

**EVIDENCE & POLICY
STATEMENT**

In Response To:

Complaint No: RS - 2012-0643

For

Administrative Civil Liability

Witness List for Rebuttal
of
Civil Liability Complaint & Cease & Resist Order
#R5-02002-0543

10 minutes - Mr Ted Rel, Engineer, Placer County Engineering Dept.
Testimony about United States Forest Service's responsibility on historic dumps #1-4.
Also, giving information about Reclamation on Rock Dumps.

20 minutes - Mr. Rob Fingerson, General Engineer, Holdrege & Kull, Certified Engineers & Geologists.
Testimony on Stability of dumps #1-4. Holdrege & Kull's Analysis on:
a) Further Reclamation on dumps #1-4.
b) Colluvial-v- mine wasterock.
c) Storm Water runoff, or lack thereof.

5 minutes - Crystal Jacobson, Senior Planner, Placer County Planning Dept.
Testimony about meeting at mine. US Forest Service employee told Jeff Huggins,
"We are going to stick it to Dick."

Background:

In a 1981 Management Agency Agreement (**Exhibit 'A'**) between the State Water Resources Control Board, the State of California, and the USFS four objectives were outlined. In addition to achieving the goals of the Federal Water Pollution Control Act and implementing legislative mandates for multiple uses, the agreement also sought to “minimize duplication of effort” and “assure control of water pollution through implementation of Best Management Practices (BMPs) - (**Exhibit 'B'**)” (‘Whereas’ #1). Moreover, it designated the USFS as the “management agency for all activities on NFS lands effective upon execution of a management agency agreement (‘Whereas’ #7).” In accepting responsibility for water quality on federal lands, the USFS (in conjunction with the State Board) prepared a document titled Water Quality Management for National Forest Service Lands in California (Service 208 Report) - (**Exhibit 'C'**) (‘Whereas #6’). That document identifies the implementation of Best Management Practices (BMP) as the practices and procedures that constitute water quality protection and improvement.

The MAA constitutes a binding agreement. The Forest Service application of site specific BMPs results in the Forest Service compliance with the Clean Water Act and other applicable laws regarding water quality. By reason, this same immunity extends to the general public who use NFS lands. Although much has changed in water law over the last thirty years, the integrity and the authority of the MAA has never been challenged. In fact, just the opposite has been the case. The examples follow below:

Chapter IV, pg. 12 of the Central Valley Region Basin Plan (2012) reads: “The Regional Water Board abides by State Water Board agreements with federal and State agencies which have been formalized with either an MAA, MOA, or MOU signed by the State Water Board.” The first agreement mentioned in the following paragraph is the 1981 MMA with the Forest Service.

Section 4, Part B of the State’s Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program (2004) is titled “Third Party Programs Administered by State Agencies other than the SWRCB or RWQCBs.” It goes on to read, “MAAs are important for NPS regulation because they delineate the roles and responsibilities of individual agencies in the State’s efforts to control NPS pollution sources.”

Section 13170.1 of the Porter Cologne Water Quality Control Act (2012) deals exclusively with Management Agency Agreements stating: “The state board shall consider all relevant management agency agreements, which are intended to protect a specific beneficial use of water, prior to adopting all water quality control plans pursuant to Section 13170.”

Failure of both the USFS and Water Board to abide by this 1981 agreement has led to much confusion for the operator and the violations in the Administrative Civil Liability Complaint.

“The land where the mining claims are located is owned by the US Government & administered by the US Dept. Of Agriculture, Forest Service.” Therefore, the USFS is co-responsible for the implementation of any order of compliance. In so far as responsibility is concerned it should be added, and made clear to the Board, that the USFS directed where to put the waste material, starting with dump #1 in 1987, and continues to, including dump #5. Not only were we told where to put the material but also flagged the perimeter of where waste rock should extend to, how waste rock was to be placed and the total amounts to be placed, along with when to stop dumping. Then instructions were given to us where the next waste area will be. (**Exhibit 'D'**)

We objected to dumps #2, 3 & 4, as we preferred going to the west, away from Mad Creek, but no avail. Three (3) letters from three (3) different District Rangers states to us, "the only responsibility you now have to the previous waste areas #'s 1, 2, 3 & 4 ,is to ensure that erosion control measures that you have been practicing, including all the successful measures previously used to direct water away from the waste dumps, continue." These letters are dated, Oct.20, 2004; May 11, 2005; & Oct. 21, 2009

Stability issues were raised on the historic dumps #1-4 and were addressed in a Nov. 1, 2006 Huldrege & Kull Wasterock Stability Evaluation Report, (Exhibit 'U') stating that the dumps should be left alone in their present existing condition to avoid de-stabilization.

The W.D.R. changes the Reclamation Plan's date for reclamation on dumps #1-4.

Contrary to the claim that 2008-2009 storm water report has never been submitted, please (Exhibit 'V') As reported, no measurable amount of storm water was recovered. We still believe that the USFS has been doing all monitoring and reporting according to the MAA., since 1987. District Ranger, Rick Johnson, states that the, "USFS would obtain samples of the rock and runoff and have it tested to determine if there is a problem." (Exhibit 'W')

In regards to the statement referring to your records stating, "discharges of waste are occurring continuously due to unstable nature of waste piles." This is blatantly false erroneous information on the assumption that the material you claim, is wasterock. It is, in fact, colluvial material. (See photos) The photos show indisputable evidence that no discharge of any kind or character can reach the last third distance to the creek by virtue of the trees, bushes and other natural vegetation. The waste dumps conform to surrounding topography.

Also, any speculation stated on the part of the prosecution should not be considered relevant or evidence in a civil liability complaint

We were not given the opportunity, as accused discharger, in the factoring and defending the culpability issue of amounts rendered. The USFS & MAA & BMP were apparently not factored I, or considered, in these findings and assessment amounts.

The ability to pay and continue in business were totally dismissed and not taken under consideration. The business has been shut down since 2010.

It states in the complaint that you have the choice to decline seeking further liabilities. We request that you consider this after reviewing our evidence; and the lack of inclusion of the USFS in this complaint, in accordance with the MAA & BMP's.

Timeline of Events

#1. June 11, 1990

Letter from Arthur Inouye, Dept. Of Water Quality Control:

After his physical inspection of the mine he states, "No ongoing discharge affecting water quality." No mention of needing permit. Note: 90% of all waste was in place at the time - dumps #1 & 2. **(Exhibit 'E')**

#2. Sept. 30, 1994

Letter from dept. of Conservation (S.M.A.R.A.):

Letter states, "We would appreciate your cooperation to determine whether or not S.M.A.R.A. applies to your operation." Note: After dumps #1- 3 were closed, 95% of all dump material was in place. **(Exhibit 'F')**

#3. Dec. 30, 2003

Letter from Mike Foster:

He stated that he and Art Davidson from Placer County Public Works Dept. inspected the mine and determined that the mine was exempt from S.M.A.R.A. and Placer County ordinance. **(Exhibit 'G')**

#4. Jan. 9, 2004

Letter from assemblyman, Tim Leslie to Mike Chrisman, Calif. State Resources Agency Secretary:

Stating that he, Mr. Leslie, wrote the law exempting operations like Mr. Sykora's - in not "removing" more than 1000 cubic yards of overburden. This law was co-signed by State Senator, Rico Oller. **(Exhibit 'H')**

#5. Feb. 19, 2004

Determination Hearing - State of Calif. Dept. Of Conservation, State Mining & Geology Board. Meeting Discussion:

Pg. 46 - Mr. Jones, "Old issue is behind you."

Pg. 47 - Mr. Jones, "Going to go forward from this point"

Pg. 48 - Mr. Isham, "You were *not* subject to S.M.A.R.A. several times in the past."

Pg. 48 - Mr Ramirez, "Forget the past, start new".

Pg. 51 - Mr Baca, "I move that the effective date of S.A.M.R.A. be my birthday, Feb.19, 2004". **(Exhibit 'I')**

Roll Call Vote was 5-2 in favor of passage. NOTE: We stopped working in dump #4 in June, 2003 and started working on the new road to dump #5 on approximately July, 2003. We were clearly finished with dump #1-4 seven months prior to the Board saying we come under S.A.M.R.A.

#6. Sept. 8, 2004

Decision Notice & Finding of No Significant Impact by United States Forest Service:

...For new dump #5 and continuing mining. Therein states, "The Forest Service might advise the operator what permits are needed, but is not responsible for making sure that the operator has obtained the permit or is following the terms of the permit."

(Exhibit 'J')

#7. Oct. 20, 2004

Plan of Operations Letter:

This letter was signed by the U.S. Forest Service and ourselves. In it, the Forest Service takes over responsibility for old dumps, #1- 4. The Forest Service states on the face sheet, "Working cooperatively with the Calif. State Water Quality Control Board", the U.S. Forest Service developed 'Pollution Control Measures', referred to as, "Best Management Practices", that are applicable to National Forest System Lands. The Best Management Practices were evaluated by State Water Quality Control Personnel as they were applied, on site, during management activities. After assessment of the monitoring data and completion of Public Workshops and Hearings, the Forest Service's Best Management Practices were certified by the State and **approved** by the Environmental Protection Agency as the most effective means to control non-point source of pollution. **(Exhibit 'K')**

#8. May 11, 2005

Letter from District Ranger, Jan Cutts:

Stating that the U.S. Forest service has control of dumps #1- 4, except for erosion control measures, that we have been practicing. **(Exhibit 'L')**

#9. Dec. 16, 2005

Mr. Rosenbaum's Letter:

His letter to me stating he needed to have an inspection of the mine to determine if we needed a permit or not. **(Exhibit 'M')**

#10. Mar. 23, 2006

Inspection of Mine Conducted:

Present at the mine site was Mr. Rosenbaum, W.Q.C.; James Pompey, Dept. Of Conservation (S.M.A.R.A.); and Mo Tebbe, U.S.F.S. Placer County was also represented. It was this inspection that Mo Tebbe told everyone, including Placer County representative that, "We want to 'stick' it to Mr. Sykora!" This was said at a time when I was not present with the crowd, but we were told exactly what was said, by the county representative, who seemed to recognize the prejudice.

#11. July 28, 2006

Letter from Jan Cutts to Crystal Jacobson:

U.S. Forest Service letter Pgs.3, #7 states, "The Forest service has a waiver from the State Water Quality Control Board so that the Forest Service application and monitoring of site - specific Best Management Practices' results in the Forest Service compliance with the Clean Water Act and other applicable laws regarding water quality." **(Exhibit 'N')**

#12. Nov. 1. 2006

Engineering Report from Holdrege & Kull:

Stating that all waste rock is 'acid neutralizing' and does not present a risk to water quality and that dump #5 is approximately 1000 feet to the north of the nearest creek. **(Exhibit 'O')**

#13. Nov. 28, 2006

Letter from Jeff Huggins, water Quality Control Board:

States that, "We agree that the waste rock stockpiles do not pose a significant threat to water quality." This decision was made after Big Seam's incurred expensive laboratory tests. **(Exhibit 'P')**

#14. Feb. 29, 2008

Letter to Pam Creedon stating that Wildcat Mining Enterprises, LLC takes over operation and liability of mine. **(Exhibit 'X')**

#15. Oct. 21, 2009

Letter to Ted Rel, Placer County from District Ranger, Chris Fischer:

Stating that dumps #1 - 4 under U.S. Forest Service control except for us maintaining water diversion. **(Exhibit 'Q')**

#16. Nov. 8, 2010

Letter from Placer County, Lead Agency:

Stating in their opinion that dumps #1 - 4 are considered reclaimed. **(Exhibit 'R')**

#17. Sept. 10, 2010

Letter from Placer County, Lead Agency, to O.M.R. stating dumps #1-4 are considered reclaimed. **(Exhibit 'S')**

#18. From 2010 to Present -

Constant vandalism on dumps #1-4. **(Exhibit 'T')**

#19 Pink slip from S.M.A.R.A. stating no safe means of access to dumps #1 & 2. **(Exhibit 'Y')**

Violations:

#27

Violation Category 1: The Discharger violated Prohibition A.6 of WDR Order No. R5-2007-0181 and CWC section 13376 by discharging waste to Mad Canyon, a tributary to the Middle Fork of the American River and water of the United States.

- a) 19 April 2011 unauthorized discharge of waste to waters of the United States.

Response: There is no proof of unauthorized discharge of waste to the waters of the United States. This alleged violation is based on the premise the reclamation has not been completed on waste dumps #1-4. Per the United State Forest Service, our only responsibility to waste dumps #1-4 was to “ensure that erosion control measures that you have been practicing, including all the successful measures previously used to direct water away from the waste dumps continues (**Exhibit ‘K’**). Per Placer County’s inspection (as lead agency for SMARA), the sites were considered reclaimed (**Exhibit R & S**). Report from MSHA states....no safe access waste dumps 1 & 2 (**Exhibit ‘Y’**). Reports from Holdrege & Kull state that further disturbance to the waste rock would cause instability issues...(Exhibit ‘U’- **pg. 16**) What is claimed to be waste rock is, in fact, colluvial material. The photos show indisputable evidence that no discharge of any kind or character can reach the last third distance to the creek by virtue of the trees bushes and other natural vegetation. The waste dumps conform to the surrounding topography (**photos provided**). All storm water reports conducted by Holdrege & Kull show no measurable runoff (**Exhibit ‘V’**)

- b) 21 February 2012 unauthorized discharge of waste to waters of the United States.

Response: There is no proof of unauthorized discharge of waste to the waters of the United States. This alleged violation is based on the premise the reclamation has not been completed on waste dumps #1-4. Per the United State Forest Service, our only responsibility to waste dumps #1-4 was to “ensure that erosion control measures that you have been practicing, including all the successful measures previously used to direct water away from the waste dumps continues (**Exhibit ‘K’**) . Per Placer County’s inspection (as lead agency for SMARA), the sites were considered reclaimed (**Exhibit ‘R’ & ‘S’**). Reports from MSHA state (**Exhibit ‘Y’**). Reports from Holdrege & Kull state that further disturbance to the waste rock... (**Exhibit ‘U’ - pg. 16**). What is claimed to be waste rock is, in fact, colluvial material. The photos show indisputable evidence that no discharge of any kind or character can reach the last third distance to the creek by virtue of the trees bushes and other natural vegetation. The waste dumps conform to the surrounding topography (**photos provided**). All storm water reports conducted by Holdrege & Kull show no measurable runoff (**Exhibit ‘V’**).

#28

Violation Category 2: The Discharger violated WDR Order No. R5-2007 -0181 and Section e.1. of the MRP by failing to submit the following Annual Summary Monitoring Reports by the specified deadline pursuant to CWC section 13267:

- a) 2007-2008 Annual Summary Monitoring Report, due 1 July 2008

Response: The MAA (**Exhibit ‘A’**) and 2004 Plan of Operations (**Exhibit ‘K’**) place responsibility of Annual Monitoring Reports on the United States Forest Service. Please see letter from Richard Johnson stating...(Exhibit ‘K’).

- b) 2008-2009 Annual Summary Monitoring Report, due 1 July 2009

Response: The MAA (**Exhibit ‘A’**) and 2004 Plan of Operations (**Exhibit ‘K’**) place responsibility of Annual Monitoring Reports on the United States Forest Service. Please see letter from Richard Johnson stating...(Exhibit ‘K’).

- c) 2009-2010 Annual Summary Monitoring Report, due 1 July 2010
Response: The MAA (**Exhibit 'A'**) and 2004 Plan of Operations(**Exhibit 'K'**) place responsibility of Annual Monitoring Reports on the United States Forest Service. Please see letter from Richard Johnson stating...(**Exhibit 'K'**).
- d) 2010-2011 Annual Summary Monitoring Report, due 1 July 2011
Response: The MAA (**Exhibit 'A'**) and 2004 Plan of Operations (**Exhibit 'K'**) place responsibility of Annual Monitoring Reports on the United States Forest Service. Please see letter from Richard Johnson stating...(**Exhibit 'K'**).

#29

Violation Category 3: The Discharger violated WDR Order No. R5-2007-0181 and Section A.3.a. of the MRP by failing to submit the following Annual Facility Inspection Reports by the specified deadline pursuant to ewe section 13267:

- a) 2009 Annual Facility Inspection Report, due 15 November 2009
Response: The MAA (**Exhibit 'A'**) and 2004 Plan of Operations (**Exhibit 'K'**) place responsibility of Annual Facility Inspection Reports on the United States Forest Service.
- b) 2010 Annual Facility Inspection Report, due 15 November 2010.
Response: The MAA (**Exhibit 'A'**) and 2004 Plan of Operations (**Exhibit 'K'**) place responsibility of Annual Facility Inspection Reports on the United States Forest Service.
- c) 2011 Annual Facility Inspection Report, due 15 November 2011
Response: The MAA (**Exhibit 'A'**) and 2004 Plan of Operations (**Exhibit 'K'**) place responsibility of Annual Facility Inspection Reports on the United States Forest Service.

#30

Violation Category 4: The Discharger violated the industrial Storm Water General Permit Order 97-03-DWQ by failing to submit the following ISW Annual Reports by the specified deadline:

- a) 2008-2009 ISW Annual Report, due 1 July 2009
Response: The CVRWQB should have on file the 2008-2009 Storm water report prepared by the California-certified Geotechnical Engineering firm Holdrege & Kull (**Exhibit 'V'**). Additionally, we do not believe we fall under the Industrial storm water Permit. Multiple years of reports show that there is no measurable amount of storm water discharged from the site. What reports do show is that during the first significant rainfall events water is routinely absorbed by the porous mining waste resulting in no measurable runoff. Never once has the Water Board demonstrated storm water discharge is reaching or interacting with surface waters (**Exhibit 'U' - Waiver, pg.22**)
- b) 2009-2010 ISW Annual Report, due 1 July 2010
Response: We do not believe we fall under the Industrial storm water Permit. Multiple years of reports show that there is no measurable amount of storm water discharged from the site. What reports do show is that during the first significant rainfall events water is routinely absorbed by the porous mining waste resulting in no measurable runoff. Never once has the Water Board demonstrated storm water discharge is reaching or interacting with surface waters (**Exhibit 'U' - Waiver, pg. 22**)
- c) 2010-2011 ISW Annual Report, due 1 July 2011
Response: We do not believe we fall under the Industrial storm water Permit. Multiple years of reports show that there is no measurable amount of storm water discharged from the site. What reports do show is that during the first significant rainfall events water is routinely absorbed by

the porous mining waste resulting in no measurable runoff. Never once has the Water Board demonstrated storm water discharge is reaching or interacting with surface waters
(Exhibit 'U' - Waiver, pg. 22)

#31

Violation Category 5: The Discharger failed to pay annual waste discharge requirement fees for the following periods:

- a) Annual WDR fee for Fiscal Year 2008, due 28 December 2008

Response: We do not believe we fall under the Industrial storm water Permit. Multiple years of reports show that there is no measurable amount of storm water discharged from the site. What reports do show is that during the first significant rainfall events water is routinely absorbed by the porous mining waste resulting in no measurable runoff. Never once has the Water Board demonstrated storm water discharge is reaching or interacting with surface waters .

(Exhibit 'U' - Waiver, pg. 22)

- b) Annual WDR fee for Fiscal Year 2010, due 9 January 2010

Response: We do not believe we fall under the Industrial storm water Permit. Multiple years of reports show that there is no measurable amount of storm water discharged from the site. What reports do show is that during the first significant rainfall events water is routinely absorbed by the porous mining waste resulting in no measurable runoff. Never once has the Water Board demonstrated storm water discharge is reaching or interacting with surface waters

(Exhibit 'U' - Waiver, pg. 22).

- c) Annual WDR fee for Fiscal Year 2011, due 7 December 2011

Response: We do not believe we fall under the Industrial storm water Permit. Multiple years of reports show that there is no measurable amount of storm water discharged from the site. What reports do show is that during the first significant rainfall events water is routinely absorbed by the porous mining waste resulting in no measurable runoff. Never once has the Water Board demonstrated storm water discharge is reaching or interacting with surface waters

(Exhibit 'U' - Waiver, pg. 22).

#32

Violation Category 6: The Discharger failed to pay annual Industrial Storm Water General Permit fees for the following period:

- a) Annual ISW Permit fee for Fiscal Year 2010, due 26 November 2010

Response: We do not believe we fall under the Industrial storm water Permit. Multiple years of reports show that there is no measurable amount of storm water discharged from the site. What reports do show is that during the first significant rainfall events water is routinely absorbed by the porous mining waste resulting in no measurable runoff. Never once has the Water Board demonstrated storm water discharge is reaching or interacting with surface waters

(Exhibit 'U' - Waiver, pg. 22)

- b) Annual ISW Permit fee for Fiscal Year 2011, due 23 November 2011

Response: We do not believe we fall under the Industrial storm water Permit. Multiple years of reports show that there is no measurable amount of storm water discharged from the site. What reports do show is that during the first significant rainfall events water is routinely absorbed by the porous mining waste resulting in no measurable runoff. Never once has the Water Board demonstrated storm water discharge is reaching or interacting with surface waters

(Exhibit 'U' - Waiver, pg. 22)

Ability to pay:

The Water Board claims I own single family residence in Pasadena, California with an assessed value of \$1.17 million. This is patently false.

With all things taken into consideration, the \$368,624 Civil Liability Assessment presents an unnecessary hardship. I cannot pay the amount being proposed and feel the Water Board has not taken all the relevant facts into account.

Complaint Resolution:

With the information provided it is clear that fundamental errors in the complaint exist. The proper action of the Central Valley Regional Water Quality Control Board is to withdraw this Complaint. We respectfully request such action.

EXHIBIT A

14 MANAGEMENT AGENCY AGREEMENT BETWEEN THE STATE WATER RESOURCES CONTROL BOARD, STATE OF CALIFORNIA AND THE FOREST SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE.

This Management Agency Agreement is entered into by and between the State Water Resources Control Board, State of California (State Board), and the Forest Service, United States Department of Agriculture (Forest Service), acting through the Regional Forester of the Pacific Southwest Region, for the purpose of carrying out portions of the State's Water Quality Management Plan related to activities on National Forest System (NFS) lands.

WHEREAS:

1. The Forest Service and the State Board mutually desire:
 - a. To achieve the goals in the Federal Water Pollution Control Act, as amended;
 - b. To minimize duplication of effort and accomplish complementary pollution control programs;
 - c. To implement Forest Service legislative mandates for multiple use and sustained yield to meet both long- and short-term local, state, regional, and national needs consistent with the requirement for environmental protection and/or enhancement; and
 - d. To assure control of water pollution through implementation of Best Management Practices (BMPs).
2. The State Board and the Regional Water Quality Control Boards are responsible for promulgating a Water Quality Management Plan pursuant to the Federal Water Pollution Control Act, Section 208, and for approving water quality control plans promulgated by the regional Water Quality Control Boards pursuant to state law. Both types of plans provide for attainment of water quality objectives and for protection of beneficial uses.
3. The State Board and the regional Water Quality Control Boards are responsible for protecting water quality and for ensuring that land management activities do not adversely affect beneficial water uses.
4. Under Section 208 of the Federal Water Pollution Control Act, the State Board is required to designate management agencies to implement provisions of water quality management plans.
5. The Forest Service has the authority and responsibility to manage and protect the lands, which it administers, including protection of water quality thereon.
6. The Forest Service has prepared a document entitled "Water Quality Management for National Forest System Lands in California" (hereafter referred to as the Forest

Service 208 Report), which describes current Forest Service practices and procedures for protection of water quality.

