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9 IN THE UNITED STATES BANKRUPTCY COURT  
10 FOR THE DISTRICT OF ARIZONA

11 In re: 12 ELEVATION GOLD MINING CORPORATION, 13 Debtor in a Foreign Proceeding.	Chapter: 15 Jointly Administered Case No. 2:24-bk-06359-EPB
14 In re: 15 Golden Vertex Corp., 16 Debtor in a Foreign Proceeding.	Case No. 2:24-bk-06364-DPC
17 In re: 18 Golden Vertex (Idaho) Corp., 19 Debtor in a Foreign Proceeding.	Case No. 2:24-bk-06367-BKM
20 In re: 21 Eclipse Gold Mining Corporation, 22 Debtor in a Foreign Proceeding.	Case No. 2:24-bk-06368-MCW
23 In re: 24 Alcmene Mining Inc., 25 Debtor in a Foreign Proceeding.	Case No. 2:24-bk-06370-EPB
26 In re: 27 Hercules Gold USA LLC, 28 Debtor in a Foreign Proceeding.	Case No. 2:24-bk-06371-DPC

1   **REPLY IN SUPPORT OF**  
2   **MOTION TO EXPEDITE ROYALTY DETERMINATION MOTIONS**

3                     Patriot Gold Corp. (“Patriot Gold”) has objected [DE 57] to the request to expedite  
4 [DE 55] the Motion to Determine the Nature of Creditor Patriot Gold Corp.’s Royalty  
5 Interest [DE 52] (“Motion to Determine”) filed by Elevation Gold Mining Corporation  
6 (“Elevation”) and its direct and indirect subsidiaries which include Eclipse Gold Mining  
7 Corporation (“Eclipse”), and Golden Vertex Corp. (“GVC”) (collectively, the “Group”).  
8 Patriot Gold’s objection is baseless.

9                     **1.**         Prejudice is the primary concern in deciding a motion to expedite. *See, e.g.,*  
10 *In re Phila. Newspapers, LLC*, 690 F.3d 161, 171 (3d Cir. 2012); *In re Grant Broad. of*  
11 *Phila., Inc.*, 71 B.R. 390, 397 (Bankr. E.D. Pa. 1987) (stating “a court must consider,  
12 primarily, the prejudice that potentially would result” from reduction of the notice period  
13 pursuant to Federal Rule of Bankruptcy Procedure 9006(c)). Patriot Gold has not identified  
14 any prejudice it may face from expediting the Motion to Determine. *See Grant Broad. of*  
15 *Phila.*, 71 B.R. at 397 (rejecting objection to request to expedite notice period where court  
16 was “presented with no specific allegation that any interested party was in fact unfairly  
17 prejudiced”). In contrast, the Group has shown that it is likely to suffer prejudice because  
18 uncertainty related to Patriot Gold’s interest in certain assets held by GVC, as discussed in  
19 the Motion to Determine, will affect the Group’s ability to secure an offer for the sale of  
20 that asset in the Canadian bankruptcy proceeding. Expediting the Motion to Determine will  
21 help avoid that prejudice.

22                     **2.**         Patriot Gold also mischaracterizes the Motion to Determine as a request to  
23 “avoid” Patriot Gold’s interest so that it can improperly force this dispute into Federal Rule  
24 of Bankruptcy Procedure 7001(2) and make it an adversary proceeding. [DE 57 at 2–3].  
25 But the Group is asking the Court to adjudicate what type of interest Patriot Gold has in  
26 that asset, not to avoid any interest. That requested relief does not fit within Rule 7001, and  
27 thus, the Motion to Determine is a request for relief that the Court can resolve as a contested  
28 matter governed by Federal Rule of Bankruptcy Procedure 9014. *See In re Linton*, 631 B.R.

1 882, 892 (B.A.P. 9th Cir. 2021) (stating where Rule 7001 did “not require an adversary  
2 proceeding to determine issues” presented, proceeding was a contested matter). Moreover,  
3 Patriot Gold has failed to identify how it will suffer prejudice if the Court uses the  
4 procedures for a contested matter rather than an adversary proceeding. *Id.* at 892–93  
5 (holding that procedures governing contested matters largely mirror adversary  
6 proceedings, including how “discovery rules apply” and “evidence is taken”); *In re Decker*,  
7 199 B.R. 684, 689 (B.A.P. 9th Cir. 1996) (concluding party was not prejudiced where court  
8 resolved legal issue raised via “the equivalent of a summary judgment motion” in a  
9 contested matter rather than through adversary proceeding). The Motion to Determine asks  
10 solely for resolution of a narrow and discrete legal issue related to whether Patriot Gold’s  
11 royalty interest in certain of GVC’s assets qualifies as real or personal property. Patriot  
12 Gold cites no factual issues that require discovery. A contested matter will afford all the  
13 necessary protections to resolve the single legal issue presented in the Motion to  
14 Determine.

15 **3.** Even if this matter should be an adversary proceeding, as Patriot Gold  
16 contends, the Court can still expedite an adversary proceeding in the same way it can  
17 expedite a contested matter. Thus, the type of proceeding is ultimately irrelevant to  
18 resolving the legal issue presented in the Motion to Determine.

19 **4.** Patriot Gold is wrong that the Group is asking for an advisory opinion  
20 regarding Patriot Gold’s rights in certain of GVC’s assets. Where a ruling affects a party’s  
21 “legal rights . . . , even if those rights have not yet been challenged or exercised,” it is not  
22 an advisory opinion. *In re Sunnymead Shopping Ctr. Co.*, 178 B.R. 809, 814 (B.A.P. 9th  
23 Cir. 1995). A ruling on whether Patriot Gold holds a real property interest or personal  
24 property interest in certain of GVC’s assets will affect the legal rights of Patriot Gold and  
25 GVC. Further, Patriot Gold’s own objection itself reveals that there is a real and present  
26 controversy about whether Patriot Gold has a real property interest. And in fact, Patriot  
27 Gold already raised this same issue in a state court proceeding. *See Patriot Gold Corp. v.*  
28 *Golden Vertex Corp.*, No. CV 2024-008181 (Ariz. Super. Ct. filed Apr. 9, 2024). Thus,

1 there is a present controversy for this Court to resolve that will affect the legal rights of  
2 interested parties in certain assets belonging to GVC. The Group is not asking for an  
3 advisory opinion.

4 5. Patriot Gold also makes substantive arguments about its interest in GVC's  
5 assets in response to the Motion to Determine. Those arguments do not show why  
6 expediting resolution is not warranted.

7 In conclusion, Patriot Gold has not raised a legitimate objection to expediting the  
8 Motion to Determine. The Group respectfully requests that the Court set an expedited  
9 briefing schedule and hearing on the Royalty Determination Motions as soon as practicable  
10 before November 22, 2024.

11 DATED this 17<sup>th</sup> day of October, 2024

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21 The foregoing was electronically filed this 17<sup>th</sup> day  
22 of October, 2024 via the Court's CM/ECF filing system  
23 for filing and transmittal of a Notice of Electronic Filing,  
24 receipt of which constitutes service under L.R. Bankr. P.  
25 9076-1(a), to the CM/ECF registrants.

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