not be certified and the Project should be denied.

- **Net Zero Threshold should have been used in EIR.**

The Mine’s GHG emissions are estimated to exceed 9000 Metric tons of Carbon Dioxide equivalent (CO₂e) greenhouse gases annually, and this does not include over 4000 Metric tons emitted to manufacture the cement needed for the project operations. The Mine’s energy use would be so sizable that it would completely offset the amount of residential reductions the County wants to achieve each year in its Energy Action Plan. [11]

Yet, the FEIR concludes that the Mine’s GHG emission impacts will be “less than significant”, using an unsupported, obsolete threshold measure to justify its position. A valid threshold for GHG emissions was not set in the EIR. The only correct threshold – given current climate studies, CA SB-32, and today’s state goals – is net zero as described below:

The Northern Sierra Air Quality Management District has not set thresholds for GHG emissions, so, as lead agency, Nevada County simply applied the 10,000 Metric ton per year carbon-dioxide emission threshold chosen by some other air districts for this project. Nevada County cannot simply assume that the justifications used by other air districts to adopt their thresholds also apply in Nevada County.

In 2015, the California Supreme Court determined that a project’s GHG emissions should be evaluated based on its effect on California’s efforts to meet its long-term climate goals. [12]

Then, in 2017, the California Air Quality Board Climate Change Scoping Plan stated “Achieving no net additional increase in GHG emissions, resulting in no contribution to GHG impacts, is an appropriate overall objective for new development. [13]

And in 2018, Governor Brown signed Executive Order 55-18, calling for the state to achieve carbon neutrality as soon as possible and no later than 2045, and to achieve and maintain net negative emissions thereafter. [14]

In view of this, the EIR should have established a net zero threshold for GHG emissions from the proposed project and the Mine’s 9000 tons/year of emissions for 80 years should be considered significant and unmitigated.

- **The Nevada County Energy Action Plan should guide the decision on the Mine Project.**

The Nevada County Energy Action Plan’s (EAP) goal is to reduce the projected annual grid supplied electricity the county will use in 2035 by 51% and the annual natural gas use by 30% through energy efficiency measures. The mine’s electricity use is equal to adding the energy use of 5,575 homes in Nevada County. This would almost eliminate the results of any energy-saving measures planned by the county.

This project will consume 49,000 Megawatts of electricity, in direct conflict with the County’s energy reduction goals. (FEIR Appendix M, p1945) The FEIR states “...although the EAP is not a Qualified GHG Emissions Reduction Plan under CEQA the project was nevertheless determined to be consistent with the EAP.” (FEIR Page 2-753) This statement is essentially false.

The Nevada County Planning Commission and the Board of Supervisors should ask the question: Are we serious about the Energy Action Plans? If so, the Mine should not be approved.

Summary

Over the past three years our organizations have worked diligently to participate in the process of reviewing and commenting on the proposal to reopen the Idaho Maryland Mine. During that time the community concern has been overwhelming:

- We have collected over 5,500 signatures in opposition to the mine.
- Scores of mine opponents have sent in letters on the DEIR and FEIR.
- Almost 500 people attended the hearing on the Draft EIR.
- Over 175 Other Voices guest editorials were printed in The Union against the Mine,
- Almost 100 County realtors have stepped forward in public opposition to the Mine.
- Over 150 additional business owners have openly opposed the mine via petition, public letter, or social media.
- SYRCL named the No Mine campaign its Activist Activity of the 2023 Wild and Scenic Film Festival.
- Our Coalition includes 25 state and local organizations.

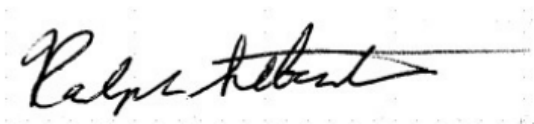
Our community is plainly at risk from the reopening of the Idaho Maryland Mine. It threatens to change the character of the community we love. Even the flawed FEIR concludes that the Mine will have unavoidable air, traffic, and noise impacts.

Our conclusion is that reopening the Mine is not supported by a majority of Nevada County constituents. Nevada County is no longer a resource extraction county. We have shifted towards a new 21st century green economy, and our residents support this shift. Are a few jobs and uncertain tax revenue worth the risk?

We ask that the County deny the approval of the Idaho Maryland Mine Use Permit and not certify the Final Environmental Impact Report.

For more information, please visit our website library and presentation videos at www.MineWatchNC.org

Thank you,
The Minewatch Coalition, CEA Foundation



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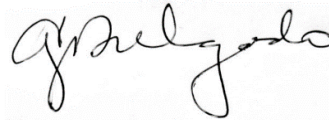
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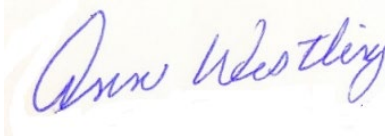
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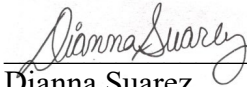
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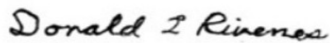
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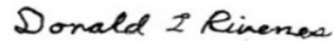
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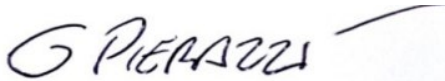
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References

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- [2] See <https://www.cea-nc.org/idaho-maryland-mine-final-eir-comments>.
- [3] See <https://www.minewatchnc.org/post/legal-background-supporting-denial-of-idaho-maryland-mine-feir-certification-and-project>
- [4] Baseline Environmental Consulting, Review of DEIR for Idaho-Maryland Mine, February 5, 2022, page 9.
- [5] Wells - Public Comment Packet by Wells Coalition, CEA Foundation, and San Juan Ridge Taxpayers Association, www.minewatchnc.org/post/wells-coalition-public-comments-on-final-eir-for-mine.
- [6] Ibid Wells.
- [7] https://www.conservation.ca.gov/cgs/Documents/Publications/Map-Sheets/MS_052_California_Aggregates_Map_201807.pdf.

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- [9] Shute, Mihaly & Weinberger LLP, Idaho-Maryland Mine Project Final Environmental Impact Report”, letter to Nevada County Planning Commission and Board of Supervisors, March 20, 2023, p21-23, See <https://www.cea-nc.org/idaho-maryland-mine-final-eir-comments>.
- [10] Ibid., Shute.
- [11] Nevada County Energy Action Plan, Page 2.
- [12] Center for Biological Diversity v. Department of Fish & Wildlife (2015) (62 Cal.4th 204),https://ceqaportal.org/ceqacase.cfm?cq_id=1612
- [13] California Air Quality Board 2017 Climate Change Scoping Plan, page 101
- [14] Executive order 55-18 signed by Governor Edmund Brown September 9, 2018