7. On August 16, 1979, the State Board designated the Forest Service as the management agency for all activities on NFS lands effective upon execution of a management agency agreement.

NOW, THEREFORE, the parties hereto agree as follows:

1. The Forest Service agrees:

- a. To accept responsibility of the Water Quality Management Agency designation for NFS lands in the State of California.
- b. To implement on NFS lands statewide the practices and procedures in the Forest Service 208 Report.
- c. To facilitate early State involvement in the project planning process by developing a procedure which will provide the State with notification of and communications concerning scheduled, in-process, and completed project Environmental Assessments (EAs) for project that have potential to impact water quality.
- d. To provide periodic project site reviews to ascertain implementation of management practices and environmental constraints identified in the environmental document and/or contract and permit documents.
- e. To review annually and update the Forest Service documents as necessary to reflect changes in institutional direction, laws and implementation accomplishment as described in Section IV of the Forest Service 208 Report. A prioritization and schedule for this updating is provided in Attachment A to this agreement.
- f. That in cases where two, or more BMPs are conflicting, the responsible Forest Service official will assure that the practice selected meets water quality standards and protects beneficial uses.
- g. That those issues in Attachment B to this agreement have been identified by the State and/or regional Boards as needing further refinement before they are mutually acceptable to the Forest Service and the State Board as BMPs.

2. The State Board Agrees:

- a. The practices and procedures set forth in the Forest Service 208 Report constitute sound water quality protection and improvement on NFS lands, except with respect to those issues in Attachment B. The State and Regional Boards will work with the Forest Service to resolve those issues according to the time schedule in Attachment B.

- b. That Section 313 of the Federal Water Pollution Control Act mandates federal agency compliance with the substantive and procedural requirements of state and local water pollution control law. It is contemplated by this agreement that Forest Service reasonable implementation of those practices and procedures and of this agreement will constitute compliance with Section 13260, subdivision (a) of Section 13263, and subdivision (b) of Section 13264, Water Code. It is further contemplated that these provisions requiring a report of proposed discharge and issuance of waste discharge requirements for nonpoint source discharges will be waived by the Regional Board pursuant to Section 13269, Water Code, provided that the Forest Service reasonably implements those practices and procedures and the provisions of this agreement. However, waste discharges from land management activities resulting in point source discharges, as defined by the Federal Water Pollution Act, will be subject to NPDES permit requirements, since neither the State Board nor the Regional Board has authority to waive such permits.
 - c. That implementation will constitute following the Implementation Statement, Section I of the Forest Service 208 Report.
3. It is mutually agreed:
- a. To meet no less than annually to maintain coordination/communication, report on water quality management progress, review proceeding under this agreement, and to consider revisions as requested by either party.
 - b. To authorize the respective Regional Boards and National Forests to meet periodically, as necessary, to discuss water quality policy, goals, progress, and to resolve conflicts/concerns.
 - c. That the development and improvement of BMPs will be through a coordinated effort with federal and state agencies for adjacent lands and areas of comparable concern.
 - d. To meet periodically, as necessary, to resolve conflicts, or concerns that arise from and are not resolved at the Forest and Regional Board meetings. Meetings will be initiated at the request of either party, a National Forest, or a Regional Board.
 - e. To coordinate present and proposed water quality monitoring activities within, or adjacent to the National Forests and to routinely make available to the other party any unrestricted water quality data and information; and to coordinate and involve one another in subsequent/continuing water quality management planning and standard development where appropriate.
 - f. That nothing herein will be construed in any way as limiting the authority of the State Board, or the Regional Boards in carrying out their legal responsibilities for management, or regulation of water quality.

- g. That nothing herein will be construed as limiting, or affecting in any way the legal authority of the Forest Service in connection with the proper administration and protection of NFS lands in accordance with federal laws and regulations.
- h. That this Agreement will become effective as soon as it is signed by the parties hereto and will continue in force unless terminated by either party upon ninety (90) days notice in writing to the other of intention to terminate upon a date indicated.

IN WITNESS WHEREOF, the parties hereto, by their respective duly authorized officers, have executed this Agreement in duplicate on the respective dates indicated below.

*FOREST SERVICE
U.S. DEPARTMENT OF
AGRICULTURE*

*STATE WATER
RESOURCES CONTROL
BOARD
STATE OF CALIFORNIA*

By: Zane G. Smith
Regional Forester
Pacific Southwest Region
Date: March 17, 1981

By: C. Whitney
Executive Director
Date: February 26, 1981

By: Jeff M. Sirmon
Regional Forester
Intermountain Region
Date: April 01, 1981

By: James F. Torrence
Regional Forester
Pacific Northwest Region
Date: May 26, 1981

EXHIBIT B

BEST MANAGEMENT PRACTICES

1.1 LOCATABLE MINERALS PLAN OF OPERATIONS REVIEW PROCESS

An Interdisciplinary Team (IDT) composed of a hydrologist, soil scientist, wildlife biologist, geo-technical engineer, minerals examiner geologist, transportation planner, and others, have identified potential water quality problems and provided administrative controls, corrective treatments, and preventative measures. They identified specific mitigation measures for these areas as documented in the following BMPs and in the NEPA document to become the conditions of approval for the Plan of Operations. The IDT has made evaluations of watershed responses to proposed site clearing, road construction; mine waste disposal sites, the mine Reclamation Plan, and mine facilities. The mine Reclamation Plan is reviewed to ensure the site is returned to a stable, non-erosive landscape reclaimed to the designated end use as per the Tahoe National Forest Land and Resource Management Plan (TNF LRMP).

1.2 MINE SITE DESIGN

The mine site design should be such that it secures favorable conditions of water flow and water quality by conforming to Forest Service guidelines, National Forest Management Act (NFMA) requirements, and the 36 CFR 228(a) regulations. Hydrologic survey is conducted to assess the impact of mining operations on streamflow and water quality. Location of mining related hydrologic contact points such as the mine waste material stockpiles, water diversions, and point source discharges are identified with relation to the water resource. This will include stream channel and aquatic habitat that may be affected by disruption in flow or changes in water quality caused by mining operations. (Hydrologist together with the Minerals Officer during scoping process)

1.4 USE OF PLAN OF OPERATIONS MAPS FOR DESIGNATING WATER QUALITY PROTECTION NEEDS

A mining site map would be developed during the planning process in accordance with 36 CFR 228.4. It identifies streamcourses, springs and meadows to protect, as well as operating area boundaries, specified roads, road use restrictions, structural improvements to protect, water sources available for mine operators use, and other relevant features required for the Conditions of Approval for the Plan of Operations. BMPs would be used for the entire area. (Minerals Officer during Plan of Operations Approval Process).

1.5 WET WEATHER MINING OPERATIONS

Should ruts in the road exceed 2 inch in depth for a distance of 10% of the total road surface, the TNF wet weather plan must be implemented. A wet/winter operation agreement should be in place prior to operating during wet weather.

1.8 RIPARIAN CONSERVATION AREA DESIGNATION

Management in Riparian Conservation Areas (RCAs) needs to be consistent with Riparian Conservation Objectives (RCOs) and Aquatic Management Strategy (AMS) goals of the Sierra Nevada Forest Plan Amendment (2001 and 2004). The intent of management direction for RCAs is to (1) preserve, enhance, and restore habitat for riparian- and aquatic-dependent species; (2) ensure that water quality is maintained or restored; (3) enhance habitat conservation for species associated with the transition zone between upslope and riparian areas; and (4) provide greater connectivity within the watershed. Projects that propose activities in RCAs need to enhance or maintain the physical and biological characteristics of the RCA.

This mining claim is in a RCA, therefore the goals and objectives in the Sierra Nevada Forest Plan Amendment shall be met in as much as possible given the existing condition.

Mine waste dumps are required to be located outside of riparian conservation areas. Where no reasonable alternative to locating these mine waste facilities in riparian conservation areas exists, locate and design them with the goal of ensuring mine waste facility stability and preventing potentially toxic releases. The following measures are to be applied:

1. Analyze mine waste material using the best conventional sampling methods and analytical techniques to determine its chemical and physical stability characteristics.
2. Locate and design mine waste facilities using conventional techniques to ensure mass stability and prevent acid or toxic material releases.
3. Ensure the Reclamation Plan and the reclamation bonds are sufficient to ensure long-term chemical and physical stability of mine waste facilities.
4. Monitor mine waste facilities after operations have ceased to ensure that chemical and physical conditions are consistent with framework aquatic management strategy goals.

Note: the site is within the inner gorge. If an inner gorge is present, then the distance will extend to the slope break between the upland and the inner gorge. Inner gorges are defined as stream adjacent slopes steeper than 65%. If other channels are found during unit layout or harvest, the hydrologist will be contacted to assign a designation and RCA width for the channel.

1.12 MINE FACILITIES AND WASTE ROCK DISPOSAL SITE LOCATIONS

The objective of this BMP is to locate mine facilities in such a way as to avoid watershed impacts and associated water quality degradation. Mining facility and disposal locations are located to avoid wetlands, unstable lands, and RCA's. The cleared or excavated size of facilities and disposal sites shall not exceed that needed for safe and efficient equipment operations. Sites would be selected which involve the least excavation and soil erosion potential. Where possible, sites would be located on or near ridges and where equipment operation across drainages is minimized. They would be located where sidecast will neither enter drainages nor damage other sensitive areas. Any deviation from this BMP shall be agreed to by the Forest Service in advance.

1.13 EROSION PREVENTION AND CONTROL MEASURES DURING MINING Operations

The objective of this BMP is to ensure that mine operations will be conducted reasonably to minimize soil erosion. Erosion control measures need to be kept current after September 15th. Erosion control work should be inspected periodically to monitor effectiveness and this should be done on a weekly basis when storms occur and/or are predicted. Road surfaces, fill and cut slopes, dumps, and process areas should be inspected for signs of rilling, areas of sediment deposition, and sediment delivery to the nearest drainage channel.

The kinds and intensity of erosion control work required of the mine operator would be adjusted to ground and weather conditions with emphasis on the need to control overland runoff, erosion and sedimentation. The provision also requires that erosion control work be completed as promptly as possible after September 15 or as provided for in the Plan of Operations Conditions of Approval.

A Storm Water Pollution Prevention Plan (NPDES Storm Water Pollution Prevention Plan) may be required through the Central Valley Regional Water Quality Control Board.

1.14 SPECIAL EROSION PREVENTION MEASURES ON DISTURBED LAND

To provide appropriate erosion and sedimentation protection for disturbed areas, the operator shall seed, spread slash or mulch on roads, road cut banks and fill slopes, facility areas and fill slopes, and waste dumps. In addition, these areas shall be planted with native species where soil exists.

1.15 REVEGATION OF AREAS DISTURBED BY MINING ACTIVITIES

Revegetation is required where soil has been disturbed by the mining operation to control erosion. The mine operator will be required to take appropriate measures to establish an adequate ground cover of grass or other vegetative stabilization measures acceptable to the Forest Service. Seed would be obtained from the same general region as the mine. Seed would be collected on site or purchased from a commercial supplier who can certify that the seed was collected in the project area. Seed for this mining claim would be obtained from the canyon live oak plant community within two miles of the site at a similar elevation and from a similar substrate.

1.16 MINE FACILITY PAD EROSION PREVENTION AND CONTROL

The Plan of Operations Conditions of Approval shall provide for erosion prevention and control measures on all mine facility work pad areas including provisions for work surfaces to have proper drainage. At the completion of use, the work pad surfaces should be ripped or subsoiled to make provision for revegetation to permit the drainage and dispersion of water.

Other provisions may include scarifying, covering with organic growth media, topsoil or applying certified weed free straw mulch.

1.17 EROSION CONTROL ON ROADS

Erosion control measures on roads would be completed by the operator prior to September 15, predicted rain events prior to September 15, and also immediately prior to seasonal shut down. Cross-ditches, water spreading devices, or backblading shall be agreed to by the Minerals Officer. These measures shall comply with Timber Sale Administration Handbook (FSH 2409.15 Secs. 61.64 and 61.65), which provide guidelines for spacing cross drains, construction techniques, and cross drain angles and heights. In addition to the above, in areas where the outlet of the cross ditch drains onto bare soil and/or areas where gulying and/or rilling 2 or more inches deep could occur energy dissipaters shall be employed to stop sediment or erosion from traveling further than 20 feet from the end of the outlet. Examples of energy dissipaters are properly installed mats, waddles, or slash.

1.20 EROSION CONTROL STRUCTURE MAINTENANCE

Conditions in the approved Plan of Operations are required to ensure that constructed erosion control structures are stabilized and working. The mine operator shall provide maintenance to ensure erosion control structure stability for the life of the operations, and for up to one full wet season following the completion of mining activity. If the operator fails to do seasonal maintenance work, the Forest Service may assume the responsibility and charge the mine operator accordingly.

2.1 GENERAL GUIDELINES FOR LOCATION OF ROADS

The IDT included members from engineering, soil science, geology, hydrology, and minerals, who reviewed potential road locations to identify watershed concerns and locate roads to best meet the needs of the claimant and resource objectives. Approximately 640 feet of new haul road construction is planned for this project. The operator will retain all of the vegetation for this low standard road in place, only removing the vegetation in the roadbed location and the unstable large trees near the road's edge.

2.2 EROSION CONTROL PLAN

The operator shall submit a Plan of Operations, which includes erosion control measures. On exposed surfaces with fine soils, erosion control measure should be taken, such as mulching or placing erosion control blankets. For erosion control methods to work properly, proper installation is essential. Operations shall not begin until the Forest Service has given written approval of the Plan of Operations. Detailed mitigation measures have been developed by the ID Team to be Conditions of Approval in the Plan of Operations. The intent of these mitigations is to prevent sediment generated by mining and related operations that generate sediment and erosion from entering watercourses.

2.3 TIMING OF CONSTRUCTION ACTIVITIES

Road construction activities shall be conducted during minimal runoff periods. Equipment shall not be operated when ground conditions are such that erosion and sediment yield would result. Such conditions are to be identified by the Minerals Officer with the assistance of a hydrologist, soil scientist, or other specialist as needed. Erosion control work will be kept as current as practicable with ongoing operations.

2.4 STABILIZATION OF WASTE ROCK DISPOSAL AREA SURFACES

To minimize erosion from exposed fill slopes on waste rock disposal areas, vegetative or mechanical measures would be required. Revegetation includes the seeding of native plant species, or the planting of brush and trees. Revegetation may also include fertilizer, soil amendments and mulching. Mechanical measures may include, but not limited to, wattles, erosion nets, terraces, side drains, blankets, mats, rip-rapping, mulch, tackifiers, and slash scatter on fill slopes.

2.5 ROAD STABILIZATION

The objective of this BMP is to reduce sedimentation by minimizing erosion from road slopes and slope failure along roads. This is an administrative and construction practice. There shall be adequate soils and geologic investigation to provide data necessary for proper cut and fill design, to ensure short and long-term road and road cut and fill stability.

2.6 DISPERSION OF SURFACE DRAINAGE FROM CUT AND FILL SLOPES

Where roads intercept subsurface flow it is necessary to provide subsurface drainage to prevent saturation and subsequent slope failure by one of the following methods:

- a. Pipe under drains
- b. Horizontal drains
- c. Stabilization trenches

Water should be dispersed below these drains to vegetated areas capable of withstanding increased flows using energy dissipaters as necessary to prevent erosion. Engineering Representative (ER) - During road construction)

2.7 CONTROL OF ROAD DRAINAGE

All waterbars and/or cross drains will be spaced to allow adequate drainage off of road surfaces and minimize water flow down roads. Outlets will be rip-rapped if needed to dissipate water energy. The haul road shall be constructed as an outslope road. The outslope shall be 2-4% and shall have rolling grade dips built into the roadway every 100 feet or where require by the Forest Service and at ephemeral drainage crossings.

Any location along the proposed access road where there is the potential of concentrated flow, the road should be reinforced with an armored dip, or a culvert should be installed to convey the water. There is a small ephemeral drainage in bedrock approximately 1/12 of a mile west of the beginning of the new disposal road that would require the installation of a culvert or will have to be reinforced with an armored dip creating a small ford.

All waterbars and/or dips will be spaced to allow adequate drainage off of road surfaces and minimize water flow down roads. Outlets will have energy dissipaters present. Should a road require drainage structures that will drain onto bare ground, a filter strip, not less than 20 feet in length (unless approved by the hydrologist) would be left below the road or where erosion would occur. Filter material may include properly installed rip-rap, certified weed seed free straw bales, slash, or wood chips certified weed seed free waddles.

2.9 TIMELY EROSION CONTROL MEASURES ON INCOMPLETE ROADS AND STREAM CROSSING PROJECTS

Implement erosion control measures each season no later than September 15. If substantial rainfall is predicted (i.e. summer thunderstorms) these same erosion control measures shall be in place in advance of the event. The operator shall monitor effectiveness and make necessary improvements in a timely manner. These could include diversion dams, cross drains, berms, or other facilities needed to control erosion.

2.10 CONSTRUCTION OF STABLE EMBANKMENTS (FILLS)

Embankments within RCA's will be constructed only of inorganic material. Fills within RCA's will require layer placement with roller compaction, stepped 1-foot layer placement and compaction by Method 2, Forest Service Standard Specifications (1985) and will be stabilized per BMP's 2.2 and 2.4.

*- see 1-12 -
SAFE*

2.11 CONTROL OF SIDECAST MATERIALS

Unconsolidated materials including rocks and boulders that are cast over the side of the road shoulder can roll directly into streams, damage down slope vegetation and create bare areas that are difficult to stabilize. Where side cast materials do not directly reach a stream, there is still highly susceptibility to erosion, dry ravel and mass instability, and subsequently can deliver sediment into a stream channel. Side casting is an unacceptable construction practice in areas where it can adversely impact water quality. Provisions for waste material disposal should be included in the Approved Plan of Operation.

2.12 SERVICING AND REFUELING OF EQUIPMENT

To prevent pollutants such as fuels, lubricants, and other harmful materials from being discharged into watercourses or into natural channels leading thereto, service and refueling areas shall be located outside of RCAs.

At a minimum it is recommended that the mine operator have absorbent socks and pillows with capacity to absorb the quantity of fuel, hydraulic fluid or lubricants stored on site, including what is in the equipment fuel tanks and fluid reservoirs. In case of a hazmat spill, the material shall be immediately contained and the Forest Service shall be immediately notified. Regardless of quantity stored, fuel tanks, drums and buckets shall be stored in a secure location, with secondary containment. The operator shall provide a list that itemizes the type and quantity of each hazardous substance that is used and stored on-site. In addition the operator shall disclose how much hazardous waste is being generated and how the mine operator is disposing of it. Whenever there is a change in pollutant materials, including explosives, the operator shall notify the Forest Service in writing, of the materials used and stored on National Forest lands.

*see
Below
✓*

If the volume of all pollutant exceeds 660 gallons in a single container, or if the total storage at the site exceeds 1,320 gallons, a spill prevention containment and countermeasure plan shall be prepared. This plan will complement the Tahoe National Forest (TNF) "Oil and Hazardous Substances Pollution Contingency Plan".

The performance bond shall consider the cost of spill cleanup

2.22 MAINTENANCE OF ROADS

The road system shall be inspected prior to the operating season; problem areas will be identified and shall be corrected by the operator. The Forest Service and claimant will agree on an annual Road Maintenance plan. This BMP applies to all roads.

2.24 TRAFFIC CONTROL DURING WET PERIODS

Hauling on all native and aggregate surface roads would be restricted to the dry season when roads are stable or during winter season when road surfaces can support vehicular traffic without rutting of the road surface. Rutting is characterized by vehicle or machinery depressions at least 2 inches in depth and 20 feet long and affecting 10 percent or more any given mile of road. Refer to the Transportation Management Plan for the type of closure proposed for roads within the analysis area. A wet weather/winter operations agreement will be necessary for operations outside the Normal Operating Season listed in the Plan of Operations.

2.26 OBLITERATION OF TEMPORARY ROADS

Due to the absence of construction specifications and scheduled maintenance, temporary roads become chronic sediment sources. The NFMA requires that all temporary roads be returned to resource production within ten years after end of use. The mine operator will provide for dust abatement and erosion control during road use, and tillage to return the roadbed to production following use.

2.27 RESTORATION OF WASTE ROCK SLOPES

Waste rock slopes are susceptible to erosion due to steep side slopes and lack of vegetation. When required for site revegetation and prior to placement of the waste rock, topsoil will be removed and stockpiled for surface dressing in the reclamation period. Seeding, soil amendments and mulching may be required and can be carried on as referenced in Standard Specification 625 (Forest Service Specifications for the Construction of Roads, EM7720-100, 1996) for seeding and mulching.

Salvage topsoil from the road location and waste dump and stockpile. Use this stockpiled soil and leaf litter (etc) on the new road cut and fill slope to aid in moisture holding capacity and establishing vegetation which will minimize surface erosion in the long term. Mulch areas where stockpiled soil is not available.

Survey the existing vegetation to determine native species that are adapted to the site. Reestablish native species that are adapted to the site. Collecting seed from the on-site native species and scattering under correct conditions, on soil, on disturbed areas would be an economical way to start reestablishing native adapted species.

3.1 WATER RESOURCE PROTECTION ON LOCATABLE MINERAL OPERATIONS

Federal Regulations (36CFR 228) promulgated under the Organic Act obligate both the mineral operator and the Forest Service to minimize adverse impacts to the surface resources of National Forest System administered land. It is the Forest Services objective to ensure that all mineral activities are conducted in an environmentally sound manner and that lands are reclaimed for other productive uses.

Since mining operations usually involve activities such as site clearance and road construction, other Best Management Practices should be implemented as warranted.

Several instruments will be used to control the impact on surface resources including water quality. It is seldom necessary to use all of those in every case. The seven instruments are: Notice of Intent to Operate, Plan of Operation, Environmental Document (NEPA), Reclamation Performance Bond, Special Use Permit, Road Use Permit, and Notice of Non-compliance.

A Plan of Operation (POO) is required from operators when mining activity is likely to cause significant disturbance of surface resources, including surface waters. A Plan must be approved prior to start of any work, which might result in significant disturbance to surface resources. The Conditions of Approval will incorporate the mitigation measures set forth in the environmental document.

Where mining operations have the potential to discharge waste into surface waters of the state, the operator is required by state law to file a Report of Waste Discharge with the Central Valley Regional Water Quality Control Board. When such a filing results in the issuance of a waste discharge permit to the

operator by the Regional board; the discharge requirements of the permit become required provisions in the Plan of Operations for the mining activity, which is approved and administrated by the Forest Service. The Forest Service, acting within its designated water quality management agency capacity, serves as the State's agent in assuring the provisions are attained. Where no permit is issued but comments are provided, the Boards concerns may then be considered during the District Ranger's evaluation of the adequacy of the proposed project's water quality protection mitigation measures included in the Plan of Operations.

Mineral operations must comply with all Federal and State laws related to the Clean Water Act, the Comprehensive Environmental Response, Compensation and Liability Act, and the Resource Conservation and Recovery Act.

Environmental Document NEPA

The process required in NEPA and its implementing regulations (43CFR 1500-1508) must be followed to evaluate a Plan of Operation. The appropriate line officer will convene an ID Team to assess the impacts of a project on the environment, formulate alternatives, and prescribe mitigation measures. An EIS shall be prepared when projects have the potential to result in significant impacts to the environment. The environmental document will set fourth the mitigation measures for the proposed operation.

