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15 IN THE UNITED STATES DISTRICT COURT  
 16 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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18 **CALIFORNIA DEPARTMENT OF**  
 19 **PARKS & RECREATION,**

Plaintiff,

20 v.

21 **NEWMONT MINING CORPORATION;**  
 22 **NEW VERDE MINES; et al.,**

Defendants.

23 **NEWMONT MINING CORPORATION;**  
 24 **NEW VERDE MINES, et al.,**

Counterclaimants,

25 v.

26 **CALIFORNIA DEPARTMENT OF**  
 27 **PARKS & RECREATION,**

28 Counterdefendant.

Case No. 2:12-CV-01857-LKK-GGH

**STIPULATION AND ORDER**  
**REGARDING FEDERAL RULE OF**  
**EVIDENCE 502(D)**

Judge: Hon. Lawrence K. Karlton  
 Trial Date: February 3, 2015  
 Action Filed: July 13, 2012

1 The parties to the above-entitled action, met and conferred and stipulated as follows:

2 1. Pursuant to Federal Rule of Evidence 502(d), if in connection with the above-  
3 captioned litigation, documents or information subject to a claim of attorney-client privilege,  
4 work product protection, or any other privilege recognized in this Court, are disclosed  
5 (“Disclosed Information”) by a party (the “Disclosing Party”), the disclosure of such Disclosed  
6 Information shall not constitute or be deemed a waiver of any claim of privilege or protection that  
7 the Disclosing Party would otherwise be entitled to assert with respect to the Disclosed  
8 Information and its subject matter. Any applicable privileges or protections shall only be waived  
9 on express written approval by the person or entity holding the privilege. The non-waiver of  
10 claims of privilege and protection shall apply to the litigation pending before the Court as well as  
11 any other federal or state proceeding.

12 2. If a claim of disclosure is made by the Disclosing Party with respect to Disclosed  
13 Information, the party that received the Disclosed Information (the “Receiving Party”) shall,  
14 within five business days of receiving notice of the claim of disclosure, return, delete, or destroy  
15 the Disclosed Information and delete or destroy the portions of all work product that reflect or are  
16 derived from such Disclosed Information, including all copies thereof, shall not share such  
17 Disclosed Information or work product with any person, and shall make no use of any kind of  
18 such Disclosed Information and work product.

19 3. Upon request by the Disclosing Party, the Receiving Party shall confirm in writing  
20 that it has complied with the procedures described in Paragraph 2 above.

21 4. If a Receiving Party knows or should reasonably know that it has received  
22 Disclosed Information, it shall promptly sequester such Disclosed Information and refrain from  
23 using both it and the portions of all work product that reflect or are derived from such Disclosed  
24 Information. The Receiving Party shall promptly notify the Disclosing Party of the existence of  
25 such Disclosed Information in order to permit the Disclosing Party to take protective measures as  
26 outlined above. Upon request by the Disclosing Party, the Receiving Party shall comply with the  
27 procedures described in Paragraphs 2 and 3 above.

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1           5.       Nothing in this Order shall limit the Receiving Party's right to challenge (on  
2 grounds unrelated to the fact or circumstances of the disclosure) the Disclosing Party's claim that  
3 Disclosed Information is protected from disclosure by the claimed privilege and/or protection. If,  
4 after undertaking an appropriate meet-and-confer process, the parties are unable to resolve any  
5 dispute they have concerning the protection of documents for which a claim of Disclosure has  
6 been asserted, the Receiving Party may file the appropriate motion or application as provided by  
7 the Court's procedures to compel production of such material. Any Disclosed Information  
8 submitted to the Court in connection with a challenge to the Disclosing Party's claim of privilege  
9 and/or protection shall not be filed in the public record, but rather shall be redacted, filed under  
10 seal, or submitted for *in camera* review.

11           6.       The terms of this Stipulated Order shall apply to all Disclosed Information  
12 disclosed during the course of the litigation pending before the Court, including Disclosed  
13 Information disclosed prior or subsequent to the entry of this Stipulated Order.

14           7.       Nothing in this Stipulated Order shall waive or limit any protections afforded the  
15 parties under Federal Rule of Evidence 502.

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17 Dated: September 25, 2013

Respectfully Submitted,

KAMALA D. HARRIS  
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DANIEL L. SIEGEL  
Supervising Deputy Attorney General

/s/ Jessica Tucker-Mohl  
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1 Dated: September 25, 2013

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/s/ Monica Klosterman  
MONICA KLOSTERMAN  
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**IT IS SO ORDERED.**

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Date: October 7, 2013.

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LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT

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