

1  
2  
3  
4  
5  
6  
7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 CITY OF GRASS VALLEY,

11 Plaintiff,

No. CIV S-04-0149 DAD

12 v.

13 NEWMONT MINING CORPORATION,  
14 et al.,

Defendants.

ORDER

15 \_\_\_\_\_/  
16 This case came before the court on January 13, 2009, at 1:30 p.m. for a final status  
17 conference prior to the jury trial set for January 20, 2009. Michael D. Axline and Evan  
18 Eickmeyer appeared in court on behalf of plaintiff City of Grass Valley. Michael G. Romey and  
19 Elizabeth H. Temkin appeared in court and Susan P. Welch appeared telephonically on behalf of  
20 defendants Newmont Mining Corporation, Newmont USA Limited, Newmont North America  
21 Exploration Limited, New Verde Mines LLC, and Newmont Realty Company.

22 At the final status conference, counsel requested that in order to facilitate  
23 preparation of their opening statements the court rule prior to trial on four objections, two by  
24 each party, to exhibits offered for admission. At the conference, the court overruled plaintiff's  
25 objection to defendant's exhibits K-1-p and K-1-q with certain redactions as stated on the record.  
26 The court also heard argument on defendants' objection to plaintiff's exhibits 1 and 4 on grounds

1 of relevance as well as prejudice, confusion and waste of time. See Fed. R. Evid. 402 & 403.

2 After the hearing, at the request of defense counsel, the court also considered plaintiff's exhibits  
3 2 and 3 for context.

4 Having considered the parties' arguments and reviewed the exhibits in question in  
5 more detail, the court overrules defendant's objections to plaintiff's exhibits 1 and 4. First, as  
6 previously noted, Judge Burrell relied upon these objected-to exhibits in ruling on the summary  
7 judgment motions in this case. Moreover, the undersigned has determined that although the  
8 weight of plaintiff's exhibits 1 and 4 may be limited for the reasons argued by defense counsel,  
9 they nonetheless have some relevance to the issues being tried in this action.

10 For the reasons set forth above and on the record at the January 13, 2009 hearing  
11 the objections to defendant's exhibits K-1-p and K-1-q and plaintiff's exhibits 1 and 4 are  
12 overruled.

13 DATED: January 16, 2009.

14  
15   
16 \_\_\_\_\_  
DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

17 ddad1/orders.consent/cityofgrassvalley0149.oafsc  
18  
19  
20  
21  
22  
23  
24  
25  
26