Notice of Non-Compliance

When an operator fails to comply with regulations or approved Plan of Operations requirements, and the non-compliance is causing loss of or damage to surface resources, the authorized Forest Service official shall issue the operator a "Notice of Non-compliance" It shall describe the non-compliance and specify the actions and time frames (generally not to exceed 30 days) for bringing the action into compliance. Administrative and legal remedies are available to the Forest Service through the Clean Water Act and to the State through the Porter Cologne Water Quality Control Act.

Performance Bond and Reclamation Plan

Prior to approval of the Plan of Operation, the operator may be required to furnish a financial guarantee to perform reclamation work. This will be in the form of an approved surety bond, cash or other security to cover the established cost of reclamation work. When a financial guarantee is required, the Plan of Operation and Reclamation Plan are not approved until the required finances are on deposit.

The Reclamation Plan should state the end use and the site should be reclaimed to be consistent with the end use. Considerations should be given the Tahoe LRMP and the Sierra Nevada Framework Plan Amendment (SNFPA).

The SNFPA ROD (2001, 2004) states under Forest wide S &Gs that mining Plans of Operation, Reclamation Plans/bonds address the cost of:

1. Removing facilities, equipment and materials
2. Isolating and neutralizing or removing toxic or potentially toxic materials
3. Salvaging and replacing topsoil

Upon exhaustion of the mineral deposit or at the earliest practicable time during operations, or within 1 year of the conclusion of operations, unless a longer time is allowed by the authorized officer, operator shall, where practicable, reclaim the surface disturbed in operations by taking such measures as will prevent or control onsite and off-site damage to the environment and forest surface resources including:

- (1) Control of erosion and landslides;
- (2) Control of water runoff;
- (3) Isolation, removal or control of toxic materials;
- (4) Reshaping and revegetation of disturbed areas, where reasonably practicable; and
- (5) Rehabilitation of fisheries and wildlife habitat.

(6) Certification or other approval issued by State agencies or other Federal agencies of compliance with laws and regulations relating to mining operations will be accepted as compliance with similar or parallel requirements of these regulations.

3.5 CONTROL OF SANITATION FACILITIES ON MINING OCCUPANCY SITES

Toilet facilities will be planned, located, constructed, maintained, and inspected to minimize the possibility of water contamination. State and local health department and the Central Valley Regional Water Quality Control Board shall be contacted to coordinate all phases of sanitation management.

7.8 CUMULATIVE OFF-SITE WATERSHED EFFECTS

The objective of this BMP is to protect the identified beneficial uses of water from the combined effects of multiple management activities, which individually may not create unacceptable effects but collectively may result in degraded water quality conditions.

The cumulative off-site watershed effects (CWE) include all effects on beneficial uses that occur away from the sites of actual land use activities and which are transmitted through the drainage system. Effects can be either beneficial or adverse and result from the synergistic or additive effects of multiple management activities within a watershed.

(Hydrologist - During EA Process)

EXHIBIT C

208 Report

**WATER QUALITY MANAGEMENT
FOR NATIONAL FOREST SYSTEM LANDS
IN CALIFORNIA
BEST MANAGEMENT PRACTICES**

September, 2000

**WATER QUALITY MANAGEMENT
FOR NATIONAL FOREST SYSTEM LANDS IN CALIFORNIA
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This guidance documents the practices and procedures, which are the structure of the water quality management program for the Pacific Southwest Region. It describes each Best Management Practices (BMP) used for water quality management on National Forest System (NFS) lands within the State of California. It represents a portion of the State of California's Nonpoint Source Management Plan.

The practices, procedures and program are in conformance with, and comply with the provisions and requirements of Sections 208 and 319 of the Federal Clean Water Act (PL 92-500) and the United States Environmental Protection Agency (EPA) (g) guidance for the Coastal Zone Act Reauthorization Amendment. They are also within the guidelines of the Water Quality Control Board (Basin Plans) developed by the nine RWQCB in the State.

Pursuant to Section 208 of the Clean Water Act, all agencies responsible for carrying out any portion of a State Water Quality Management Plan must be designated as a Water Quality Management Agency (WQMA). Through the execution of a formal Management Agency Agreement (MAA) with the Forest Service in 1981, the SWRCB designated the Forest Service (USFS) as the WQMA for NFS lands in California (See Section 14).

The Pacific Southwest Region shall maintain its status as the designated WQMA for NFS lands in California. It is through the proper installation, operation and maintenance of these State certified and EPA approved practices and procedures that the Forest Service will meet its obligations for compliance with water quality standards and fulfill its obligation as a designated WQMA.

10.1 Authority

As a Federal agency, the Forest Service is bound by Federal Laws, Executive Orders, and Department of Agriculture directives, which are the basis for governing Forest Service programs and operations. Federal Laws and Executive Orders of direct and specific application include the following:

1. Organic Administration Act of June 4, 1987. This Act emphasized that the National Forests were created to improve and protect the forests; to secure favorable conditions of water flows; and to furnish a continuous supply of timber for the use and necessities of the citizens of the United States.
2. Multiple Use Sustained-Yield Act of June 12, 1960, and the Wilderness Act of September 3, 1964. These Acts stated that the National Forests are established and will be administered for outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness purposes. The multi-resource management responsibility of the Forest Service is amplified through these laws.
3. National Environmental Policy Act of January 1, 1969. The Act promotes efforts, which will prevent or eliminate damage to the environment and develop an understanding of the inter-relationships of all components of the natural environment and the management of the various natural resources.

2
TREATMENT *

4. Environmental Quality Improvement Act of April 13, 1970. This Act describes a National policy for the environment, which provides for the enhancement of environmental quality
5. Clean Water Act of 1972, as amended. This Act establishes goals, policies and procedures for the maintenance and improvement of the Nation's waters. It addresses both point and nonpoint sources of pollution and establishes or requires programs for the control of both sources of ~~pollution~~. Section 208 required area-wide waste treatment management plans and water quality management plans for nonpoint sources of pollution. The Act established specific roles for Federal, state and local authorities in the regulation, enforcement, planning, control and management of water pollution. More directly, Section 319 addresses nonpoint source pollution and also requires development of water quality management plans.
6. The Forest and Rangeland Renewable Resources Planning Act of August 17, 1974. This Act provides for systematic, long-range planning in managing renewable resources. The plans are based on a National assessment conducted every ten years. The plans are updated every five years and submitted to Congress.
7. National Forest Management Act of October 22, 1976. This Act amended RPA, emphasizing interdisciplinary involvement in the preparation of land and resource management plans. The Act emphasized the concept of multiple use management and added requirements for resource protection.
8. Executive Order 12088 of October 13, 1978. This order requires Federal agency compliance with environmental laws to be consistent with requirements that apply to a private person. Compliance will be in line with authorities and responsibilities of other Federal agencies, State, interstate, and local authorities as specified and granted in each of the various environmental laws.

10.2 Objectives

The objectives of this handbook are:

1. To consolidate direction applicable to BMP application on NFS lands in California for the protection of water-related beneficial uses from nonpoint source contaminants.
2. To establish a uniform process of BMP implementation that will meet the intent of the Federal and State water quality Laws, Executive Orders, and the United States Department of Agriculture (USDA) directives.
3. To incorporate water quality protection and improvement considerations that will result in clean water into the site-specific project planning process.

10.3 Policy

The Forest Service will be responsive, in an ongoing manner, to the environmental intent, goals and objectives provided by the Clean Water Act, as amended.

Regional policy will comply with the objectives, policy and procedures of agency directives, handbooks and manuals to include, but not be limited to, those required in Forest Service Manual (FSM) 2532. It is also Regional policy to conduct water quality management actions in a manner that is consistent and compatible with the intent and provisions of the 1981 MAA between the USFS and the SWRCB, (See Section 14).

The following actions will be used to carry out water quality management:

1. Correct Water Quality Problems on the National Forests

NFS lands exhibit conditions that are, or have the potential to be, a source of nonpoint pollution. These conditions exist as a result of past management actions by the Forest Service, or other landowners, and as the result of natural occurrences such as fires and floods.

These existing and potential nonpoint sources will be evaluated to determine the need for and type of treatments necessary. Those lands found to be in need of watershed improvement work will be scheduled for treatment as part of the ongoing work planning and budgeting process. Watershed improvement funds will be used to restore deteriorated watershed land when no other funding sources e.g. roads, grazing, Knutsen-Vandenberh (KV) is available to correct the problem.

Accomplishment is dependent on funding and personnel availability, and work priority relative to other management goals and objectives.

Where a resource management action, due to design, administration, implementation, or other oversight, results in an impact to water quality, the impacting USFS resource function is responsible for providing the financing to mitigate the impact.

Appropriate specialists will assess each specific impact and prescribe actions to correct the problem. These actions are integrated into the forest work planning and budgeting process for accomplishment.

2. Perpetually Implement Best Management Practices

The perpetual implementation of BMPs involves three facets: training, keeping BMPs current, and BMP monitoring and evaluation.

- a. Training. Forest Supervisors will conduct water quality planning and BMP application training at the forest and district level as often as needed to orient new employees, to keep all employees updated and informed as to what is working and what needs work, and to maintain the most recent state-of-the-art knowledge and capability in water quality protection.
- b. Keeping BMPs Current. The text and references for each BMP will be updated as needed to reflect the most recent state-of-the-art methods and techniques of BMP

implementation and changes in Forest Service policy and direction. Revisions and amendments to Forest Service direction at the Regional and Forest levels will be reviewed to identify changes in the direction upon which a BMP is based.

- c. BMP Monitoring and Evaluation. The control of nonpoint source pollution using BMPs is an iterative process of site-specific treatment and control needs identification, implementation, monitoring and evaluation, and feedback (See Figure 1).

Continued tracking of BMP implementation and effectiveness are key in initiating corrections and adjustments of BMP design and specification criteria and/or water quality standards. As warranted Research and/or administrative studies will be initiated to validate criteria and/or assumptions used in applying BMPs. Three types of monitoring are applicable to BMPs: implementation, effectiveness, and validation monitoring (See Figure 2).

Implementation and effectiveness monitoring will be accomplished using the Best Management Practice Effectiveness Evaluation Process (BMPEP), developed for the Region (See Section 15). Individual BMPs will be evaluated on-site where they are installed, the composite set of BMPs for a given project will be evaluated applying an in-channel assessment. Validation monitoring will be initiated where implemented practices are found to be non-effective, and revised criteria, or specifications are required to improve effectiveness. Field data will be collected, stored in computer systems and analyzed at the Regional and Forest level.

Land Use Activity

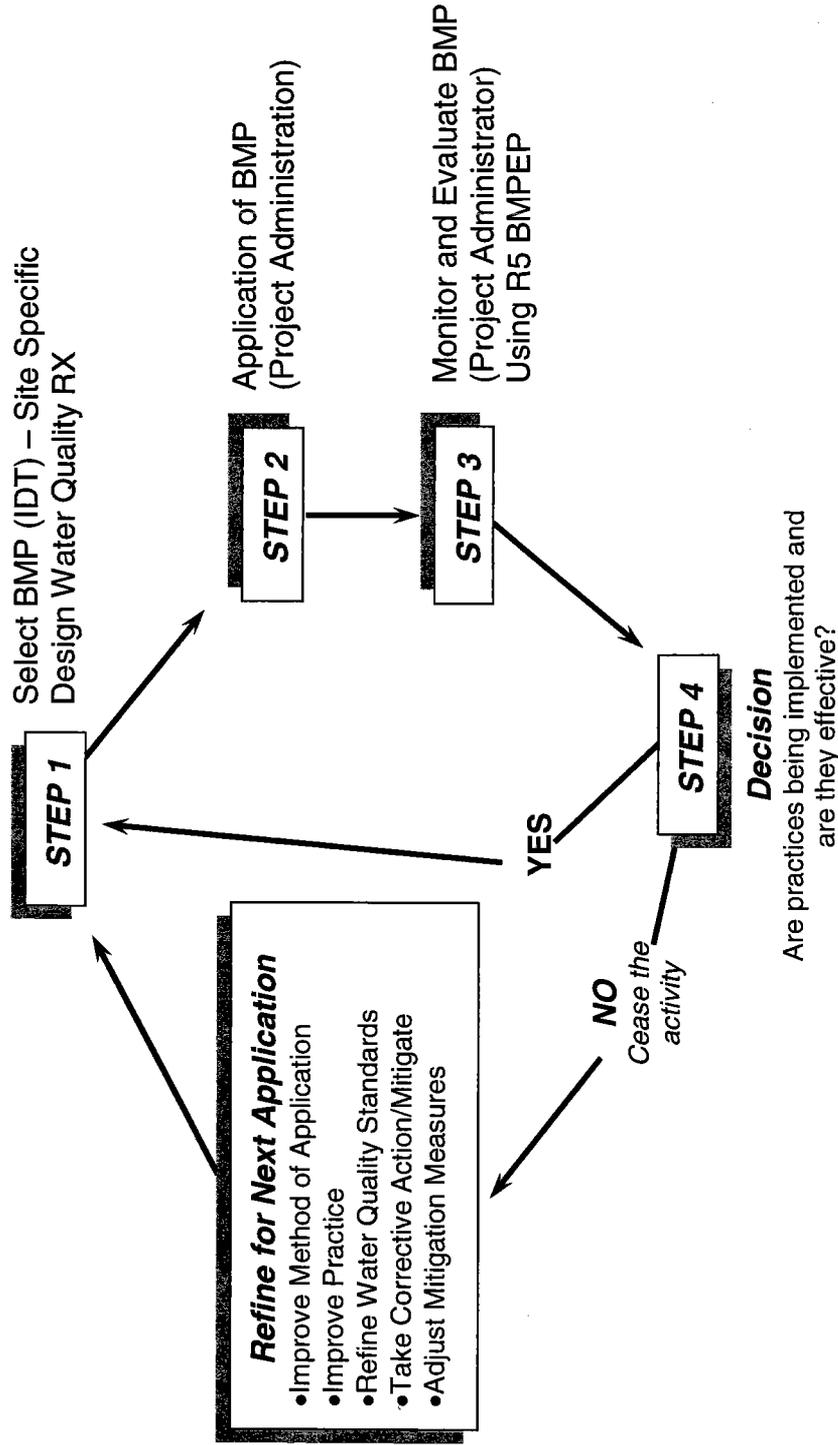


Figure 1: Iterative Process of Non-Point Pollution Control

BMP Water Quality Prescription

Site Specific Water Quality Controls

Implementation

- Was BMP prescription implemented as prescribed?
- Were BMPs from EA included in project plan?
- Did project plan follow prescription?
- Does implementation need refinement, or adjustment?

Effectiveness

- Did BMP prescription achieve its objective?
- Were beneficial water uses protected?
- Is BMP technically sound?
- Is water quality standard correct?
- Does BMP need improvement?

Validation

- Are assumptions valid?
- Are coefficients and thresholds valid?
- Are models accurate?
- Are studies needed to improve analysis?
- Were BMPs correctly selected?
- Were beneficial water uses identified?

Figure 2: Essentials of BMP Monitoring

- Are they over-protecting the uses?
- Do the parameters for which standards are evaluated establish the correct indices to indicate protection of uses?
- Have the correct beneficial uses for the water body been identified?

Where the problem is determined to be an inappropriate standard or beneficial use designation, USFS personnel may contact the appropriate RWQCB, and through dialogue identify appropriate corrective or responsive actions.

Where it is determined that the reason for the problem is a deficiency in the BMP itself, USFS personnel will initiate action to improve the management practice by correcting the deficiency. Where this is the case, cease the activity until appropriate corrective action has been taken onsite.

Validation Monitoring will be used where needed to determine whether the assumptions, coefficients and specifications used to apply BMPs are valid.

USFS staff will initiate administrative and/or research studies as warranted to verify coefficients and assumptions used in the design and selection of the BMP. This monitoring, usually coordinated with research, is data-intensive, using techniques such as permanent plots. Data is commonly used to establish norms for water quality properties, beneficial uses, and economic efficiency in order to:

- a) Detect and define changes over time and space.
- b) Establish range of variation or coefficients for predictive and analytical models.
- c) Define cause and effect relationships.

3. **Carry Out Identified Processes for Improving, or Developing Best Management Practices**

As a result of management practice monitoring and evaluation, practices will be identified as needing improvement, or development. The final major action is to refine those practices that need improvement and those that need development into BMPs.

The Regional Forester will assign responsibility for the development and improvement action, and will direct staffing needs to carry out the action. The Forest Service intends to test the results of development and improvement studies, and associated conclusions reached, before final adoption of the products as BMPs. Once adopted, implementation of the BMP shall follow the agency policy and direction cited as references for each BMP (See Section 13).

10.4 Responsibility

See FSM 2504 and 2530.4 for the water quality management responsibilities for the Regional Forester, Forest Supervisors and District Rangers.

1. Regional Forester

The Regional Forester will:

- a. Conduct Forest Service activities in accordance with the MAA with the SWRCB signed March 17, 1981 (See Section 14).

2. Regional Staff Director

The Regional Staff Director will:

- b. Review the reference section of the BMP handbooks needed to verify that the directives cited as references for BMPs are still valid source documents. In most cases this will involve the review of multiple BMP reference sets.
- c. Continue to refine and update existing BMPs to keep pace with state-of-the-art knowledge and to develop new practices where voids exist or as needs arise.

3. Forest Supervisor

The Forest Supervisors shall:

- a. Apply BMPs for water quality protection and improvement in day-to-day management activities.
- b. Evaluate attainment of water quality management goals through formal and informal reviews of project planning, and through monitoring using BMPEP protocols.
- c. Conduct BMP training annually on an as needed basis, before each field season for new employees, new line officers, and new resource personnel. Training of a new resource person shall include practical instruction in the application of BMPs for planning and administration of various management activities.

10.5 Definitions

10.51 List of Acronyms

These acronyms are frequently used in the text, with a definition at the point of first use. This list is provided as a ready reference for the reader.

AASHTO	American Association of State Highway and Transportation Officials
ASTM	American Society for Testing and Materials
BMP(s)	Best Management Practice(s)
BMPEP	Best Management Practice Evaluation Program
CDFG	California Department of Fish and Game
CI	Construction Inspector
COR	Contracting Officer's Representative
CFR	Code of Federal Regulations
EHR	Erosion Hazard Rating
EPA	United States Environmental Protection Agency
ER	Engineering Representative
FERC	Federal Energy Regulatory Commission
FSH	Forest Service Handbook
FSM	Forest Service Manual
FSR	Forest Service Representative
IDT	Interdisciplinary Team
KV	Knutsen-Vandenberg
LRMP	Forest Land and Resource Management Plan
MAA	Management Agency Agreement
NEPA	National Environmental Policy Act
NFMA	National Forest Management Act
NFS	National Forest System

NOI	Notice of Intent to Operate
NPDES	National Pollutant Discharge Elimination Permit System
OSHA	Occupational Safety and Health Administration
PL	Public Law
R - 5	Region 5 (Pacific Southwest Region) of the U.S. Forest Service
RPA	Forest and Rangeland Renewable Resources Planning Act, August 17, 1974
RWQCB	Regional Water Quality Control Board
SA	Sale Administrator
SAI Plan	Sale Area Improvement Plan
SAM	Sale Area Map
SMZ	Streamside Management Zone
SPCC	Spill Prevention, Containment and Counter Measures
STORET	A storage and retrieval computer system administered by EPA.
SWRCB	State Water Resources Control Board
TSA Handbook	Timber Sale Administration Handbook
TSC	Timber Sale Contract
TSPP	Timber Sale Planning Process
USC	United States Code
USDA	United States Department of Agriculture
USFS	United States Forest Service
VIS	Visitor Information Service
WQIO	Environmental Quality Improvement Act of April 3, 1970.
WQMA	Water Quality Management Agency

10.52 Glossary of Terms

Amendment: Revised sections of the FSM and the Forest Service Handbook (FSH) system to keep the text updated.

Apron: A reinforcement mechanism that protects soil from erosional and gravitational displacement.

Armoring: Protective coverings, or structures used to dissipate the erosive energy of water. Aprons and rip-rap are types of armoring.

Beneficial Use: A use of the waters of the state to be protected against quality degradation, including but not necessarily limited to domestic, municipal, agricultural, industrial supply, power generation, recreation, esthetic enjoyment, navigation, conservation and enhancement of fish, wildlife, and aquatic resources.

Best Management Practice: A practice, or a combination of practices, that is determined by the State (or designated area-wide planning agency) after problem assessment, examination of alternative practices, and appropriate public participation to be the most effective, practicable (including technological, economic, and institutional considerations) means of preventing, or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Best Management Practice Evaluation Program: The field evaluation process developed and used by Region 5, to systematically evaluate the implementation and effectiveness of BMP.

Cross Drain: A ditch constructed to intercept surface water runoff and divert it before the runoff concentrates to erosive volumes and velocities.

Crowning: Forming a convex road surface, which allows runoff to drain from the running surface to either side of the road prism.

Designated Stream: A stream or portion of a stream identified as warranting special consideration in management decisions and project activities. See also Stream, or Streamcourse.

Designated Swimming Waters: Those waters in which swimming, wading, dabbling, diving, and other forms of primary water-contact recreation are specifically encouraged by signs, or public notice.

Earth Scientist: Air resource specialists, geologists, hydrologists, and soil scientists working for the Forest Service in the field of natural sciences. These personnel, with knowledge and skills in the fields of soil-precipitation-runoff relationships, are primarily concerned with on-site productivity and protection of water quality.

Erosion Hazard Rating (EHR): A relative rating of the potential for soil erosion on a given site. Commonly used to estimate the erosion response expected from a given land management activity. Ratings are the result of a composite analysis of the following factors: soil, topography, climate, soil cover.

Extremely Unstable Lands: Land areas exhibiting one, or more of the following characteristics:

1. Active landslides.
2. EHR is greater than a score of "29" on the R-5 rating scale.
3. Inner gorges.
4. Portions of shear zones and dormant landslides having slope gradients that are typically steeper than 60 to 65%.
5. Unconsolidated deposits with slope gradients at, or steeper than the stable angle of repose.
6. Lands with slope gradients at, or steeper than the mechanical strength of the underlying soil and rock materials.

Floodplain: The areas adjoining inland streams and standing bodies of water and coastal waters, including debris cones and flood-prone areas of offshore islands, including at a minimum, that area subject to a 1% chance of flooding in any given year.

Ground Cover: Material on the soil surface that impedes raindrop impact and overland flow of water. Material may include duff and organic matter such as needles, sticks, limbs, etc., and exposed roots, stumps, surface gravels and living vegetation

Hazardous Substances: Any of a wide variety of materials, solid liquid, or gas, which require specific cautionary handling and procedures to permit their safe use. (Health and Safety Code 6709.11, Chapter 9)

Horizontal Drains: Horizontal pipes installed in road cut slopes and fills to drain subsurface water and guard against landslides. Includes perforated metal, or plastic pipes in horizontal drill holes in water-bearing formation.

Inner Gorge: A geomorphic feature that consists of the area of channel side slope situated immediately adjacent to the stream channel, and below the first break in slope above the stream channel. Debris sliding and avalanching are the dominant mass wasting processes associated with the inner gorge.

