

1 Case No. 06-01181A  
2 Dept. No. I

REC'D & FILED

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ALAN GLOVER  
CLERK

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*[Signature]*

10 Attorneys for Respondent  
11 AngloGold Ashanti (Nevada) Corp.

12 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF  
13 NEVADA IN AND FOR THE COUNTY OF CARSON CITY

14 GREAT BASIN MINE WATCH,

15 Petitioner,

16 v.

17 STATE OF NEVADA DEPARTMENT OF  
18 CONSERVATION AND NATURAL  
19 RESOURCES; DIVISION OF  
20 ENVIRONMENTAL PROTECTION;  
21 BUREAU OF MINING REGULATION AND  
22 RECLAMATION; STATE  
23 ENVIRONMENTAL COMMISSION; AND  
24 ANGLOGOLD ASHANTI (NEVADA)  
25 CORPORATION,

26 Respondents.

**RESPONDENT, ANGLOGOLD ASHANTI  
(NEVADA) CORP.'S MOTION TO  
DISMISS**

27 AngloGold Ashanti (Nevada) Corp. ("AngloGold Ashanti") hereby requests this Court to  
28 dismiss the Petition for Judicial Review filed by Great Basin Mine Watch ("GBMW") for lack of  
subject matter jurisdiction. The bases for this request are set out in the Motion to Dismiss filed by  
the State of Nevada Division of Environmental Protection ("NDEP") on September 13, 2006 in  
which AngloGold Ashanti joins and incorporates herein, with the following additions:

1. The timetable set out in the Nevada Administrative Procedure Act ("APA"), NRS  
233B.010 *et seq.*, ensures that all petitions for administrative reconsideration are resolved before

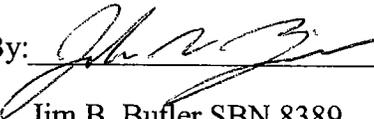
1 the expiration of the 30 day time period for seeking judicial review. Specifically, any order  
2 granting or denying a petition for reconsideration "must be served on all parties at least 5 days  
3 before the expiration of the time for filing the petition for judicial review." NRS 233B.130(4).  
4 Additionally and consistent with that section of the APA, the State Environmental Commission  
5 ("SEC") has adopted regulations explaining explicitly that "the filing of a petition for  
6 reconsideration or rehearing or the granting of such a petition does not excuse compliance with,  
7 or suspend the effectiveness of, the challenged decision." NAC 445B.899(6) (emphasis added).  
8 Here, the challenged decision is the SEC's Order dismissing GBMW's administrative appeal  
9 because GBMW lacked standing. GBMW admits that Order was entered on July 10, 2006. *See*  
10 GBMW's Petition for Judicial Review at 11, ¶ 44. Thus, under the APA and the SEC's  
11 regulations, GBMW had to file its petition for judicial review within 30 days of July 10, 2006—in  
12 other words, by August 9, 2006. GBMW's petition for reconsideration did not extend this  
13 deadline. Moreover, the SEC followed the statutory requirement by responding to GBMW's  
14 petition for reconsideration, in this instance a denial of the same, on August 4<sup>th</sup>, which was 5 days  
15 prior to the expiration of the time for filing a petition for judicial review. GBMW failed to timely  
16 file its subsequent petition for judicial review, and, as a result, this Court lacks subject matter  
17 jurisdiction of GBMW's Petition for Judicial Review and it must therefore be dismissed.  
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21 2. As to GBMW's alternative request for extraordinary writ relief, suffice it to say  
22 that the judicial relief afforded by the APA is "the exclusive means of judicial review of, or  
23 judicial action concerning" the SEC's final decision. *See* NRS 233B.130(6).  
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Dated: September 22, 2006

Parsons Behle & Latimer

By: 

Jim B. Bufler SBN 8389  
John R. Zimmerman SBN 9729  
Attorneys for Respondent  
AngloGold Ashanti (Nevada) Corp.

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**CERTIFICATE OF SERVICE**

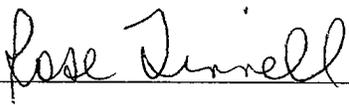
I hereby certify that on this <sup>22<sup>nd</sup></sup> day of September, 2006, I caused to be mailed, first class, postage prepaid, a true and correct copy of the foregoing **ANGLOGOLD ASHANTI (NEVADA) CORP.'S MOTION TO DISMISS** to:

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