

**HEARING OF THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL
BOARD**

**PROPOSED CLEANUP AND ABATEMENT ORDER R5-2009-xxxx
FOR THE ELGIN MERCURY MINE
COLUSA COUNTY, CALIFORNIA**

**SUBMISSION OF EVIDENCE AND POLICY STATEMENTS
BY
DESIGNATED PARTY HOMESTAKE MINING COMPANY OF CALIFORNIA**

Pursuant to the Hearing Procedures for the above hearing issued by the Central Valley Regional Water Quality Control Board for a hearing on the proposed Cleanup and Abatement Order for the Elgin Mine, Colusa County, California, scheduled for August 13/14, 2009, Designated Party Homestake Mining Company of California ("Homestake") herewith identifies its evidence, policy statement, and list of witnesses for that proposed hearing.

1. Evidence

The Prosecution Team has stated it is relying upon the evidence now present in the public files of the Central Valley Regional Water Quality Control Board for the Elgin Mercury Mine matter, and has not identified any lay or expert witnesses for presentation with respect to the Elgin Mine matter at the hearing scheduled for August 13/14, 2009. Homestake will rely upon the evidence already present in those public files for the Elgin Mine, and in particular the Staff Report and Assessor Parcel maps identifying the areas from which alleged discharges have occurred (Attachment 1), the recorded geothermal lease and recorded quitclaim deeds for the Elgin Mine patented mining claim parcels(Attachment 2), that portion of the 2002 TetraTech report that is relied upon by the Prosecution Team to demonstrate the source of mercury discharges from the Elgin Mine to Sulphur Creek (Attachment 3), and the Prosecution Team's letter of June 24, 2009, outlining the activities that it alleges were engaged in by Homestake resulting in such discharges (Attachment 4).

Homestake will also rely upon the affidavit of Karl Burke (included herewith as Attachment 5), and the Homestake business records identified in and attached to that affidavit. Mr. Burke will be present at the hearing and available for cross-examination if required.

2. Witnesses

Based on the understanding that the Prosecution Team does not intend to present lay or expert testimony at the hearing regarding the Elgin Mine matter, Homestake does not anticipate lay or expert witnesses at the August 13/14 hearing in addition to Mr. Burke.

3. Policy Statements

Homestake has previously provided a statement of its position with respect to the Elgin Mine in its comments to the Regional Board on July 1, 2009 (Attachment 6). In summary, the Prosecution Team has the burden of demonstrating that Homestake is responsible for a discharge of mercury to Sulphur Creek. The Prosecution Team offers no facts establishing that Homestake has had any interest in the Elgin Mine property, which is the source of the alleged mercury releases to Sulphur Creek. As the attached public record documents and affidavit of Mr. Burke demonstrate, Homestake has no current interest of any type in any of the Assessor Parcels addressed in the draft CAO, and that Homestake has had no interest at any time, whether a fee interest or leasehold, in the two Assessor Parcels that are the location of the Elgin Mine Property.

Likewise, the Prosecution Team points to nothing in its record that demonstrates that Homestake has engaged in any of the activities on either the Elgin Mine property or the adjacent land that the Prosecution Team alleges (Attachment 4) would have resulted in the discharge of contaminants at the Elgin Mine to waters of the State. The affidavit of Mr. Burke describing the absence of any indication of such activities in the Homestake records regarding the Elgin buttresses the conclusion that Homestake has no responsibility for any of the alleged discharges of mercury for the Elgin Mine.

Respectfully submitted this 23rd day of July, 2009.



Gerald F. George
Counsel for Homestake Mining Company
of California