Land and Resource Management Plan (LRMP): A forest-wide document that provides direction for managing NFS lands within the forest boundaries, with the goal to fully integrate a mix of management actions that provide for multiple use and protection of forest resources, satisfy guiding legislation, and address local regional and national issues for the plan period. Also frequently referred to as LMP.

National Pollutant Discharge Elimination Permit System: The system for issuing, conditioning, and denying permits for the discharge of ~~pollutants~~ from point sources, by State water quality regulatory authorities, or the EPA. The program is administered by the RWQCBs of California.

Nonpoint Source: Diffuse sources of water pollution that originate at indefinable sources, such as from silvicultural and recreational activities. Practically, nonpoint sources do not discharge at a specific, single location such a conveyance pipe.

Outsloping: Shaping a road prism without an inside drainage ditch to direct runoff to the outside shoulder, as opposed to insloping which directs runoff to an inside ditch. Emphasis is on maintaining flow at an angle across the road to avoid buildup of an erosive flow of water.

NPDES

Permittee: Individual, or entity that uses NFS resources by permit from the Forest Service.

Pesticide: A general term applied to a variety of chemical pest controls, including insecticides for insects, herbicides for plants, fungicides for fungi, and rodenticides for rodents.

Pipe Underdrains: A perforated pipe, or fabric at the bottom of a narrow trench backfilled with filter material. This kind of installation is used where there is a need to lower the water table adjacent to the roadbed, or other structure.

Pitting. Making shallow pits, or basins of adequate capacity and distribution to retain water from snowmelt and rainfall to enhance infiltration, augment soil moisture, and retard runoff.

Point Source: Water ~~pollution~~ originating from a discrete identifiable source, or ~~confluence~~. - NO WATER ELIMINATING

Road Decommissioning: Activities that result in the stabilization and restoration of unneeded roads to a more natural state (36CFR212.1), (FSM 7703)

Sale Area Improvement Plan (SAI Plan): A plan of work for post sale enhancement and improvement of the sale project area. The plan addresses development, protection, and maintenance actions for the future production of renewable resources.

Sale Area Map (SAM): A map of suitable scale and detail to be legible which is part of a timber sale contract. The map identifies sale area boundaries and contract requirements specific to the sale.

Sale Plan: The document used to identify the approved locations for timber harvest and transportation improvements in a given sale, including a description of project results to be accomplished. The sale plan also includes required mitigation measures that were identified in the environmental documentation process.

Specified Road: A forest development transportation-system road identified (specified) in a timber sale contract.

Stabilization Trenches: These are wide trenches with sloping sides having a blanket of filter material approximately three feet thick on the bottom and sides. Perforated drainpipes are installed on the bottom of the trench to transmit the collected water. Stabilization trenches are placed in swales or ravines and under side hill fills, to stabilize fill foundation areas that are saturated.

Standard Specifications: Standards and design requirements, from the current version of "Engineering Management (EM) 7720-100", Forest Service Standard specifications for construction of roads and bridges, which direct Forest Service construction activities.

Stream Classification: The ordering of streams in a manner that reflects (1) flow characteristics, (2) present and foreseeable downstream values of the water, and (3) physical characteristics of the stream environment—as evaluation criteria. Class I is the highest value stream, Class IV is the lowest value stream.

Streamside Management Zone (SMZ): An administratively designated zone adjacent to ephemeral, intermittent and perennial channels and around standing bodies of water, wetlands, springs, seeps and other wet or marshland areas. SMZ is also ment to include other naming conventions for streamside buffering areas such as; stream protection zone, riparian reserves, riparian habitat conservation areas and so forth. SMZ are designed and delineated for the application of special management controls aimed at the maintenance and/or improvement of water quality. SMZ delineation may include floodplains and riparian areas when present. SMZ delineation can have synergistic benefits to other resources such as maintenance and improvement of riparian area dependent resources, visual and aesthetic quality, wildlife habitat and recreation opportunities.

Suitable Forest Land: Land that is subject to being managed for timber production on a sustained scheduled basis. Some of the determinants of land suitability for harvesting are reforestation potential, timber growth rate, economics, and land stability. Also included are forest lands where the land and resource management plan recognized an emphasis for achieving other key resource objectives, such as recreation, visual, wildlife, water and so forth in addition to timber management.

Timber Sale Contract (TSC) Provisions: Often referred to by the section of the TSC in which they occur.

- *B Provisions* - Standard provisions for Forest Service timber sale contracts, located in section "b" of the contract.
- *C Provisions* - Special provisions needed to tailor the timber sale contract to meet specific management objectives in R-5, located in section "c" of the contract.

Unsuitable Forest Land: Forest land that is not currently suitable for timber production. Some reasons for classifying land as unsuitable include: potential soil productivity loss and potential, irreversible damage to soil which cannot be prevented using current technology, mineral withdrawals, low volume growth rates, and inadequate assurance that the land can be restocked within 5 years after harvest.

Wetlands: Those areas that are inundated by surface, or groundwater with a frequency sufficient to support a prevalence of vegetation, or aquatic life that requires saturated, or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, springs, seeps, wet meadows, river overflows, mud flats and natural ponds.

11 Introduction

Water quality and associated beneficial uses are most effectively and efficiently protected from degradation due to nonpoint sources of pollution by the application of BMPs. This guidance documents the regions' water quality management program for controlling and preventing nonpoint source water pollution. It documents an iterative process of site-specific practice identification, implementation, monitoring and feedback.

It also describes the BMPs themselves, the process for development of site-specific methods and techniques for applying BMPs, and lists the references for each BMP. The directives, policies, laws, and other source documents listed in these references are regular reference materials for persons involved in project evaluation, design, implementation and quality control. The text documents the working relationship with the SWRCB, the Forest Service water quality management performance standards and regulatory agency expectations as required by the 1981 MAA.

11.1 NEPA and Interdisciplinary Approach.

The NEPA process is crucial for the development of site-specific methods and techniques for applying BMPs to fit individual project needs. Direction for environmental evaluations and preparation of environmental documents to comply with NEPA are contained in established NFS policy and procedures found in FSM 1900, FSM 1950 and FSH 1909.15. These references also contain direction to incorporate the interdisciplinary process into planning and decision making.

The BMPs documented herein have been considered in the development of Forest Land and Resource Management Plans and incorporated by reference. During the Forest Plan Implementation phase, this text will be used by the Interdisciplinary Team (IDT) to develop applications of the BMPs to protect and improve water quality. Inter-relationships between Forest Planning and Forest Plan Implementation are described in FSM 1922 and FSH 1909.12.

Under NEPA, interdisciplinary involvement is required to evaluate projects that may influence water quality and to develop the appropriate BMP applications for maintenance and improvement of water quality. The line officer responsible for a project selects and convenes an IDT to evaluate a proposed activity, and assigns them the task of formulating and evaluating alternatives. A major part of the IDT evaluation is an analysis of environmental consequences. Alternatives that cannot fully protect water quality and associated beneficial uses with full application of BMP will not be considered viable alternatives.

An IDT is comprised of individuals representing two, or more areas of professional knowledge and skills. They are not a fixed set of professionals. Each team is a unique combination of skills that the line officer selects according to the identified issues, concerns, and opportunities associated with each project proposal. The IDT does not make decisions, but provides the line officer with alternatives, evaluations and recommended mitigation and protection measures needed to make a reasoned decision and protect the environment. The final decision authority lies with the line officer.

1. IDT development of BMPs

The BMPs are water quality protection measures that must be considered in formulating a resource management plan, program, or project. Their purpose is to directly or indirectly protect water quality and mitigate adverse watershed impacts while meeting other resource goals and objectives. They are action-initiating mechanisms that lead to the development of detailed protection measures to be applied during project development and onsite implementation.

The IDT will identify the methods and techniques for applying BMPs for specific sites during the project planning process following onsite evaluation of the project area. In this manner the methods and techniques can be custom fitted to the specific environment, as well as the proposed project activities.

As a result of interaction between team members the appropriate mix of implementation methods and techniques are selected. The final combination of practices are selected which will control nonpoint pollution, and also meet other resource needs. Site-specific applications utilize innovations and refinements that have developed through monitoring and feedback.

Commonly, the methods and techniques for water quality protection that apply to a project site are a composite package of multiple BMPs with site-specific applications developed by the IDT. The appropriate BMPs and the methods and techniques of implementing the BMP are included in the environmental documentation, permit, contract, or other controlling document used to conduct and administer the project. The BMPs will be incorporated into these documents in various ways such as, design specifications, contract clauses, or management requirements and mitigation measures. This assures that they are part of the project work to be accomplished.

2. Implementation of BMPs

There are various methods and techniques available to implement a BMP, and not all are applicable to every site.

For example, BMP 2-7 "Control of Road Drainage" dictates that roads will be correctly drained to disperse water runoff to minimize the erosive effects of concentrated water flow. Some methods and techniques for draining a road are: out slope the road prism, install water bars, or inslope the road to a ditch line and install culverts. It is during the onsite evaluation of a specific road project that the appropriate method or combination of methods—to correctly drain the road—are identified. The methods are thereby custom fitted to the physical and biological environment of the project area.

The BMPs are presented under eight different resource categories in this handbook. The sequence in which these resource categories are presented has no intended significance.

Further, because a particular BMP is located within a given category of BMPs does not imply that it has no applicability in another resource area.

For example, consider a situation of tree removal within a developed campground for safety (hazard tree removal), or campground expansion, or insect infestation eradication purposes. Even though BMP 1-11, "Suspended Log Yarding In Timber Harvest", and BMP 1-12, "Log Landing Location", reside in the Timber Management category of BMPs, they are also applicable to tree removal in the developed campground area, even where the tree removal does not fall into the formal definition of a timber sale. It is appropriate that yarded logs in the recreation area be suspended when necessary to preclude excessive soil disturbance, or to maintain the integrity of the SMZ. It is also appropriate that any log landings be located to avoid creating hazardous watershed conditions and water quality.

The same is true for the "Road And Building Site Construction" BMP whether the road is for timber harvesting, mining, recreation access, or some other purpose; the road and building site BMPs are applicable.

This multi-resource, cross-resource utility is true for all BMPs in this guidance whenever applicable. The site of BMP documentation will be different (e.g. the recreation development plan may apply in place of the timber sale plan), and the person responsible for BMP implementation and monitoring will be different (e.g. recreation staff officer in place of the timber sale administrator), but the intent and application of the BMPs to protect and improve water quality is constant, and not necessarily vested with a given resource functional area.

11.2 Application of BMPs

After the BMP are identified, and the site-specific protective measures documented, they will be implemented along with any other mitigation measures, requirements and controls that are designated for the project and site-specific area.

1. Project application of BMP: The application of the BMPs is achieved by the Forest Service Official responsible for project implementation. Each of these personnel uses the BMP source documents as technical guidelines e.g. TSC, Timber Sale Administration (TSA) Handbook, FSM, FSH and Code of Federal Regulations (CFR).
2. Feedback to Line Officers: The effectiveness of the selected BMP is evaluated by the Forest Service officials responsible for the project and if required, qualified earth scientists. The evaluation includes a comparison of the actual results realized, to that, which was predicted in the environmental document. The reporting of monitoring and evaluation results by Forest Service personnel provides feedback to line officers for consideration in adapting future similar projects.
3. Technical assistance and training in the effective application of BMPs: One role of the earth scientist in BMP application is to provide technical assistance and training for resource project leaders, to:
 - a. Ensure the effective application of the BMPs on the ground.
 - b. Update and refine BMP as a result of knowledge gained from monitoring and evaluating previous applications.
 - c. Conduct training for personnel as needed to maintain the most recent state-of-the-art knowledge and capability in water quality protection.

Training personnel in the attributes of water quality management and the effective application of BMPs is a critical link in the water quality management process. With more intensive land management and a wider variety of beneficial uses dependent on the quality of water, an ever expanding skill base in the fields of land and watershed management becomes mandatory.

A training and information program is essential to ensure consistent application and continued effectiveness of the practices. All Forest Service personnel will be trained on a periodic, recurring basis to ensure new and transferred employees receive the training, and as a refresher course for others.

Training

Training programs will focus on both water quality protection through BMP application and program monitoring through BMPEP.

Training for water quality protection through BMP application will focus on all USFS employees including:

- Administration employees not commonly associated with resource management field activities.
- Line and primary staff officers

- Field personnel that are responsible for the planning and conduct of projects

Training for program monitoring through BMPEP will focus on those Forest personnel responsible for project planning, implementation, quality control and reporting.

Training will be continually updated and conducted using state-of-the art tools and techniques to ensure effectiveness.

11.3 Environmental Variability and Best Management Practices

The management practices described herein are neither detailed prescriptions nor solutions to specific nonpoint pollution sources. Although some pollutants will be thought of as characteristic of a management activity, the actual effect of any activity on water quality will vary. The magnitude, scope, and duration of pollution are not activity-specific. The extent to which contaminants from an activity have the potential to degrade water quality is a function of:

1. The physical, biologic, meteorologic and hydrologic environment within which the activity takes place (e.g. topography, physiography, precipitation, channel density, soil type, vegetative cover).
2. The type of activity imposed on a given environment (recreation, mineral exploration, timber management), and the proximity to surface waters within the given environment.
3. The method of application and time frame over which the activity is applied (grazing system used, types of silvicultural practices used, constant use as opposed to seasonal use, recurrent application, or one-time application).
4. The kind of beneficial uses of the water in proximity to the management activity and their relative sensitivity to the type of contaminants associated with the activity.

These four factors vary throughout the State of California, from National Forest to National Forest, and from site to site on individual Forests. It follows then, that the extent and kind of contaminants are variable, as are the abatement and mitigation measures. No solution, prescription, method, or technique is best for all circumstances. The management practices presented in the following include such phrases as: "according to design," "as prescribed," "suitable for," "within acceptable limits," and so on. The actual methods and techniques applied to a project to implement a given BMP are the result of site-specific evaluation and development by professional personnel through interdisciplinary involvement in the decision-making process.

12 MANAGEMENT PRACTICES DOCUMENTATION

This section identifies the BMPs employed to protect water quality.

1. Source Documents of BMP. The BMPs described in this section were compiled from Forest Service manuals, handbooks, contract and permit provisions, and policy statements. These practices act as checks and balances that protect the quality of the water resource by requiring coordination, inventory, monitoring, analysis and evaluation of proposed management actions. They are consistent with legislative direction and complement an informed and reasoned planning and decision-making process. Their

purpose is to directly or indirectly maintain, or improve water quality and abate, or mitigate impacts, while meeting other resource goals and objectives.

2. Categories of BMP by Resources. The BMPs are identified in the following categories:

- 1 Timber Management
- 2 Road and Building Site Construction
- 3 Mining
- 4 Recreation
- 5 Vegetation Manipulation
- 6 Fire Suppression and Fuels Management
- 7 Watershed Management
- 8 Range Management

BMPs cover three types of activities, administrative, preventive, and corrective. These practices are neither detailed prescriptions, nor solutions for specific problems. They are action-initiating mechanisms, processes, practices, which call for the development of site-specific, detailed prescriptions and solutions. They identify management considerations that must be taken into account prior to and during the formulation of alternatives for land management actions. They serve as checkpoints to consider in formulating a resource plan, a program, or a project.

3. Interagency accountability for implementation. BMPs are the practices both the State and Federal water quality regulatory agencies expect the ~~Forest Service to implement to~~ meet our obligation for compliance with applicable water quality standards, and to maintain and improve water quality. They are the performance standards for the agency.

The BMPs are dynamic and always subject to improvement and development. Monitoring and evaluation of existing practices may disclose areas where refinement is warranted. Research, academia, and administrative studies are continually evolving new methods and techniques applicable to water quality protection. Provision has been made to allow for the continued updating and refinement of the existing practices as well as development of new practices. Attachment "A" of the 1981 MAA is updated annually to document and schedule BMP refinement and development needs (See Section 14).

4. Format of BMPs. Each practice is organized according to the following format:

Heading	Context
Practice	Includes the sequential number of the BMP and a brief title.
Objective	Describes the desired results or attainment of the practice as it relates to water quality protection.
Explanation	Further amplifies the brief title and expresses how to apply the practice. Describes criteria, or standards used when applicable.
Implementation	Describes where to apply the practice, who is responsible for application, direction and supervision, and when to employ the practice.

28. **Surface Erosion Control at Facility Sites (PRACTICE: 2-28)**

- a. **Objective:** Reduce the amount of surface erosion taking place on developed sites and the amount of soil entering streams.
- b. **Explanation:** On lands developed for administrative sites, ski areas, campgrounds, parking areas, or waste disposal sites, substantial acreage may be cleared of vegetation. Erosion control methods must be implemented to keep the soil in place, and to minimize suspended sediment delivery to streams. Some examples of erosion control methods that could be applied at a site for keeping the soil in place would be applying grass seed, erosion blankets, tackifiers, hydromulch, paving, or rocking of roads, water bars, cross drains, or retaining walls.

To control the amount of soil entering streams, the natural drainage pattern of the area should not be changed; sediment basins and sediment filters will be established to filter surface runoff; and diversion ditches, and berms will be built to divert surface runoff around bare areas. Construction activities will be scheduled to avoid periods of the year when heavy runoff is likely to occur.

- c. **Implementation:** This management practice is used as a preventative and remedial measure for any site development project that will remove the existing vegetation and ground cover and leave exposed soil. This practice is applied during the planning phase for NFS projects, or by special use permit requirements for private development on public land.

Mitigation measures will be developed by the IDT and incorporated in the project by the design engineer. Project crew leaders and supervisors will be responsible for implementing force account projects to construction specifications and project criteria.

Contracted projects are implemented by the contractor, or operator. Compliance with plans, specifications, and operating plans is ensured by the COR, ER, and FSR.

12.3 Synopsis for Mining

Mineral exploration and extraction activities on NFS land including oil, gas, and geothermal resources, fall into the following categories:

1. **Locatable Mineral Activities** - Administered under the U.S. Mining Laws, Act of May 10, 1872 as amended. This Law applies to most hard rock and placer mineral deposits on NFS lands reserved from the public domain. The Law generally allows "...that all valuable mineral deposits in lands belonging to the United States...are free and open to exploration and purchase...by citizens of the United States..."
2. **Leasable Mineral Activities** - Minerals such as coal, oil and gas, phosphate, potash, sodium, geothermal steam and other minerals that will be acquired under the Mineral Leasing Act of 1920 as amended. This also applies to all minerals on lands that have been acquired by the Forest Service under authority of the Weeks Act.
3. **Saleable Mineral Activities** - Administered under the Materials Act of July 31, 1947, as amended. Common varieties of sand, stone, gravel, pumice, cinders and clay located on NFS land may be disposed of by sale, or given free to other units of government and non-profit entities when consistent with good public land management and the public interest.

12.31 Index for Mining Practices

	Practice	Number	Page
1.	Water Resource Protection on Locatable Mineral Operations	3-1	87
2.	Administering Terms of BLM Issued Permits or Leases for Mineral Exploration and Extraction on NFS Land	3-2	90
3.	Administering Common Variety Mineral Removal Permits	3-3	91

12.32 Mining Best Management Practices

The following are the BMPs for the control of nonpoint source pollution associated with mining activities. Each BMP synthesizes the referenced administrative directives into a process to be followed by the Forest Service to permit and administer mining activity on NFS land.

The line officer on each administrative subunit will be responsible for fully implementing the directives that provide water quality protection and improvement during mining activities. The directives referenced in Section 13, provide details on methods to incorporate water quality controls into each phase of mining activities.

Trained and qualified earth scientists, and other professional employees, are available to assist the minerals program management work force with technical assistance to identify beneficial uses, the most recent state-of-the-art water quality control methods and techniques, and help evaluate results.

Mining operations usually involve activities such as site clearing, road construction, and use of heavy equipment. The BMP for those types of activities are described in other sections of this guidance, and though applicable to mining related actions, are not repeated here. The appropriate BMP for other activities associated with mining must also be implemented along with the following BMP.

1. **Water Resources Protection On Locatable Mineral Operations (PRACTICE: 3-1)**

- a. Objective: To protect water quality from degradation by physical and chemical constituents resulting from locatable mineral exploration, development, production, and associated activities.

To ensure that all mineral activities are conducted in an environmentally sound manner, and that lands disturbed by mineral activities are reclaimed for other productive uses.

- b. Explanation: The authority for the occupancy and use of NFS land for mineral development is granted under the General Mining Law, as amended (30 USC 21-54 et seq.), and other statutes. In addition, regulations (36 CFR 228, subpart A, and 36 CFR 261) promulgated under the Organic Act (16 USC 551) obligate both the mineral operator and the Forest Service to minimize adverse environmental impacts to the surface resources of NFS administered land (36 CFR 228.1).

- c. Implementation: Seven instruments will be used to control the impact on surface resources, including the water quality, of locatable mineral activities on NFS lands. It is seldom necessary to use all of these in every case. The seven instruments are listed below:

1) Notice of Intent to Operate

A Notice of Intent to Operate (NOI) is required from persons who intend to conduct mining activities which may have the potential to cause disturbance of surface resources, including surface waters, on NFS lands. The NOI must include sufficient information concerning the proposed activities to allow for the determination of need for a Plan of Operation.

2) Plan of Operation

A Plan of Operation is required from operators when mining activity is likely to cause a significant disturbance of surface resources, including surface waters. A Plan of Operation must be approved prior to start of any work, which might result in significant disturbance to surface resources. The approved Plan of Operation will incorporate the mitigation measures set forth in the environmental document.

Where prospecting, or mining related actions discharge, or have the potential to discharge waste(s) ~~into surface waters of the State~~, the operator is required by state law to file a Report of Waste Discharge with the appropriate RWQCB. Such filing can result in the issuance of a Waste Discharge Requirement Permit, to the operator by the RWQCB. The discharge requirements become a mandatory provision in the Plan of Operation for the mining activity, which is approved and administered by the Forest Service. The Forest Service acting within its administrative authorities ensures that the provisions of the Plan of Operation are attained.

Where no permit is issued, but comments are provided by the RWQCB, the comments will then be considered during the District Rangers' evaluation of the

adequacy of the proposed projects' water quality protection mitigation measures included in the Plan of Operation.

Mineral operations must comply with all Federal and State laws related to the Clean Water Act (CWA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and the Resource Conservation and Recovery Act (RCRA).

3) Environmental Document

The processes required in NEPA and its implementing regulations (43 CR 1500-1508) must be followed to evaluate a Plan of Operation. The appropriate line officer will convene an IDT to assess the impacts of a project on the environment, formulate alternatives, and prescribe mitigation measures. An environmental impact statement will be prepared if projects have the potential to result in significant adverse impact on the environment. The environmental document will set forth the mitigation measures for the proposed operation.

4) Reclamation Performance Bond

Prior to approval of the Plan of Operation, the operator ~~must~~ be required to furnish a financial guarantee to perform reclamation work. This will be in the form of an approved surety bond, cash, or other security to cover the estimated cost of reclamation work. When a financial guarantee is required, the Plan of Operation and reclamation plan are not approved until the required finances are on deposit. Hence, mining activity is postponed pending deposit of funds assuring reclamation.

5) Special use permit

Special use permits may be required for off-claim facilities on NFS land that are needed to conduct mining. These include such things as water diversion and transmission facilities, power lines, road construction and/or reconstruction, tailings disposal areas, and other surface-disturbing or resource-impacting activities. In some cases, these facilities can be included, and administered in the Plan of Operation.

