

*Via Email*

August 3, 2024

State Mining and Geology Board  
c/o Jeffrey Schmidt, Executive Officer  
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**Re: Request for Reconsideration of Board Decision approving an exemption under SMARA pursuant to Public Resources Code § 2714(f) for the Gold Discovery Group exploratory drilling project.**

Dear Board members,

At the June 20, 2024 Board Meeting the Board considered Agenda Item No. 13A and voted to grant an exemption from SMARA under PRC 2714(f) for the Gold Discovery Group exploratory drilling project (“GDG Project”).<sup>1</sup> We request that the Board reconsider that decision for several reasons.

First, the Board provided no reasoned basis for decision and failed to show that the GDG Project meets the standards of the statutory exemption.

Second, the Board failed to address the need for CEQA compliance in making its decision.<sup>2</sup>

Third, the Board utilized the exemption in a way that undermines the local County lead agency role contemplated under SMARA and ignored the binding precedent in *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, that requires Kern County to address the project as a whole in considering SMARA reclamation requirements.

Fourth, the Board failed to ensure public access to all of the documents before the Board and appeared to rely on hearsay evidence provided for the first time during the hearing.

As a result, the Board made an arbitrary and capricious decision without following the process required by law and without considering the impacts of that decision on the environment including biological resources protected under state and federal laws.

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<sup>1</sup>As detailed in our June 20, 2024 comments to the Board, the GDG Project meets the standards of a Project under CEQA because, taken as a whole, the mineral exploration project has the “potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment,” and is subject to the Board’s discretionary consideration of requested SMARA exemption or the county’s discretionary approval under SMARA. 14 Cal. Code Regs. § 15378 (a),(c).

<sup>2</sup> Cal. Gov’t Code § 11405.50 (“(a) “Decision” means an agency action of specific application that determines a legal right, duty, privilege, immunity, or other legal interest of a particular person.”)

For these reasons, we request that the Board reconsider its decision at its next meeting—now scheduled for August 15, 2024.

Sincerely,



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