6) Road use permit

Road use permits will be issued for commercial use of certain NFS roads. In this case the appropriate BMP in Section 12.2 will apply. When a Plan of Operation is required, it must be approved prior to the issuance of and additional permits.

7) Notice of noncompliance

When an operator fails to comply with regulations, or approved Plan of Operation requirements, and the noncompliance is causing loss of, or damage to surface resource, the authorized Forest Service Official will issue the operator a "Notice of Noncompliance". It will describe the noncompliance and specify the actions and time frames (generally not to exceed 30 days) for bringing the action into compliance. Administrative and legal remedies are available to the Forest

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JUST NEPA

Service through the Clean Water Act and to the State through the Porter Cologne Water Quality control Act. As a result of the operators' failing to comply, courts may grant injunctive, or mandatory damage recovery relief.

2. **Administering Terms of BLM-Issued Permits or Leases for Mineral Exploration and Extraction on NFS Lands (PRACTICE: 3-2)**

- a. **Objective:** To ensure that other resource values, including water quality, are protected during mineral exploration, extraction processing and that reclamation activities carried out are under the terms of prospecting permits and mineral leases on NFS land.
- b. **Explanation:** The Department of the Interior (USDI) has the major role in issuing and supervising operations on mineral licenses, permits and leases. The Forest Service coordinates with the USDI agencies to ensure that Forest Service resource management goals and objectives are achieved, that impacts to the land surface resources are minimized, and that the affected land is promptly rehabilitated.

Through the NEPA process the Forest Service and BLM make a determination as to whether a prospecting permit or lease will be issued to an applicant. The decision is based primarily on whether the mineral operation, including the construction and maintenance of access roads and other associated facilities, can be done in a manner, which adequately protects other resource values. The Forest Service and BLM develop the lease stipulations needed to protect water quality and other resources.

All prospecting permits and leases require that an operating plan be prepared by the applicant and approved by the Forest Service prior to any land disturbing activities.

- c. **Implementation:** Detailed mitigation will be developed by an IDT and written into the special stipulations section of prospecting permits and leases. These special stipulations are also required in the Operating Plan. On-the-ground checks for compliance with the stipulations of the lease, or operating plan will be the responsibility of the Forest Service official designated "Authorized Officer" who is usually the District Ranger, or Forest Supervisor.

The BLM is primarily responsible for activities taking place on a lease site. By interdepartmental agreement, all applications to lease lands under USDA, Forest Service jurisdiction are referred to the Forest Service for review, recommendation, and the development of special stipulations to prevent adverse impacts on the surface resources.

EXHIBIT D

1993

MINING OPERATING PLAN

#54-93001

RED INK MAID
and
BIG SEAM
Mining Claims
Section 32, T14N, R11E

RICHARD R. SYKORA 300-5047
Operator

FORESTHILL RANGER DISTRICT
TAHOE NATIONAL FOREST
PLACER COUNTY, CALIFORNIA

31

MINING OPERATING PLAN
RED INK AND BIG SEAM MINING CLAIMS

This Operating Plan supersedes Mining Operating Plan 54-025 as amended.

This operation is a lode gold mining operation. Milling is not required.

Surface disturbance associated with the mining operation includes an access road as depicted on Exhibit A, an active portal with mining equipment such as a generator, air compressor, and above ground fuel storage as show on Exhibit B, a tailings dump used from 1987 to 1990 and labelled Old Dump on Exhibit B, and a tailings disposal area labelled New Dump on Exhibit B.

I. ACCESS ROAD

The objective is to maintain a stable road, which to the extent feasible, is as non-visible from Mosquito Ridge road as possible. Stability includes protecting the surface from erosion.

PLAN REQUIREMENTS

- 1.. The road has been surfaced with waste rock from the underground operation. Maintain the rock surfacing, adding material to repair worn areas.
2. To the extent practicable, using a combination of outsloping and water breaks, channel water off the road surface.
3. Maintain roadside vegetation to the extent practicable.
4. Maintain a road gate to prevent public vehicular use.

II. TAILINGS DISPOSAL

On-site disposal of unmilled tailings is planned. Providing for surface stability and stability from mass movement is of primary importance.

PLAN REQUIREMENTS, OLD TAILINGS DUMP

1. No further use.
2. Protect the tailings slope from water runoff which may originate from the surrounding area. Specific measures will include, (1) channeling water runoff from the access road around the west extremity of the dump, (2) channeling runoff from the upper edge of the dump, in the portal area, to the east, and (3) maintaining a berm along the upper edge of the dump.

Prevent erosion caused by water concentrated around the sides of the dump.

3. Monitor (visually inspect) the dump periodically, especially following intense precipitation and periods of prolonged precipitation. Promptly report changes such as movement caused by slumping or slipping, and unusual erosion.

PLAN REQUIREMENTS, NEW TAILINGS DUMP

1. The boundary of the tailings dump will generally be the old tailings dump on the west, a bench or break in the topography on the low (south) side, approximately 100 feet linear distance from the level of the portal. While there is no well-defined boundary on the east, the east boundary will lie about 75 feet to the east of the old tailings dump. (The growth of the tailings dump in an easterly direction is essentially limited to a straight line paralleling the east edge of the tailings to the east edge of the bench or topographic break described as the south boundary. The topography east of this described line is too steep for catching and holding material which is sidecast from the dumping point.) The north (top) boundary is the flat area adjacent to the generator, compressor, etc. (The east and south sides have been marked with yellow engineers flagging.)
2. Weathered rock from the mining operation will be dispersed during dumping to aid in sealing the tailings material to moisture penetration.
3. Do not place weathered material on the final surface of the dump.
4. Protect the tailings slope from water runoff which may originate from the surrounding area, by using measures such as those described above for the old tailings dump.
5. Preserve vegetation around the perimeter.

III. GENERAL

PLAN REQUIREMENTS AND CONDITIONS

1. Maintenance During Operations

During all operations operator shall maintain equipment and the operating area in a safe, neat, and workmanlike manner.

2. Ownership and validity

Approval of this operating plan does not constitute certification of ownership to any person named herein as owner. Approval of this operating plan does not constitute recognition of the validity of any mining claim named herein, or of any mining claim now or hereafter covered by this plan.

3. Reclamation

Upon exhaustion of the mineral deposit, or at the earliest practicable time during operations, or within one year of the conclusion of operations, unless a longer time is allowed by the District Ranger, operator shall,

- a. Remove all equipment (e.g. generators, compressors, fuel tanks, water lines, air lines, air ducting, barrels) located on the surface.
- b. Ensure that the water drainage pattern described above for the access road and to protect the tailings dumps is in place and will provide permanent protection from erosion and landslides.
- c. Secure the portal and other access to the underground workings.
- d. Ensure there is complete coverage with road base material (tailings), then close or secure the road to prevent public vehicular use.
- e. With the District Ranger, determine the need and feasibility of taking action to establish vegetation on all or a portion of either tailings dump.

4. Reclamation Bond

A reclamation bond is not required at this time. This non-bond status will be reviewed periodically by the District Ranger and is subject to change based on reclamation needs not presently anticipated.

5. Tenure

This plan will remain in effect until June 30, 1994, unless earlier terminated upon request of operator or terminated for cause by the District Ranger.

6. Water Quality

Operator shall comply with applicable Federal and State water quality standards.

7. Scenic Values

Operator shall, to the extent practicable, harmonize operations with visual values through such measures as protecting vegetative screening and utilizing vegetation to screen operational activities

8. Prevention and Control of Fire

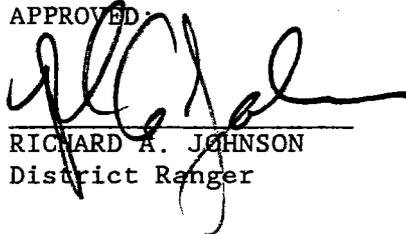
Operator shall comply with all applicable Federal and State fire laws and regulations and shall take all reasonable measures to prevent and suppress fires on the area of operations and shall require employees, contractors, and subcontractors to do likewise.

ACCEPTED:


RICHARD R. SYKORA
Operator

3-19-93
Date

APPROVED:


RICHARD A. JOHNSON
District Ranger

3-23-93
Date

MINE SURFACE DIAGRAM

EXHIBIT B

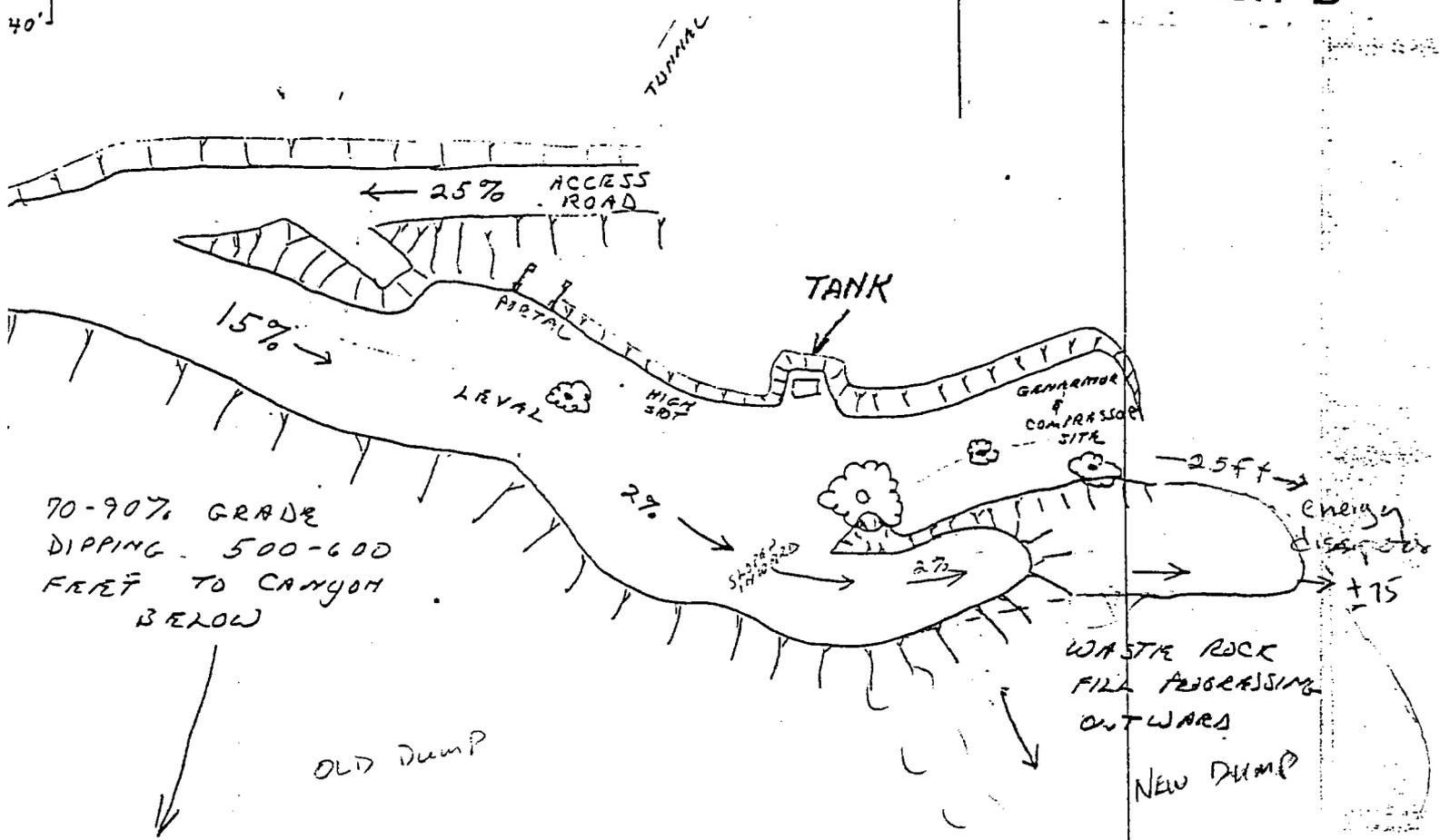
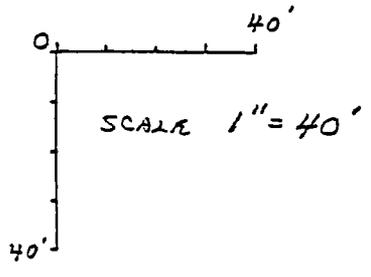


EXHIBIT E

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD—
CENTRAL VALLEY REGION3443 ROUTIER ROAD, SUITE A
SACRAMENTO, CA 95827-3098

RECEIVED

JUN 12 1990

FORESTHILL R.D.

11 June 1990

Mr. Harlan Hamburger
U.S. Department of Agriculture
Tahoe National Forest
22830 Foresthill Road
Foresthill, CA 95631

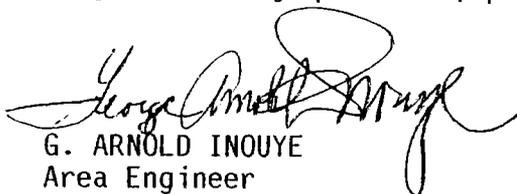
RICHARD SYKORA GOLD MINE, PLACER COUNTY

Thank you for the opportunity to participate in the inspection of the Richard Sykora Gold Mine site on 1 June 1990. In evaluating the situation at the Sykora Mine, I offer the following observations:

1. There is no ongoing discharge affecting water quality and the spoils area is no longer being used.
2. The upper slope of the spoils area appears vulnerable to erosion during any heavy precipitation.
3. The middle and lower slopes will require evaluation to determine mitigations for preventing the migration of the mine tailings into the creek.

From our discussions, it is apparent that Mr. Sykora has been advised that a geotechnical consultant should be hired to evaluate and provide recommendations for spoils area stabilization as part of the operations plan required by the Forest Service. While we concur that a potential for water quality impacts exists, the cooperativeness expressed by Mr. Sykora to comply with your recommendations should lead to the mitigation of any concerns we may have. The geotechnical evaluation should be accomplished as soon as possible, in order to allow time for mitigative work to be completed prior to the onset of the rainy season.

If you have any questions, please call me at (916) 361-5623.


G. ARNOLD INOUE
Area Engineer

GAI:ej

cc: Jim Randall, Department of Fish and Game, Region II, Rancho Cordova
Richard Sykora, Foresthill

EXHIBIT F

DEPARTMENT OF CONSERVATION**OFFICE OF MINE RECLAMATION**

801 K Street, MS 09-06
SACRAMENTO, CA 95814-3529
(916) 323-9198



Telecommunications
Device for the Deaf
(916) 324-2555

September 30, 1994

Mr. Richard Sykora
Red Ink Maid and Big Seam Claims
P.O. Box 622
Forest Hill, CA 95631

Dear Mr. Sykora:

Enclosed please find an Order of Recision for the Administrative Penalty (Case No. 91-31-7001-94A) previously issued by our office.

I sincerely regret any inconvenience the penalty may have caused, and apologize for any errors we committed.

We would appreciate your cooperation in reviewing your operation to determine whether the Surface Mining and Reclamation Act (SMARA) does or does not apply. Please be assured that if your operation does indeed fall under the Act, there will be no administrative penalties issued for prior non-compliance.

Again, my apologies, and I hope we can count on your cooperation regarding SMARA.

Sincerely,

Dennis J. O'Bryant, Chief
Office of Mine Reclamation

DJO/cs

Enclosure

cc: John Parrish, SMGB
Alexander L. Constantino
Jack Warren, Director, Placer County Planning
Joan Gray-Fuson, DOC Legal Office

EXHIBIT G

1 **ALEXANDER L. CONSTANTINO, SB#119278**
 2 **JOHANSON, KOONS & CONSTANTINO, LLP**
 3 **1155 High Street**
 4 **Auburn, CA 95603**
 5 **Telephone: (530) 885-7538**
 6 **Telecopier: (530) 885-7559**

7
 8 Attorney for Agent RICHARD SYKORA

9 **BEFORE THE STATE OF CALIFORNIA MINING AND GEOLOGY BOARD**

10 **IN THE MATTER OF**
 11 **RICHARD SYKORA**

CASE NO: 91-31-7001-03

12 **MINING OPERATION**
 13 **RED INK MAID AND BIG SEAM**
 14 **CLAIMS**

DECLARATION OF MICHAEL W.
FOSTER

15 **AGENT**
 16 **RICHARD SYKORA,**

17 _____
 18 I, MICHAEL W. FOSTER, declare:

19 1. I am a licensed civil engineer and am currently employed by the County of Placer as
 20 an associate civil engineer. I have been so employed for six and one-half (6½) years.

21 2. I am familiar with the provisions of the California Public Resources Code § 2710 and
 22 the sections which follow, commonly known and described as the Surface Mining and
 23 Reclamation Act of 1975.

24 3. On October 14, 2003, I inspected the mining operation which is conducted by Richard
 25 Sykora, which is commonly known and described as the Red Ink Maid and Big Seam Mining
 26 Claims. The focus of my inspection was to observe the activities of Mr. Sykora's mining
 27 operation, and in particular, to determine whether or not the operation met the provisions of the
 28 Surface Mine Reclamation Act or was exempt from these provisions.

4. My inspection occurred in the presence of Art Davidson who also is employed by the
 Placer County Public Works Department as an engineering technician. I observed what we

1 believe to be between 150 and 200 cubic yards of "overburden" which was removed as a result of
2 Sykora's mining operation.

3 5. As a result of my observation, it is my belief that Sykora's mining operation at the Red
4 Ink Maid and Big Seam Mine Claims is exempt from the provisions of the Surface Mining and
5 Reclamation Act because California Public Resources Code § 2714(4)(d) provides the exemption
6 for a mining operation where the "removal of overburden" is less than 1000 cubic yards in any
7 one location of one acre or less." Additionally, Placer County ordinance provides for exemption
8 of a mining operation from a mining reclamation plan if the removal of "overburden" is less than
9 250 cubic yards in any place of one acre or less. Thus, it is my opinion that Mr. Sykora's mining
10 operation is exempt from the requirements of the Surface Mining and Reclamation Act and the
11 exemption as provided by Placer County ordinance.

12 6. If called as a witness, I could and would competently testify to the matters stated
13 herein which are true to my own knowledge.

14 I declare under penalty of perjury this declaration is true and correct and is executed this
15 30th day in ~~January~~ ^{DECEMBER 3}, 2004, in Auburn, California.

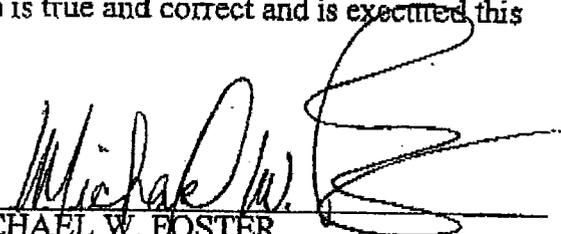
16
17
18 
MICHAEL W. FOSTER

EXHIBIT H

Assemblyman
Tim Leslie

Memo

To: Mike Chrisman, Resources Agency Secretary
From: Assemblyman Tim Leslie, Senator Rico Oller
Date: 01/09/04
Re: Red Ink Main and Big Seam Mining Claims

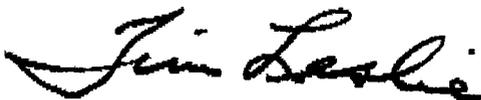
Mr. Secretary:

Mr. Richard Sykora owns the Red Ink Main and Big Seam Mining Claims, a small family-run mining operation in Placer County on United States Forest Service land. Mr. Sykora has removed less than 1,000 cubic yards of overburden in the mining operation. SB 273, which I authored in 1995, includes a list of activities exempt under the Surface Mining and Reclamation Act. One of those exemptions includes, "Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less" (Public Resources Code, Division 2, Chapter 9 § 2714(d)). Mr. Sykora's mining operation fits within this exemption. Placer County is the SMARA lead agency and concurs with this finding. In fact, Placer County has a more stringent ordinance limiting removal of overburden to 250 cubic yards. Placer County Associate Civil Engineer Mike Foster estimates between 150 and 200 cubic yards of overburden have thus far been removed satisfying both the Placer County ordinance and California Public Resources Code, Division 2, Chapter 9 § 2714(d) (please see attached affidavit).

This is the third time that Mr. Sykora and his attorneys have been challenged by the Department of Conservation, the State Mining and Geology Board and/or the Office of Mine Reclamation. In 1994, the Department of Conservation contested Mr. Sykora's exemption. After numerous inspections, the Department determined that Mr. Sykora's mining operation was not subject to SMARA. In 1996, the Office of Mine Reclamation made an identical claim regarding the mining operation. Once again, Mr. Sykora and his attorneys prevailed. I find it unconscionable that Mr. Sykora must address this issue a third time forcing him to incur the added cost of additional legal fees, time away from his business, and the uncertainty he faces as a result of this situation.

Your assistance in rectifying this matter is respectfully requested. Please contact me, or my District Director, Mike Applegarth at (916) 774-4430 should you require additional information. Alternatively, you can contact Mr. Sykora directly at (530) 367-4067, or by mail at P.O. Box 622, Forest Hill, CA, 95631.

Thank you for your assistance.



Assemblyman, Fourth District



Senator, First District

SB 273
Page 1

SENATE THIRD READING

SB 273 (Leslie) - As Amended: August 29, 1995

SENATE VOTE: 23-12

ASSEMBLY ACTIONS:

COMMITTEE: NAT. RES. VOTE: 11-1 COMMITTEE: APPR. VOTE: 13-1

<p>Ayes: Olberg, Boland, Bowen, Aguiar, Firestone, Kuehl, Poochigian, Richter, Rogan, Speier, Goldsmith, Thompson, Woods</p>	<p>Ayes: Poochigian, V. Brown, Baca, Bordonaro, Brewer, Bustamante, Frusetta, K. Murray, Olberg, Takasugi, Setencich</p>
--	--

Nays: Sher

Nays: Villaraigosa

DIGEST

Existing law, under the Surface Mining and Reclamation Act of 1975 (SMARA):

- 1) Prohibits persons from conducting surface mining operations without obtaining a permit from the appropriate lead agency, in addition to filing and securing approval of both a reclamation plan and financial assurances covering reclamation of the site.
- 2) Exempts from these provisions prospecting for, or extraction of, minerals for commercial purposes, when the removal of overburden in total amounts is less than 1,000 cubic yards in any one location of an acre or less.
- 3) Exempts excavations or grading conducted due to farming or onsite construction, restoration of land following a flood or natural disaster, solar evaporation of sea water or bay water for salt production, and emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board due to imminent or recent floods.

EXHIBIT *I*

STATE OF CALIFORNIA
DEPARTMENT OF CONSERVATION
STATE MINING & GEOLOGY BOARD

---o0o---

REGULAR BUSINESS MEETING

REPORTER'S TRANSCRIPT

FEBRUARY 19, 2004

10:00 a.m.

**CERTIFIED
COPY**

---o0o---

Reported by: Stephen J. Adams, CSR No. 12457

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*Received copy
2-21-06*

1 particular mine appears to be an exception, and I'm just
2 puzzled why this is an exception.

3 MR. CONSTATINO: Are you asking me, sir?

4 MR. RAMIREZ: No, this is just a statement I'm making
5 based on all the testimony I've heard so far.

6 MR. JONES: I guess we can move not just to questions,
7 but comments and discussion by Board members. I'll make a
8 comment on one item that I'm mulling over in my own mind that
9 troubles me. I have difficulty concluding that the operation
10 fits the definition of the exemptions. What troubles me,
11 however, is the fact that this issue arose in '94 and '96 and
12 was not brought to a final conclusion by the Department. When
13 we ask an operator to abide by an agreement or to do something
14 that they've been directed to accomplish, we expect them to do
15 it. But I think activities and discussions between private
16 parties and governmental entities need to be in good faith and
17 balanced on each side. If the Department initiated an
18 activity, and then, for whatever reason, didn't bring it to a
19 conclusion, whether that be because of other priorities or
20 reinterpretation of the appropriateness of the original action,
21 I think it's difficult to then continue after a period of years
22 to continue to address an issue. I think an operator -- any
23 businessperson has a right to a consistent and predictable
24 attitude or approach on the part of the public agency, and I
25 think if an agency raised an issue and dropped it for whatever

STAR

1 reason, I think the issue is behind you and you move on to
2 other things, so I'm troubled by that issue and I'm rolling
3 that around in my mind as we continue to talk.

→ 4 MR. BACA: I can comment on that. The -- I think for
5 whatever reason, this issue was dropped by the Department in
6 1994 and '96, and the operator continued to operate under his
7 permit that was valid at the time. It's back before us now
8 because they're seeking a new permit. This is an unpermitted
9 mine at the current time, and so this is just as if someone
10 were coming in for a new permit. If the operator decided to
11 cease operations, I think that your concerns would be more
12 likely valid, and then if the Department made a position, the
13 level of disturbance was the same as the previous Department's
14 position and you could let the mine go without having a
15 reclamation plan, given the previous action. But given that
16 what is proposed here is that the operation is going to
17 continue, the area of disturbance is going to expand from what
18 it was historically, it's the same as a new mining operation
19 that's going to be generating 700 cubic yards per waste per
20 year in a new waste dump. So even if you were to argue that
21 the Department made the position on the previous level of
22 disturbance, what about the additional level of disturbance on
23 into the future? I mean, a middle level would be that they'd
24 be subject to a reclamation plan for any new level of
25 disturbance involving their new plan of operations that is

1 going to go forward at this point. And that would not
2 compromise or change anything that occurred in the past decade
3 but would make sure that whatever impacts are occurring, they
4 don't get worse and the future impacts are addressed by SMARA.
5 That would be a middle position. I don't think there's a valid
6 position to go and say that no reclamation plan is required
7 from this point forward.

8 MR. JONES: Other comments? Mr. Griego.

9 MR. GRIEGO: My comments is I don't believe, as
10 Mr. Cunningham says so, that we're bound to any decision made
11 by the prior Board. You know, it's now several years later;
12 circumstances have changed. There is more disturbance, more
13 area. The picture tells it all. So I don't really see how the
14 exemption applies.

15 MR. JONES: Other Board members? Mr. Tepel.

16 MR. TEPEL: Mr. Chairman, mulling this over and
17 thinking of the record here in front of me, it's my feel of
18 Mr. Cunningham's comments, that I do believe that one way to
19 resolve this issue and make some progress, perhaps leading
20 towards additional considerations such as Mr. Baca suggested,
21 is for the Board to proceed and to uphold the order, and then
22 perhaps hope that there could be some additional good faith
23 negotiations in that process.

24 MR. JONES: Mr. Isham.

25 MR. ISHAM: Mr. Chairman, I am also a little concerned

[REDACTED]

1 that this has been going on for so long. Operations run by a
2 small family operation, and it appears that they actually --
→ 3 they were not subject to SMARA several times in the past. And
4 listening to our counsel's advice to us, it is of my opinion
5 that I believe they are subject to SMARA. Unfortunately, they
6 have not been led to believe that for over ten years, which
7 does put them in a very unfortunate situation today, and I
8 would hope that we could try to negotiate something with them.
9 Unfortunately, in your case, I believe you are subject to
10 SMARA.

11 MR. JONES: Other comments? Is someone moving toward
12 a motion?

13 MR. RAMIREZ: I have one further question for
14 Dr. Parrish regarding what Mr. Baca indicated, perhaps some
15 middle ground. Is it possible under SMARA to perhaps start new
→ 16 and forget the past? In other words, what's going to happen to
17 the overburden material, the overcast materials that are
18 present there that have been subject to debris flows, and so
19 forth? It seems to be not a public hazard. Certainly, at some
20 time a hazard. I don't know what's below or whose land -- is
21 this all forest land? What is the situation regarding that?

22 DR. PARRISH: Well, the issue before the Board is
23 pretty much not one of how the Department should negotiate with
24 the operator and what agreements they may come to in the
25 future. The issue right now before the Board is that based on

1 MR. JONES: Is there a second to that motion?

2 MR. TEPEL: Second.

3 MR. JONES: Discussion? Roll call, Ms. Gonzales.

4 MS. GONZALES: Thank you. Baca?

5 MR. BACA: Yes.

6 MS. GONZALES: Fanning?

7 MR. FANNING: No.

8 MS. GONZALES: Griego?

9 MR. GRIEGO: Yes.

10 MS. GONZALES: Isham?

11 MR. ISHAM: Yes.

12 MS. GONZALES: Ramirez?

13 MR. RAMIREZ: Yes.

14 MS. GONZALES: Tepel?

15 MR. TEPEL: Yes.

16 MS. GONZALES: Jones?

17 MR. JONES: No. Mr. Baca, a further motion.

18 MR. BACA: Where am I here?

19 DR. FARRISH: What the Board needs to determine now is

20 the effective date, the order reflecting the effective date

21 being immediately following the hearing, which would be today.

22 MR. BACA: I move that the effective date be my

23 birthday, February 19th, 2004.

24 MR. TEPEL: Second.

25 MR. JONES: Discussion on that motion? Roll call,

1 please, Ms. Gonzales.

2 MS. GONZALES: Thank you. Baca?

3 MR. BACA: Yes.

4 MS. GONZALES: Fanning?

5 MR. FANNING: No.

6 MS. GONZALES: Griego?

7 MR. GRIEGO: Yes.

8 MS. GONZALES: Isham?

9 MR. ISHAM: Yes.

10 MS. GONZALES: Ramirez?

11 MR. RAMIREZ: Yes.

12 MS. GONZALES: Tepel?

13 MR. TEPEL: Yes.

14 MS. GONZALES: Jones?

15 MR. JONES: No. Now with those motions, this item is
16 concluded. Being after 12:00, we will adjourn the meeting and
17 come back into session as close to 1:00 clock as possible.

18 (Lunch break taken.)

19 MR. JONES: Let's come back into session. This is the
20 meeting of the State Mining and Geology Board, February 19th,
21 2004. Let's resume the meeting with a discussion of Item 7,
22 which is in the matter of Adoption of Emergency Regulations
23 Relating to the Annual Fee Schedule Amending Title 14,
24 California Code of Regulations. Dr. Parrish.

25 DR. PARRISH: Mr. Chairman, Members of the Board,

EXHIBIT J

Decision Notice
& Finding of No Significant Impact
Big Seam and Red Ink Maid Mining Claim

USDA Forest Service
Foresthill Ranger District, Tahoe National Forest
Placer County, California

Decision and Reasons for the Decision:

Background

The purpose and need for this action is Forest Service authorization of a Plan of Operations (Plan) for continued mining of the Big Seam and Red Ink Maid claims as authorized under the Mining Laws governing locatable minerals, as required under 36CFR228 subpart A. The approved Plan would contain Conditions of Approval to minimize adverse environmental effects, without materially interfering with the claimant's, Dick Sykora, statutory rights. Included with the Conditions of Approval are mitigation measures, including Best Management Practices (BMPs), that are Appendix A of the Environmental Assessment. These claims are adjacent to each other and located near the 6-mile mark, and on the south side of the Mosquito Ridge Road, in T.14N, R.11E, Section 32 SW ¼ SE ¼ MDM, Placer County, California

The Big Seam Red Ink Mining Claim environmental assessment (EA) was developed to examine alternatives for the development of a new waste dump area and a new low standard non-public access road to that waste dump. There would be continuing use of the existing mine portal area and access road.

Authorization to enter National Forest for mineral development is provided by 16 U.S.C 478. However, mining proposals must comply with the rules and regulations governing the National Forest, including the National Environmental Policy Act (NEPA) of 1969 that must be in concert with the 36 CFR 228 regulations. According to Surface Use Regulations at 36 Code of Federal Regulations (CFR), the mining claimant is required to submit a Plan of Operations to the authorizing officer for approval.

In turn, the Forest Service official is mandated to respond to the proposed Plan by initiating environmental analysis procedures, consistent with NEPA. As authorized under NEPA, the Forest Service has determined that the degree to which this action could affect various surface resources warrants the preparation of an EA.

The Tahoe National Forest, Foresthill Ranger District, proposes to fulfill all legally mandated environmental analysis and statement requirements, including the establishment of operating Conditions of Approval to be part of the Plan. Application of the Conditions of Approval (COA), including the attached mitigation measures and BMPs, are intended to minimize adverse effects upon surface resources as a result of mining activities.

Decision Notice & Finding of No Significant Impact

There were issues raised within the Forest Service and by other Agencies. The EA documents the analysis of the 2 alternatives to address the issues and to meet other laws, regulations, and policy pertaining to the mining claim operations. Alternative 3, the No Action alternative required by NEPA, was not addressed in the EA but is included in this Decision. Alternative 3 would be to not approve the claimant's proposal. Alternative 3 would violate the claimant's rights under the mining law and so will not be further addressed or discussed.

As per a Memorandum of Understanding between the Forest Service and California State Department of Conservation there is a mine notification checklist. The purpose of the checklist is to achieve coordination in the regulation of mining activities on lands managed by the Forest Service (USFS). This checklist was prepared on August 15, 2003 by the USFS and sent to the Department of Conservation and to Placer County Planning Department. An on the ground meeting was conducted on August 28, 2003 attended by representatives from the County, the State, and the USFS. The purpose of the meeting was to determine if this mine met thresholds for the Surface Mining and Reclamation Act (SMARA). The State asserts that the Big Seam Red Ink Maid Mining Claims meet the SMARA thresholds and held a hearing on February 19, 2004. The claimant asserts that SMARA does not apply to these mining claims or operations. A simplified synopsis of SMARA is that reclamation of mined lands, with application of performance standards and monitoring, would be done by the claimant. Financial assurances would be held, and if the claimant did not perform the reclamation work to standard, the financial assurances would be used by the lead agency(s) to perform the reclamation. Placer County is the lead agency with the Forest Service and the state as cooperators.

One of the three issues identified through scoping for this project is a Reclamation Plan. Regardless of the applicability of SMARA and the State and Counties role, Forest Service regulation and policy is that mined lands are to be reclaimed and financial assurances be held in the event that the claimant does not perform adequate reclamation and the Government assumes responsibility for reclamation.

The other two issues are Visual Quality as seen from the Mosquito Ridge road, and Water Quality, with two emphasis: stability of the new waste dump and it's access road; and erosion.

Decision

Based upon my review of the alternatives, and in consideration of a balanced approach that minimizes adverse environmental effects while providing for the claimants statutory rights, I have decided to implement Alternative 2. This alternative will:

1. Resolve issues and minimize adverse environmental impacts by implementing mitigation measures (including BMPs) that are Conditions of Approval of the authorized Plan.
2. Be in compliance with the Tahoe National Forest Land and Resource Management Plan as amended by the Sierra Nevada Forest Plan Amendment that includes Best Management Practices and monitoring.
3. Implement reclamation and monitoring activities that would mitigate impacts and avoid the potential of adverse environmental impacts.

Decision Notice & Finding of No Significant Impact

This alternative will construct a road with design standards that will minimize down slope migration of material and facilitate future reclamation effort. In brief summary: the road is designed to minimize the amount of side cast waste material from the road edge into the wash and into Mad Canyon. This would be done by limiting the 'run' of side cast material on slopes less than 75%, or on steeper slopes (75% or greater) by installing structures at the toe of the slope; by installing culverts or armoring the dips where water flows across the road; and by limiting the road width to not exceed a width of 10 feet. In waste dump 5, the heavy brush would be cleared, the waste material compacted, the slope angle of the waste material controlled to mitigate movement of soil and waste material from the dump, and there is a defined toe of the dump beyond which no fines, sediment, or waste material would be tolerated. Fines, sediments, and waste material could be more easily confined to the dump area, and the capacity of the dump would be increased if filter cloth and gabion baskets are installed at the toe. A reclamation plan will also be required that will include salvaging the topsoil and leaf litter to use on the fill slopes, reestablishing native species to the waste area and road bed, cut and fill slopes, build an armored channel across the face and down the face of the waste dump, and if necessary divert water away from the disposal area by deepening and maintaining the ditch below Mosquito Ridge Road.

This decision meets NEPA, 36CFR228 Subpart A, and other laws, regulations, and policy pertaining to mining on lands in the National Forest system as managed by the Forest Service.

Other Alternatives Considered

In addition to the selected alternative, I considered one other alternative. A comparison of Alternative 1 and 2 can be found in the EA on pages 5 through 13.

Alternative 1 authorizes and implements the mining claimant Plan of Operations as submitted, which has potential to cause continuing adverse environmental impacts in the short and long term, and cumulatively. Alternative 1 would construct a road with no design standards, side cast waste material from the road edge into the wash, and eventually the wash would be filled in, with unconsolidated material. The proposed reclamation plan is the same as in previous approved Plan of Operations (see Appendix D).

The EA disclosed the effects of Alternative 1 (No Action) and Alternative 2 (Proposed Action).

Another alternative was given consideration and dropped from detailed analysis since it would force the mining claimant into non-compliance with Mining Safety Health Act standards. This alternative would have removed mine waste off site via the existing access road.

Public Involvement

The project was identified in the Fourth Quarter Schedule of Proposed Actions (SOPA), beginning in June of 2003 as a Decision Memo. The second quarter 2004 SOPA listed this project as an EA. Letters inviting comment were sent to nine agencies and companies on November 6, 2003; one written response was received. The Interdisciplinary Team reviewed these comment and addressed the issue of visibility of the new access road and waste dump from the pull out on the Mosquito Ridge road past the 6 mile marker. Other comments pertained to the Middle Fork of the American River and its eligibility of as a recreation status river under the Wild and Scenic River Act. It was found that the mine is outside of the WSR study area, and due

Decision Notice & Finding of No Significant Impact

to topographic and vegetative screening, the small scope of the project, and inferior viewpoints along the river that scenery values as seen from the river corridor would not be negatively effected.

The opportunity to comment on the EA was published in the Auburn Journal on May 11, 2004, and notification was sent to persons who requested the document and persons who participated in the process for a 30-day comment period. One comment letter was received during the comment period and the claimant responded at a later date. Forest Service responses to the comments are detailed in the attached Appendix E.

Finding of No Significant Impact

After considering the environmental effects of Alternative 2 as described in the EA, I have determined that this action will not have a significant effect on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my finding on the following:

1. The beneficial aspects of the action do not bias my finding of no significant environmental effects. Mitigation and design measures included in Alternative 2 reduce the potential for adverse impacts to water and visual quality. Reclamation activities on an incremental basis would further reduce erosion potential and stabilize soils, reducing adverse impacts over the short and long term for water and visual quality. Beneficial and adverse effects of this action are discussed on pages 5 through 7 of the EA, covering effects related to the issues. There were no significant environmental effects of the proposed action identified.
2. It is highly unlikely that there would be a health and safety risk to the public. The reclamation plan and other Federal laws provides for closure of inactive adits.
3. There will be no significant effects on unique characteristics of the area, because there are no parklands, prime farmlands, historic or cultural resources, wetlands, wild and scenic rivers, or ecologically critical areas in the vicinity of the proposed action. On page 7, the EA states, "An archeological review of the area has taken place, and there were no items or resources of interest found." This action does not have a significant effect on the unique characteristics of the geographical area.
4. Alternative 2 does not have a significant effect on the quality of the human environment when mitigation measures, including reclamation actions, are implemented in a timely manner. There is no degree of effect on the quality of the human environment that is likely to be highly controversial (pages 8 and 9 of the EA).
5. With implementation of mitigation measures, including BMPs, the risks associated with the action are low, certain, and predictable, there is no uncertainty or unique or unknown risks. The implementation of a reclamation plan provides further assurance and certainty of reduced impacts over the long term, further reducing risk. (EA page 10).

Decision Notice & Finding of No Significant Impact

6. The precedent that is set by this action and the selection of Alternative 2 is an alignment of mining operations to current Forest Service policy, regulation and direction, in respects to Visual and Water Quality, reclamation plans and financial assurances.
7. All known connected actions, which are likely to occur in the reasonably foreseeable future; all currently implemented or planned activities that are likely to occur in the reasonably foreseeable future have been identified and analyzed. If mitigation measures and BMPs are properly implemented and monitored, minimal adverse effects are expected and any unknown or unanalyzed effect is further not likely to be significant.
8. The analysis area has been inventoried for cultural and historic resources and none were found. There are no highways, structures, or objects existing or eligible for listing in the National Register of Historic Places to be effected, nor is there any known scientific, cultural, or historic resource in the area.
9. The action will not affect any endangered, threatened, sensitive species, and rare or watchlist plants because none are known to exist in the area.
10. The mining claimant is responsible for knowing and applying Federal, State, and local laws germane to the operation. This project requires a Waste Discharge Permit, and may require a Storm Water Pollution Prevention Plan, etc. As a COA the USFS requires copies of other applicable permits. Selection of Alternative 2 does not violate Federal, State, and local laws or requirements for the protection of the environment. Applicable laws and regulations were considered in the EA. The action is consistent with the 1990 Tahoe National Forest Land and Resource Management plan as amended by the Sierra Nevada Forest Plan Amendment (2004).

Findings Required by Other Laws and Regulations

This decision is to minimize adverse environmental impacts through the implementation of the mitigation measures, BMPs, specifically developed for this project that will be conditions of approval to the authorized Plan of Operations to construct a new low standard access road to a new waste dump facilitating the continued operations of the mining claims. The public would not have drivable access to the new road and waste dump.

The mitigation measures, including BMPs and the reclamation plan, were designed to conform to the Tahoe National Forest Land and Resource Management Plan as amended by the Sierra Nevada Forest Plan Amendment Record of Decision (SNFPA) (2004) and incorporates appropriate land and resource management plan guidelines.

The mining claim is within a Riparian Conservation Area (RCA) as defined by the SNFPA. The location of the ore body is such that there is no option to move the operation out of the RCA; the mitigation measures minimize impacts to, and support, RCA goals and objectives.

This decision is in line with the authorization to enter National Forest for mineral development as provided by 16 U.S.C.478. The EA and this decision are in alignment with 36 CFR 228

Decision Notice & Finding of No Significant Impact

Subpart A regulations for a Plan of Operations for minimizing adverse environmental impacts, where feasible, while regarding other applicable laws, regulations, and policy.

Implementation Date

This project will be implemented immediately.

Administrative Review or Appeal Opportunities

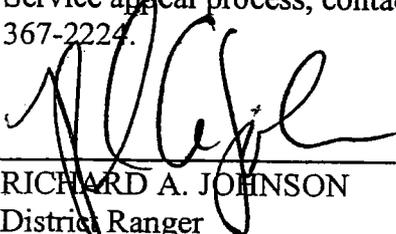
This decision is subject to appeal in accordance with 36 CFR 215. An appeal may only be filed by persons, organization, or entities that have submitted substantive comments during the comment period (36 CFR 215.6), pursuant to 36 CFR 215.13 (herein 215.xx). Appeals must be filed 45 days following the date of the published legal notice of this decision in *The Auburn Journal*. The publication date of the legal notice in *The Auburn Journal* is the exclusive means for calculating the time to file an appeal (215.15(a)), and those wishing to appeal should not rely upon dates or timeframe information provided by any other source. A notice of appeal must be in writing and clearly state that it a Notice of Appeal being filed pursuant to 36 CFR 215.7 (b). Notices of Appeal must meet the requirements in 215.14. A statement of appeal, including attachments, must be filed (regular mail, fax, email, hand-delivery, or messenger service) with the Appeal Deciding Officer, Steven T. Eubanks at 631 Coyote St., Nevada City, CA 95959 or email to appeals-pacificsouthwest-tahoe@fs.fed.us or hand deliver at 361 Coyote St., Nevada City, CA between the hours of 8 am to 4:30pm, Monday through Friday or FAX: 530-478-6109. Acceptable formats for appeals filed electronically include .doc and .rtf. A copy of the decision Notice and Finding of No Significant Impact is available upon request from the American River Ranger District, Foresthill, CA. For further information contact: Richard Johnson, District Ranger, 22380 Foresthill Road, Foresthill, CA 95631. Phone: (530) 478-6254, FAX: (530) 367-2992.

If an appeal is not received on this project, the project can be implemented 5 days after close of the 45-day appeal period. If an appeal is received, this project can be implemented 14 days after appeal disposition.

Should the mining claimant choose to appeal this decision he may do so under either 36CFR215 or 36CFR251 subpart C.

Contact

For additional information concerning this decision contact Richard Johnson, or the Forest Service appeal process, contact Mo Tebbe, 22830 Foresthill Rd., Foresthill, CA 95631 or 530-367-2224.



RICHARD A. JOHNSON
District Ranger
Foresthill Ranger District

September 8, 2004
Date

Decision Notice & Finding of No Significant Impact

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, and religion. Age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

EXHIBIT K

CONDITIONS OF APPROVAL FOR "PLAN OF OPERATIONS"
Replaces Forest Service Evaluation of Plan of Operations FS 2800-5 VI and Terms and
Conditions FS 2800-5 VIII

Claim Name(s): Big Seam
Red Ink Maid

Operator: Richard Sykora or his
designatee

CAMC #(s): 29686
29687

Address: P.O. Box 622
Foresthill, CA 95631

1. OPERATIONS

- a.) Extent or scope of this project will not exceed the proposed operation as described. Any unapproved deviation from the proposal may be construed as unlawful, and the United States Forest Service may take appropriate legal action.
- b.) Periodic progress assessments of your mining and mining related activities will be made to ascertain adherence to approved operations, per 36CFR228.7.
- c.) This authorization is for underground exploration using the below listed equipment. Any mining operations or associated activities other than specified are not approved herein.
- d.) Surface equipment used for your operation will be limited to:
- One (1) Generator
 - One (1) Air compressor
 - Two (2) Fuel Tank
 - One (1) Storage Locker and associated tools
- e.) Any equipment brought in from other than the project area, must be washed before being transported to and from the site to avoid the spread of noxious weeds.
- f.) If designated cast (waste) area (as identified by the RWQCB Waste Discharge Permit) fails to accommodate the excavated material at the authorized waste dump area, the excavation activity must stop.
- g.) Unused and/or unusable equipment and materials not actively being used for this mining operation may not be stored on National Forest System lands without prior written authorization.
- h.) This authorization shall be kept at the work site and made available to any Forest Officer or Law Enforcement Officer or other Government official upon request.
- i.) Appendix A of these Conditions of Approval contain Mitigation Measures that are also terms and conditions of, and part of, this authorization.

EXHIBIT C

2. FIRE

- a.) State and Federal fire laws and regulations apply to your activities in accordance with 36 CFR §228.11 and Public Resource Codes (PRC). The operator will adhere to the attached Fire Prevention Sections 1,2 and 3.
- b.) Contact the local California Department of Forestry and/or a local Forest Service Ranger Station for additional and/or current information.
- c.) Discharging of explosives on National Forest lands will require a blasting permit from the Forest Service. Transporting, storage and discharge of explosives must be in accordance with all applicable Federal, State and Local laws and regulations, including but not limited to: Placer County Sheriff Office, and the National Explosive Licensing Center (404-417-2750)
- d.) All fire restrictions apply to these operations unless specifically exempted by the authorizing officer in writing. It is the claimants responsibility to request exemption.

3. FUEL and HAZARDOUS MATERIALS

- a.) The operator shall provide the Forest Service with copies of all other Federal, State and local agency permits which include required stipulations and conditions relating to hazardous substances, their proper transportation, storage, use, disposal and/or consumption on National Forest lands.
- b.) Storage of hazardous materials not addressed below is not allowed unless each individual product is specifically authorized. The operator shall submit information regarding hazardous material to be used in the operation, including transportation, storage, use/generation and disposal of each individual product. This includes providing to the Forest Service the MSDS of hazardous materials used at the mine site, or in advance of transport on National Forest roads.
- c.) Only fuel, oil and petrochemicals used to keep external combustions equipment operational and lubricated are authorized to be stored on National Forest System lands for the Big Seam/Red Ink Maid Project. All storage containers of these products must be kept within in an adequate sized covered impervious basin out of the flood plain to prevent contamination of soil and water resources. All hazardous waste products must be properly identified and labeled and disposed of in accordance with State and County Environmental Health regulations. All hazardous waste materials including oil, hydraulic fluids, antifreeze, batteries and other discarded contaminants must be removed from National Forest System lands, sealed in approved containers and taken to an approved oil disposal facility or other authorized disposal facilities. Containers for small quantities of fuel such as 5 gallon gas cans or less must meet Type I & II safety codes and be UL listed.
- d.) The mine operator shall have absorbent socks and pillows with capacity to absorb the quantity of fuel, hydraulic fluid or lubricants stored on site, including what is in the equipment fuel tanks and fluid reservoirs.

4. COMPLIANCE with LAWS, REGULATIONS, and other LEGAL REQUIREMENTS

- a.) The operator shall comply with all applicable Federal, State, and local laws, regulations, and standards, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, the Comprehensive Environmental Response, Control, and Liability Act, 42 U.S. C. 9601 *et seq.*, and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation, and maintenance of any facility, improvement, or equipment on the property.
- b.) Native American and Historic Era (over 50 years old) sites, features and artifacts must be protected until such a time as they can be reviewed, recorded and possibly evaluated by qualified Forest Service personnel. This includes historic mining sites, townsites, cabins, trash scatters, mining equipment, ditches and other artifacts and features over 50 years old. Native American sites may include grinding stones grinding rocks, arrowheads, flakes, et cetera. In accordance with the National Historic Preservation Act of 1966, the Antiquities Act of 1906, and the Archaeological Protection Act of 1979 as amended, disturbing, altering or removing sites, features and/or artifacts from National Forest System lands is illegal and punishable by fines up to \$10,000.00 and/or imprisonment. Should an archaeological or historic era site, feature or artifact be discovered, work shall stop. The Forest Service must be immediately notified and the area protected from any disturbance until reviewed by qualified Forest Service personnel.
- c.) Endangered, threatened, and proposed species are protected under the Endangered Species Act of 1973, as amended. It is illegal to take federally listed species and their habitat, except where an exemption has been granted under the Act (50 CFR 451) or when the U. S. Fish and Wildlife Service has permitted an incidental taking (50 CFR 402.14(i)). Forest Service Sensitive plants and animals may also require special protection measures. To ensure that your operations comply with all laws and regulations, should you discover the presence of any endangered, threatened, proposed, or sensitive species, cease work in the area of discovery, and report it immediately to the Forest Service.

5. STRUCTURES

- a.) No structures of any sort may be used, repaired, constructed, or placed upon National Forest System lands without prior specific written authorization.
- b.) The Forest Service will not be responsible for any liability concerning mine structures or other improvements.

6. SANITATION

- a.) County public health and safety requirements shall be complied with. Human waste disposal systems (other than self-contained units dumped at legal disposal sites) must be certified by the County Sanitarian.

b.) Solid waste and trash must be removed from National Forest System lands and disposed of in an approved manner at least once every seven (7) days.(36CFR228.8(c).

7. VEGETATION

a.) Vegetation slash will be used for reclamation and erosion control as specified in the attached Mitigation Measures. Live and cut vegetation may not be covered by mining waste material, except for as provided in #12 of the mitigation measures for Waste Dump 5.

8. ROADS and TRAILS

a.) No road, trail, bridge, landing area for aircraft, or the like, shall be constructed or improved, nor shall any other means of access, including, but not limited to, off-road vehicles, be used until you have received approval and acquired any necessary road use or special use permits.

b.) The existing road maintenance schedule and the estimated 640 feet of new road construction must follow the enclosed Appendix A.

c.) Encroachments upon any County or State roadway must be authorized by the County or State Transportation Department.

d.) Prior to any snow removal activities on Forest System roads, the proper permits must be obtained from the authorized officer.

e.) Any gates restricting access to any National Forest System land shall be specifically approved prior to their installation. A key for access through the gate shall be supplied to the Forest Service for administration purposes. Unapproved gates will be removed or destroyed by the Forest Service and the person responsible for their placement cited under 36 CFR 261.12(d).

9. WATER QUALITY

a.) All mining and mining related operations shall comply with applicable Federal and State water quality standards, including regulations issued pursuant to the Federal Water Pollution Control Act, as amended. Provide this office with a copy of your Storm Water Pollution Prevention Plan as soon as it is approved by the Regional Water Quality Control Board.

b.) Soil loss from the site must not occur. The terms and conditions of any Storm Water Prevention Plan, National Pollutant Discharge Elimination Permit System or Waste Discharge Requirement Permit, will become part of this authorization upon issuance. Provide this office with a copy of your National Pollutant Discharge Elimination Permit, or any waste discharge requirements.

c.) The attached mitigation measures contain erosion control measures that minimize sediment generated by mining and related operations that generate sediment and erosion from entering watercourses. The claimant/operator shall monitor effectiveness of erosion control measures and make effective improvements in a timely manner.

d.) The attached mitigation measures describe winter stabilization and erosion control measures must be in place by September 15, of each year. A joint inspection between the Forest Service and the operator will be made to determine the winterization needs prior to implementation.

10. RECLAMATION

a.) Site cleanup/Reclamation work must be completed prior to the termination date of this authorization, unless reauthorization is requested prior to expiration. All personal property, equipment, structures, trash and debris must be removed from National Forest System lands. All hazards to public safety must be secured and the area returned to its natural state, as required by 36CFR228.8(g) and 36CFR228.10. Failure to complete the required work may result in the Forest Service completing the necessary items utilizing the posted performance bond funds and/or billing the operator for the costs.

b.) It has been determined that a monitoring plan must be developed to measure the changes, success and/or failure, of these mitigation measures to specific surface resources in the existing portal and access road areas, and on the new access road and new waste dump areas. The plan will identify benchmarks for achievement of reclamation goals and establish specific criteria for partial or full release of any performance bond.

c.) This authorization may not be implemented until all permits, and/or authorizations required by law or regulation from other Federal, State or local agencies are acquired and/or complied with and any required bond accepted.

d.) Upon abandonment of a mine, the owner or operator shall effectively close or fence off all surface openings which persons could fall into or through which persons could enter. Upon or near all such safeguards, trespass warnings and appropriate danger notices shall be posted. 30CFR57.20021.

e.) The Reclamation Plan is an attached document.

11. BONDING

a.) A performance/reclamation bond of \$ (to be determined in a separate document by October 31, 2004) is required as a condition of this approval to the Plan of Operations. This bond must be maintained in good standing until the project is terminated and all restoration/reclamation work is completed to the satisfaction of the United States Forest Service. The penal sum of this Bond may increase if annual progress assessments indicate that your operations have exceeded those mining and mining related activities approved herein. The value of this Bond will be

reviewed for adequacy annually, and the required amount allocated may need to be adjusted if the cost associations reflected in the attached Bond Calculation Sheet change or if the on-the-ground conditions warrant cost adjustments.

b.) A copy of the bond calculation is enclosed. This bond is subject to: Title 36 CFR §228.8(g), which requires all reclamation to be completed within 1 year of the conclusion of operations, unless a longer time is allowed by the authorized officer ; Title 36 CFR 228.10(a),(b)-and (c), which includes that a statement shall be filed every year in the event operations are not reactivated.

c.) This bond must be in place prior to commencing any surface disturbing activities as presented in your Plan of Operations.

12. APPEAL RIGHTS

a.) Any operator aggrieved by this decision in connection with the 36 CFR 228 regulations may file with the Forest Supervisor, Tahoe National Forest, 631 Coyote Street, Nevada City, CA 95959-2250, a written statement setting forth in detail the respects in which the decision complained of is contrary to, or in conflict with, the facts, the Law, or the regulations of the Secretary, or is otherwise in error. No such appeal will be considered unless it is filed within forty five (45) days of the date on the notice of the decision being appealed. Such appeals are under the provisions of 36 CFR 251, Subpart C.

13. SIGNATURE

a.) Approval of this operating plan does not constitute, now or in the future, recognition or certification of the validity of any mining claim to which it may relate or to the mineral character of the land on which it lies or the ownership by any person named as owner herein.

THIS AUTHORIZATION EXPIRES DECEMBER 1, 2009 AND IS NOT TRANSFERABLE.

I, THE UNDERSIGNED, CERTIFY THAT I HAVE READ, UNDERSTAND AND WILL ABIDE BY ALL THE ABOVE REQUIREMENTS, AND CONDITIONS OF THIS AUTHORIZATION.

ACCEPTED: , OPERATOR DATE: 9/16/04

APPROVED: , DISTRICT RANGER DATE: 9/20/04

EXHIBIT L



United States
Department of
Agriculture

Forest
Service

American River
Ranger
District

22830 Foresthill Road
Foresthill, CA 95631
530-367-2224
530-367-2226 TDD
530-367-2992 FAX

File Code: 2810

Date: May 11, 2005

Richard Sykora
P.O. Box 622
Foresthill, CA 95631

Dear Mr. Sykora:

This letter is to acknowledge your receipt of the draft reclamation plan and performance bond calculations for the Big Seam and Red Ink Mine for review and comment on May 2, 2005. This document was scheduled to be completed on October 31, 2004. Due to unforeseen staffing requirements and operational commitments, we were not able to deliver it to you until May 2, 2005. The Reclamation Plan and Bond Calculations pertain to your use of the existing access road, the use of the existing portal landing area, the new access road to waste area #5, and the new waste area #5. You are required to furnish a performance bond as a condition of the approved Plan of Operation. In determining the amount of the bond, consideration was given to the estimated cost of stabilizing, rehabilitation and reclaiming the area of your mining operations.

As stated in District Ranger Rich Johnson's letter of October 20, 2004 "the only responsibility you now have to the previous waste areas -1, 2, 3, and 4 and the access road to waste areas 2, 3, and 4, is to ensure that erosion control measures that you have been practicing, including all the successful measures previously used to divert water away from the dumps, continue."

We will schedule a meeting with you next week to review these documents together when Mo Tebbe, District Public Services Officer, returns to the office.

Please contact Rick Weaver at 530-478-6241 with any questions.

Sincerely,

JAN CUTTS
District Ranger



EXHIBIT M



California Regional Water Quality Control Board

Central Valley Region

Robert Schneider, Chair



Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

Sacramento Main Office
11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4775
<http://www.waterboards.ca.gov/centralvalley>

Arnold
Schwarzenegger
Governor

16 December 2005

Mr. Richard Sykora
P.O. Box 633
Foresthill, CA 95631

BIG SEAM AND RED INK MAID MINING CLAIM, PLACER COUNTY

We have reviewed your 1 November 2005 letter and attached documents regarding your intent to continue mining activities at the Big Seam and Red Ink Maid Mining Claim in Placer County. This letter provides the status of our decision on whether waste discharge requirements (WDRs) are necessary for the mining activities, and includes information regarding permitting for storm water runoff during mining activities.

Your letter indicates that your mining activities will produce up to 770 cubic yards of waste rock per year if you work full-time, but that you will likely produce only 175 cubic yards per year. Your letter also indicates that the rock is sulfide-poor, and would therefore likely not be acid-generating.

Prior to our decision on whether WDRs are necessary for the proposed activity, we will need to conduct a site inspection to assess the geological characteristics of the waste rock, and the potential threat to water quality that could be caused by surface water runoff and sedimentation. If we determine that WDRs are required, a Report of Waste Discharge and a filing fee will need to be submitted.

The mining activities may also require coverage under an NPDES permit for discharges of storm water to surface waters or surface water drainage courses. Coverage under the General Permit for Storm Water Discharges Associated with Industrial Activities (NPDES General Permit No. 97-03-DWQ) and preparation of a Storm Water Pollution Prevention Plan may be appropriate for this site. Please contact Jatin Khandwala at (916) 464-4647 for additional information about the storm water program.

If you have any questions, please call me at (916) 464-4631.

STEVE E. ROSENBAUM
Senior Engineering Geologist
Land Disposal Program
Lower Sacramento River Watershed

cc: Ms. Mo Tebbe, USDA Forest Service, Foresthill
Mr. John Halligan, Department of Conservation, Office of Mine Reclamation, Sacramento
Placer County Department of Health and Human Services, Auburn

California Environmental Protection Agency

EXHIBIT *N*



United States
Department of
Agriculture

Forest
Service

American River
Ranger
District

22830 Foresthill Road
Foresthill, CA
95631
530 367-2224
530 367-2226 TDD
530 367-2992 FAX

File Code: 2810

Date: JUL 28 2006

Crystal Jacobsen
Placer County Planning Department
3091 County Center Drive
Auburn, CA 95603

RECEIVED
JUL 31 2006

RE: Red Ink Maid and Big Seam Revised Reclamation Plan

PLANNING DEPT.

Dear Ms. Jacobsen:

My staff and I have reviewed the revised reclamation plan and its attachments for the Red Ink Maid and Big Seam mining claims dated May 30, 2006 and offer the following comments.

A general comment: As you are aware the mining claims are located completely on National Forest system (NFS) lands administered by the American River Ranger District of the Tahoe National Forest. In September of 2004 Mr. Richard Sykora and the District Ranger, Richard A. Johnson, signed Conditions of Approval for a Plan of Operations that contains terms and conditions of operating these mining claims on NFS lands.

This Plan of Operations, or authorization, included a (draft) Reclamation Plan that addresses end uses for NFS lands, and addresses reclamation end result objectives that are important to Forest Service management of that specific area. The Plan of Operations and the draft Forest Service reclamation plan is compliant with Forest Service regulation, policy, direction, and guidelines and the environmental analysis conducted for this project. Additionally, there are thirteen measures described to guide achievement of the end result designed for this mining claim. A few of these measures, in whole or in part, are specific to the Forest Service, although they could be adapted by the Forest Service to be compatible with State standards for SMARA. Since the claims are located on National Forest system lands, the SMARA compliant reclamation plan must also reflect end use and objectives for NFS lands. A copy of the Forest Service draft reclamation plan is attached.

The following comments follow the Reclamation Plan format as submitted for our review.

Page 3, **GENERAL MINING OPERATION INFORMATION** (2) ADDRESS THE PRESENCE/ABSENCE OF... - to be compliant with the authorized plan of operations the operator is also responsible for the monitoring of mitigation measures and BMP implementation, to ensure proper implementation to avoid and/or minimize impacts to resources. The operator and the Forest Service will need to develop this.



Ms. Jacobsen, Placer County Planning Department

Page 3

5. Page 6, PROPOSED REVEGETATION PLAN...The Forest Service request that the operator develop and implement a monitoring plan suitable to all agencies that documents survival of plants, and that said monitoring plan is delivered to each agency designated representative within 30 days of the monitoring. Forest Service standard is that newly vegetated sites are monitored twice a year in the first year and if/when survival does not meet standard, prompt replanting/sowing takes place until desired species are established (after 3 consecutive years of growth and survival). Describe what would trigger continued efforts for revegetation of the site after the determination is made, and how that determination is made.
6. Page 8, BACKFILLING, REGRADING, SLOPE STABILITY – The Forest Service request clarification of the statement that “the past and present dumps have been, and will be, filled with the exact same material that lies on the surface as no processing occurs”.
7. Page 10, DRAINAGE, DIVERSION STRUCTURES, WATERWAYS AND EROSION CONTROL ... The third paragraph mentions that “any area larger than 500 square feet on the site that receives an average evaluation score of Class 2 as stated in Table 1 (or higher) which persists for more than one year will be investigated. The investigator will determine the need for remedial measures”. Please describe who the investigator is and what their qualifications are, what reporting is done to whom and with what time frame, or any applicable information regarding this investigation.

The fourth paragraph: I want to clarify the entire paragraph in particular the following sentence “The BMPs were evaluated by State Water Quality Control personnel as they were applied on site during management activities”. In simplistic terms: the Forest Service has a waiver from the State Water Quality Control Board so that Forest Service application and monitoring of site-specific BMPs results in the Forest Service compliance with the Clean Water Act and other applicable laws regarding water quality. BMPs are part of the approved Plan of Operation for these claims, and it is incumbent on the operator to follow the BMPs to be in compliance with the Plan of Operation, and to monitor their own activities to ensure this compliance. The Forest Service will monitor the operators monitoring of their own compliance as well as perform independent compliance reviews. The Forest Service disagrees with the inclusion of the fourth paragraph in the Reclamation Plan as submitted and requests its removal.

8. Page 11, CLOSURE OF SURFACE OPENINGS...Forest Service requests verification that the gates that have been installed on all portals to tunnels meet the State’s standard. Also the Forest Service could not locate a map that contains identification of all surface openings on a site map.

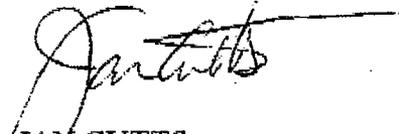
In closing, following the second waste dump failure, in April this year, I have concerns about the over all stability of all the waste dumps on the Red Ink Maid and Big Seam claims. Enough can not be done to ensure that the stable slopes remain stable: revegetation, diverting water and runoff, mitigating potential failure points. The failed slopes should be monitored to determine what additional impacts are occurring to other resources as a result of the failure.

Ms. Jacobsen, Placer County Planning Department

Page 4

If you have any questions on these comments or require any assistance with other issues regarding mine operation on National Forest, including how to adapt Forest Service end use goals and objectives to become compatible with State standards for SMARA, please contact Mo Tebbe or myself.

Sincerely,



JAN CUTTS
District Ranger

EXHIBIT 0

**WASTEROCK STABILITY EVALUATION AND
INITIAL CHARACTERIZATION**

for

BIG SEAM AND RED INK MAID MINING CLAIM

Placer County, California

**Big Seam and Red Ink Maid
Box 52
Forest Hill, California 95631**

Prepared by:

Holdrege & Kull

792 Searls Avenue

Nevada City, California 95959

**Project No. 2890-01
November 1, 2006**

- Total pollutant load is small, as discussed above for groundwater.

H&K elected to employ an environmental attenuation factor of 100 for assessing potential impact to surface water and groundwater.

Water quality goals of various agencies for arsenic are listed in Table 2. The most conservative water quality goals listed for arsenic (e.g., the California Public Health Goal, 0.004 µg/L) are lower than the practical quantitation or reporting limit for laboratory analysis. Using the laboratory reporting limit (2.0 µg/L) as a water quality goal, and attenuation factor of 100 in equation 4 of the DLM yields an SDL of 20 µg/L. For comparison, the least conservative listed water quality goal (the California MCL for drinking water, 50 µg/L), and attenuation factor of 100 yields a water quality goal of 500 µg/L. The soluble arsenic concentration reported in the sample from SP-1 (8.1 µg/L) is less than both calculated SDLs.

5.4 CONCLUSIONS REGARDING WASTEROCK CHARACTERIZATION

Evaluation of chemical data indicates that, of the metals analyzed, only arsenic is present at concentrations above anticipated background values for non-mineralized native soil in the area, and only in background location BG-2 and wasterock stockpile SP-1.

The arsenic concentrations detected at these areas are believed to originate from naturally mineralized conditions. The values reported for total arsenic and soluble arsenic in SP-1 samples likely represent a high concentration bias because samples submitted for analysis do not include the coarse fraction of the stockpiles. The sand and finer grain-sized samples are expected to exhibit higher concentrations of soluble constituents than the wasterock as a whole, which is composed predominantly of gravel and cobble-sized rock fragments.

The acid neutralizing potential of the wasterock suggests that generation of acid leachate from the wasterock stockpiles is unlikely. Furthermore, the soluble arsenic concentration detected in SP-1 is lower than the SDLs developed specifically for the site, despite the fine-grained sample bias. Based on evaluation of the data obtained from this initial characterization, our opinion is that the mine waste stockpiles do not present a significant risk to water quality, and the

EXHIBIT P

California Regional Water Quality Control Board
Central Valley Region



Arnold
Schwarzenegger
Governor

Linda S. Adams
Secretary for
Environmental
Protection

Sacramento Main Office
11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>

Richard Sykora
P.O. Box 622
Foresthill, CA 95631

28 November 2006

**WASTEROCK STABILITY EVALUATION AND INTIAL CHARACTERIZATION
BIG SEAM AND RED INK MAID MINING CLAIMS, PLACER COUNTY**

We have reviewed the Holdredge & Kull (H&K) report (dated 1 November 2006) for Wasterock Stability Evaluation and Initial Characterization of your Big Seam and Red Ink Maid Mining Claims in Placer County. We had requested this information in our 3 May 2006 letter and again in our 7 July 2006 letter as part of the Report of Waste Discharge pursuant to Title 27, California Code of Regulations (27 CCR).

After reviewing the H&K report, we have the following comments regarding the Wasterock Stability Evaluation:

1. In Section 4.1, H&K reports "that the slumping observed in stockpile 4 was likely attributable to a failure within the underlying colluvium rather than a failure of the relatively high friction, predominantly granular wasterock". In Section 2.1.1 of the H&K report, the colluvium underlying stockpile 2 was also reported as the likely cause of a toe failure. Thus, the underlying foundation material (colluvium) is the most likely failure plane. Stability analysis A and B in Table 4.1.1 tested wasterock only. The remaining stability analyses C through G included colluvium and have calculated factors of safety of less than 1:5 under static conditions. Dynamic conditions would likely have lower factors of safety. Title 27 CCR 21750 (f)(5)(C) requires that "the report must indicate a factor of safety for the critical slope of at least 1.5 under dynamic conditions." Section 4.1 of the report states that H&K did not consider seismic loading (dynamic conditions) in the analysis of the wasterock stockpiles. Therefore, we conclude from the H&K report that the existing wasterock stockpiles do not meet the required minimum factor of safety of 1.5.
2. We request that you immediately implement the recommendations to reduce surface water infiltration of the wasterock stockpiles 1-4 as outlined in Section 4.2 of the H&K report, thus potentially decreasing the risk of slope failure during precipitation events.
3. No preliminary design or stability analysis of the proposed wasterock stockpile #5 was included for our review in the H&K report as was requested in our letters of 3 May 2006 and 7 July 2006. As required in 27 CCR 21760, a design report containing the preliminary plans for the proposed waste management unit (wasterock stockpile #5) must be submitted along with a stability analysis of the proposed design. No wasterock may be discharged at the proposed wasterock stockpile #5 without first securing Waste Discharge Requirements (WDRs).

California Environmental Protection Agency

We have the following comments regarding the Initial Characterization of the existing wasterock stockpile (#1 through #4):

4. We agree that the values reported for total and soluble arsenic in SP-1 samples likely represent a high concentration bias because samples submitted for analysis do not include the coarse fraction of the stockpiles (Section 5.4). Soluble arsenic was detected at a concentration of 8.1 micrograms per liter ($\mu\text{g/L}$), as determined by the California Waste Extraction Test using deionized water extractant solution (WET-DI).
5. We agree with the conclusion in Section 5.4 of the report "*that the acid neutralizing potential of the wasterock suggests that generation of leachate from the wasterock stockpiles is unlikely*". The ratio of acid neutralization potential to acid generating potential (NP:AGP) was 17:1, indicating that the mine waste material in SP-1 is acid neutralizing. Typically, ratios of greater than 3:1 indicate that an acid leachate will probably not be formed by the waste. In addition, the sample pH was 8.3.
6. We have reviewed the laboratory analysis of the samples in Table 1 of the H&K report. We agree with H&K assessment that they do not pose a significant threat to water quality nor do they contain a significant amount of degradable materials (Section 5.4). Therefore, the wasterock is appropriate for consideration as Group C mining waste under 27 CCR 22480.
7. We do not concur with H&K opinion in Section 5.4 that the wasterock stockpiles satisfy the general and specific conditions of the General Waiver (RWQCB Resolution No. R5-2003-0008). Small metals mining operations were specifically not included in the General Waiver when it was adopted (see Staff Report for Resolution No. R5-2003-0008).

SUMMARY:

We have reviewed the H&K report and have concluded that the existing wasterock stockpiles 1-4 do not meet the required minimum factor of safety of 1.5. Additionally, no stability analysis of the proposed wasterock stockpile #5 was included. Therefore, the Report of Waste Discharge is incomplete. **No** wasterock may be discharged at the site without first securing WDRs.

We are in agreement with the H&K report that the wasterock sampled for acid generating potential has a ratio of greater than 3:1, indicating that acid leachate will probably not be formed by the waste. We agree with H&K assessment that the wasterock stockpiles sampled do not pose a significant threat to water quality (other than turbidity) nor do they contain a significant amount of degradable materials.

Please call me at (916) 464-4639 should you have any questions.

Jeff S. Huggins

JEFF HUGGINS
Water Resources Control Engineer
Land Disposal Program
Lower Sacramento River Watershed

cc: Printed on following page.

*found in W.D.C.
file*

EXHIBIT Q



United States
Department of
Agriculture

Forest
Service

American River
Ranger
District

22830 Foresthill Road
Foresthill, CA
95631
530 367-2224
530 367-2226 TDD
530 367-2992 FAX

File Code: 2810

Date: October 21, 2009

Ted Rel, Planner
Placer County Planning Department
3091 County Center Drive
Auburn, CA 95603

Dear Mr. Rel:

Reference is made to your recent conversation with Tahoe National Forest Minerals Program Manger Greg Schimke regarding the Red Ink Maid and Big Seam mining claims, Richard Sykora, Operator.

As the current District Ranger for the American River Ranger District, I want to re-confirm the previous District Ranger(s) decision as shown on the enclosed letters dated September 20, 2004 and again on May 11, 2005. Specifically, I want to re-confirm that "the only responsibility you now have to the previous waste areas- 1, 2, 3, and 4, and the access road to waste areas 2, 3 and 4, is to ensure that erosion control measures that you have been practicing, including all the successful measures previously used to divert water away from the dumps, continue."

If you have any questions, please feel free to contact me at (530) 478-6254 extension 238 or Mr. Schimke at (530) 478-6273.

Sincerely,

CHRIS FISCHER
District Ranger

Enclosures

Cc: Mr. Richard Sykora
Mo Tebbe
Greg Schimke



EXHIBIT R



COUNTY OF PLACER
Community Development / Resource Agency

Michael J. Johnson, AICP
Agency Director

**ENGINEERING &
SURVEYING**

Wes Zicker, PE
Director

Mr. Kenneth Trott
Department of Conservation
Office of Mine Reclamation
801 K Street, MS 09-06, Sacramento, CA 95814

8 November 2010

SUBJ: CA-MINE ID #91-30-0020 RED INK MAID MINE, RECLAMATION COMPLETE FOR WASTE ROCK DUMPS #1 - 4.

Dear Mr. Trott,

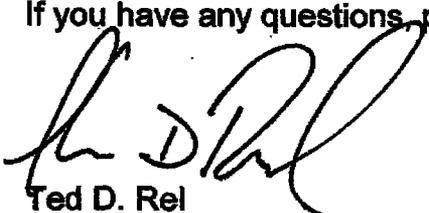
Placer County has received correspondence from the U.S. Forest Service (USFS) dated October, 21, 2009, from district ranger Mr. Chris Fischer confirming that the USFS has accepted responsibility (other than maintaining erosion control efforts) for waste rock dump sites 1, 2, 3, and 4.

Placer County, acting as Lead Agency (SMARA) recognizes that the USFS takes responsibility for any outstanding reclamation liabilities for waste rock dump sites #1, 2, 3, and 4. Placer County performed a special inspection of the mine site on September 14th, 2010. As a result of the subject inspection, we have determined that waste rock dump sites #1, 2, 3, and 4, are considered reclaimed on behalf of the mine operator, Red Ink Maid, LLC, and that the mine operator has no outstanding reclamation liabilities on waste rock dump sites #1, 2, 3, and 4.

Placer County respectfully requests concurrence with our findings from the Office of Mine Reclamation.

Attached, please find the special inspection report, and revised financial assurance cost estimate for the remaining liabilities (existing portal landing area, waste rock site #5, access road to waste rock site #5) of the Red Ink Maid & Big Seam mining claim/s.

If you have any questions, please contact me at (530) 745-7542


Ted D. Rel

cc: Red Ink Maid, LLC
Chris Fischer, District Ranger, USFS

**DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION**

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as reported by Operator on Mining Operation Annual Report RED INK MAID MINE	Inspection Date: 9/14/2010	CA MINE ID#: 91- 31-0020
--	--------------------------------------	------------------------------------

II. SMARA Lead Agency Name (City or County only) PLACER COUNTY		
Inspector TED REL	Telephone (530) 745-7542	
Title JR. CIVIL ENGINEER	Organization PLACER COUNTY ENGINEERING & SURVEYING DEPT.	
Mailing Address 3091 COUNTY CENTER DRIVE SUITE 120		
City AUBURN	State CA	ZIP Code 95603
E-mail Address (Optional) tre@placer.ca.gov		

III. Mine Operator WILD CAT MINING ENT. LLC		
Contact Person RICHARD SYKORA	Telephone (775) 882-4641	
Mailing Address PO BOX 622		
City FORESTHILL	State CA	ZIP Code 95631
E-mail Address (Optional)		

IV. Does the operation have:	P	NR	No	Yes
A permit to mine?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Permit # PMPB T20050399
An approved Reclamation Plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	RP # APPROVED WITH PMPB T20050399
Has the operator filed a Mining Operation Annual Report (form MRRC-2)? Check one: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Unknown				
Is this operation on Federal Land? Check one: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
If "Yes", provide one or both of the Federal Mine Land Identification Numbers below:				
California Mining Claim Number (CAMC#):				
U.S. Forest Service Identification Number (USFS ID#): USFS ID# UNKNOWN AT THIS TIME				

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

**DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION**

SURFACE MINING INSPECTION REPORT

V. Does the Operator currently have a Lead Agency approved Financial Assurance? Check one: <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes", complete section below. If "No", refer to instructions on the reverse of this page and complete Section VI.		Inspection Date: 9/14/2010	CA MINE ID#: 91 - 31-0020
Type of Financial Assurance Mechanism(s)	Financial Assurance Mechanism Number(s)	Current Amount on File	Date of Expiration
<input type="checkbox"/> Surety Bond		\$	
<input type="checkbox"/> Certificate of Deposit		\$	
<input checked="" type="checkbox"/> Letter of Credit	#4135883	\$ 20,000.00	renews annually
<input type="checkbox"/> Trust Fund		\$	
<input type="checkbox"/> Pledge of Revenue		\$	
<input type="checkbox"/> Budget Set Aside		\$	
<input type="checkbox"/>		\$	
The Financial Assurance Amount must be adjusted annually. Attach a copy of the revised Financial Assurance Amount calculation with this report.		Date of Financial Assurance Amount Calculation: 9/14/2010	
Does the current mechanism(s) on file cover the new annual calculation? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		If "No", date operator was notified that a new mechanism is required:	

VI. Financial Assurance comments.

**DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION**

SURFACE MINING INSPECTION REPORT

VII. Is the operation in compliance with provisions of the approved Reclamation Plan with respect to:	OK	VN	NI	NA	CA MINE ID # 91 - 31-0020
Wildlife Habitat	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Inspection Date: 9/14/2010
Revegetation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Agricultural Land	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Weather Code(s): CR
Stream Protection	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Duration of Inspection: 1.5 HRS
Tailings and Mine Waste Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Closure of Surface Openings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Approximate Disturbed Acreage: >.5
Building, Structure, and Equipment Removal	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Topsoil Salvage, Maintenance, and Redistribution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Status of Operation Code(s): A
Backfilling, Regrading, Slope Stability, and Recontouring	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Drainage, Diversion Structures, Waterways, and Erosion	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Status of Reclamation Code(s): see note
Other (list or explain below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

VIII. Comments/Description of Violation(s) and Corrective Measure(s) Required
 [NOTE: please indicate if you have attached notice(s) of violation(s) and correction order(s), in lieu of description on this form]:

NOTE:

This inspection was conducted to make a determination to consider waste rock dump sites #1 - 4 reclaimed.
 Reclamation is completed for waste rock dumps sites #1, 2, 3 & 4.

IX. Number of Violations: 0	Inspector's Signature: 	Date Signed: 9/15/2010
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DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

EXHIBIT s



COUNTY OF PLACER
Community Development / Resource Agency

**ENGINEERING &
SURVEYING**

Michael J. Johnson, AICP
Agency Director

Wes Zicker, PE
Director

September 2, 2010

Mr. Kenneth E. Trott
California Department of Conservation
Office of Mine Reclamation
801 K Street MS 09-06
Sacramento, CA 95814

RE: RED INK MAID MINE, ID #91-31-0020

Dear Mr. Trott:

We are in receipt of your correspondence dated August 6th, 2010, regarding the subject mine. We respond to the letter as follows:

Specifically, Placer County has not considered the mine as "idle" for the following reasons:

- When we considered the production amounts (annual MRRC-2 reports) provided to Placer County in 2005, 2006 and 2007, we calculated that production had decreased to a little over 80% between 2005 and 2006, therefore did not meet the criteria as being "idle" as defined by Public Resources Code (PRC) Section 2727.1.
- The Red Ink Maid mine has not curtailed production at all between 2005 and up until July 19th, 2010; rather, mining operations were conducted steadily. We take into consideration that this mining operation is an exploratory gold mine and that although operations may have remained steady during this period, the mine still had "mineral" production in the form of waste rock, rather than gold, which is NOT reported on the MRRC-2 since the waste rock is not considered a "commodity" per se. PRC Section 2727.1 refers to "mineral production" and not "commodity" production. *see 2730*
- Our observations with on-site annual inspections have confirmed that the Red Ink Maid mine has not curtailed mineral production to 90% of the previous year.

Please provide direction in the event that your interpretation of the intent of PRC Section 2727.1 is different than the above.

In response to paragraph 4, Placer County, acting as Lead Agency, has received mine operator annual reports for 2008 and 2009 from the mine operator, however, they were not provided at the time of our inspection on March 10, 2010. Additionally, we cannot confirm if these reports

*NOT
90%
2727.1*

were submitted untimely to the Office of Mine Reclamation (OMR). Please provide direction and/or confirmation.

In response to paragraph 5 and 6, the mine operator for the Red Ink Maid mine submitted a Financial Assurance Cost Estimate (FACE) dated June 26th, 2009. Placer County, acting as Lead Agency has had several revision requests to the subject FACE which we will forward to OMR for your concurrence upon our final approval as the Lead Agency. A copy is attached to this correspondence, however, please note that we have not yet approved the latest revision.

In response to paragraph 7, we confirm the inspection date was March 10, 2010 and the agencies present including Placer County. We have received a copy the Notice of Violation issued by the California Regional Water Quality Control Board dated March 23, 2010 as mentioned in paragraph 7.

At this time, Placer County does not regulate nor enforce rules and regulations set forth by the California Regional Water Quality Control Board (CRWQCB) on federal lands under the jurisdiction of the USFS (or BLM), other than those requirements included in the Reclamation Plan approved by Placer County. Waste Discharge Requirement (WDRs) Order No. R5-2007-0181 was NOT part of the Reclamation Plan approved by Placer County, and in our opinion it is the responsibility of the USFS to ensure compliance in accordance with the Plan of Operations that is approved by the USFS for the Red Ink Maid mine. For example, we would note that on July 19, 2010, the USFS has ordered the Red Ink Maid mine to cease and desist operating until it complies with WDR Order No. R5-2007-0181.

We would also like to bring to your attention that Placer County is in receipt of two letters, copies attached, from the United States Forest Service (USFS) stating that waste rock dumps #1 through #4 are no longer the responsibility to the mine operator except for maintaining water quality and erosion control measures. The first letter was received on September 20, 2004 from District Ranger Richard Johnson. The second letter is dated October 21, 2009 from the current USFS District Ranger Chris Fischer confirming that the letter from the USFS on September 20, 2004 is still the position of the USFS.

see attachment

At this time, Placer County, acting as Lead Agency, does not believe that there currently exist any violations associated with the approved current Reclamation Plan or any provisions of the Surface Mining and Reclamation Act. We would request your concurrence, based on the information presented here, with that finding.

If you have any questions on this information, please contact Ted Rel at (530) 745-7542.

Sincerely,


Wesley K. Zicker, P. E., Director,
Engineering and Surveying Department

cc: Michael Johnson, CDRA Director
Robert Sandman, County Counsel
Ted Rel, ESD
Richard Sykora, Mine Operator *MANAGER*
Jeff Huggins, RWQCB
Rick Weaver, USFS
Mike Luksic, OMR

Attch: Oct 21, 2009 Letter from USFS to Placer County
May 11, 2005 Letter from USFS to Mr. Sykora
Sept 20, 2004 Letter from USFS to Mr. Sykora
June 26, 2009 FACE
2008 MRRC-2 Annual report for Mine ID 91-31-0020
2009 MRRC-2 Annual report for Mine ID 31-31-0020

EXHIBIT 7

WEDNESDAY FEBRUARY 22, 1901. YOUR NUMBEROR SINCE 1872. 60 CENTS.



REPUBLICAN

Published by the Republican Publishing Co., 100 N. 2nd St., St. Paul, Minn.

Volume 2, Year 2. Issue 1, Supplement
25 of Forestall 24 of Autumn

Pair nabbed in gold-dust grand theft

Vial of precious metal discovered in Forestall

By the Tribune

Two men were captured by the Forestall police today after the discovery of a vial containing gold dust from a Palace company after the theft.

The Forestall police today captured two men who were charged with the theft of a vial containing gold dust from a Palace company after the theft. The men were captured today after the discovery of a vial containing gold dust from a Palace company after the theft.

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EXHIBIT u

**WASTEROCK STABILITY EVALUATION AND
INITIAL CHARACTERIZATION**
for
BIG SEAM AND RED INK MAID MINING CLAIM
Placer County, California

Project No. 2890-01
November 1, 2006

Prepared by:
Holdrege & Kull
792 Searls Avenue
Nevada City, California 95959

Project No. 2890-01
November 1, 2006

that is suitable for the end use. The existing native slopes exceed 2:1 (on the order of 1.7:1, H:V), making it impossible to comply with the 2:1 slope requirement. Wasterock removal would be difficult to achieve without significant grading to provide access for heavy equipment. A new access road from Mosquito Ridge Road (crossing currently undisturbed portions of the property) would likely be necessary and several new road cuts would be required to provide adequate access to the lower reaches of each wasterock site. Our opinion is that the grading required to remove wasterock at the site would result in significant worker safety issues, additional erosion control concerns, and increased potential for slope failure.

- Our opinion is that the existing wasterock sites substantially comply with CCR Section 3704 (e) in that the mine waste dumps do "generally conform with the surrounding topography." In addition, the wasterock slope gradients appear similar to fill slopes for Mosquito Ridge Road which provides access to the site.
- We recommend regrading as necessary at the top of wasterock stockpile 4 to ensure that surface water drainage is not directed into the wasterock stockpile. We anticipate that surface water, if present above the stockpile, could be directed away from the stockpile toward the native slopes to the east. Redirection of surface water can typically be performed by the placement of soil berms or the excavation of shallow v-ditches above the wasterock stockpiles. Surface water onsite must not be directed toward or over the wasterock slope faces.
- We do not recommend disturbing the existing wasterock sites. Excavating into the existing wasterock may cause localized oversteepening of the wasterock, resulting in shallow failures and possible small volume debris flows. Excavating or otherwise disturbing the existing wasterock could result in a safety hazard to the personnel performing the work. In addition, the existing topographic irregularities present in stockpile 4, for example, may facilitate eventual soil accumulation and revegetation.
- Our opinion is that the stability conditions at stockpiles 1 through 4 do not warrant the placement of additional wasterock at these locations. We



December 7, 2005

Richard Sykora
P.O. Box 622
Foresthill, California 95631

Reference: *Big Seam and Red Ink Maid Mining Claims*
Foresthill, California

Subject: *Stability of Waste Rock Sites #1 - #5*

Mr. Sykora,

As requested, we have completed our review of available information and have made two recent visits to the above referenced site. Our conclusions regarding our review are summarized below.

Scope of Services

Our scope of services included the following:

- Review of the following documents:
 - US Forest Service (September 20, 2004). *Conditions of Approval for "Plan of Operations", Appendix A.*
 - Department of Conservation, Office of Mine Reclamation (September 14, 2005). *Review of Proposed Reclamation Plan for the Red Ink Maid Mine (01-31-0020) - Summary Table.*
 - Watters, Robert J., Ph.D., P.E. (June 26, 1990). *Stability Assessment and Appraisal for Mine Waste Dumps.*
 - Voss, Jim (January 30, 1997). *Waste Rock Dump Slump at Red Ink Maid Mine.*
- Two site visits on November 3 and November 30, 2005.
- Preparation of this letter report.

EXHIBIT E

Site Observations

On November 3 and November 30, 2005, we observed waste rock dump sites 1 through 4 and proposed waste rock dump site 5. Following are our observations:

- Waste Rock Site #1 is located just south of the existing mine portal. The gradient of the existing south to southwest facing slope is approximately 60%. This site was used from approximately 1987 to 1989. We understand that fine grained, oxidized waste rock material was broadcast over the larger waste rock in this area. This practice resulted in good vegetative growth over the waste rock. We understand that the eastern portion of Waste Rock Site #1, directly adjacent to Waste Rock Site #2, had an erosion failure in 1990 as a result of a concentrated surface water flow which emanated from the access road at the top of the waste rock. Robert Watters, Ph.D., P.E., assessed the stability of this site in June 1990. His June 26, 1990 report recommended drainage improvements to prevent surface water from discharging over the slope face. Following that breach, a berm was constructed between the access road and top of the waste rock slope. Surface water is collected in a low area and discharged downslope of the waste rock in a PVC pipe. The drainage system appeared to be functioning adequately at the time of our site visit.
- Waste Rock Site #2 is located just east of Waste Rock Site #1. The gradient of the existing south to southeast facing slope is approximately 55%. This site and Waste Rock Site #3 were used from approximately 1990 to 1993. A failure occurred near the toe of the waste rock during the heavy rains of late 1996/early 1997. Jim Voss, a Forest Service geologist, investigated the failure on January 13, 1997 and determined in his above referenced report dated January 30, 1997 that the failure occurred in the colluvium underlying the waste rock. The failure was exacerbated by the failure of a surface water drainage pipe which extended through Waste Rock Site #3, located just upslope of Waste Rock Site #2. The drainage pipe has been sealed since the failure. We observed no evidence of recent movement of either Waste Rock Site #2 or Waste Rock Site #3. The lateral extents of both sites are beginning to revegetate, although this process will likely be slow due to the size of the waste rock fragments exposed at the surface.
- Waste Rock Site #4 is located east of Waste Rock Sites #2 and #3. The gradient of the existing south to southeast facing slope is approximately 55 to 60%. This site was used from approximately 1994 to 2003, when mining operations ceased. This site appeared to be stable in its present condition. We observed no evidence of recent or past movement of the waste rock mass. The

top of the slope is beginning to revegetate; however, the majority of the waste rock is relatively large (on the order of 8 to 18 inch fragments) with a relatively small percentage of fine grained material. We anticipate revegetation of this area will take a significant amount of time.

- Waste Rock Site #5 is proposed to be used once mining operations start up again. The gradient of the base of the proposed site is much flatter than the surrounding areas, on the order of 20 to 25%. The proposed site is located within an historic hydraulicked area. The slope gradient immediately downslope of the hydraulicked area increases dramatically, on the order of 80 to 100%. No waste rock disposal is proposed in this steep area. While the base of the hydraulicked area supports moderate vegetation (mostly manzanita and other brush and small trees), colluvial development is minor to non-existent. The proposed construction of the access road to the site and the waste dump design is outlined in Appendix A of the above referenced 2004 Forest Service document.

Conclusions and Recommendations

The following conclusions and recommendations are our professional opinions based on our two site visits:

- Do Re
- Waste Rock Sites #1 through #4 appear to be stable in their present state. We recommend regrading the areas at the top of Waste Rock Sites #2 and #4 so that ponding of surface water does not occur. Accumulated drainage water should be discharged downslope of the toe of the waste rock piles as was previously performed at Waste Rock Site #1. An alternative would be to discharge surface water to the east of the waste rock piles. Surface water must not be allowed to flow over the face of the waste rock slopes.
 - We do not recommend disturbing the existing waste rock sites. Excavating into the existing waste rock may cause *localized oversteepening of the waste rock*, resulting in failures. Excavating or otherwise disturbing the existing waste rock could result in a safety hazard to the personnel performing the work.
 - Our opinion is that Waste Rock Site #5 is the best location on the property to dispose of future waste rock. The base of the formerly hydraulicked area should be cleared of significant vegetation prior to placement of waste rock. Vegetation in areas to receive less than 3 feet of waste rock may remain in place.

stockpile locations to downgradient streams. Please note that the plan sheets depict redundant debris or sediment barriers to be constructed at locations downslope from the proposed toe of the wasterock stockpile. These barriers are intended to be installed prior to wasterock placement, and will need to be maintained and functional during the course of wasterock placement. Following wasterock placement, we anticipate that coarse rock fragments will be located on the lower portions of the stockpile surface, serving as slope armor and reducing the need for the sediment and debris barriers. The need for continued maintenance of the barriers should be evaluated following wasterock placement.

Summary of Stability Analysis for Stockpile 5

We performed a computer-assisted slope stability analysis to evaluate the existing stockpile configurations. The slope models used were based on the proposed finished wasterock slope gradient of 33 degrees (equivalent to a 1½:1, horizontal to vertical slope). Our stability analysis used the laboratory test results obtained during our previous geotechnical review of the existing stockpiles onsite, as described in our November 1, 2006 report entitled *Wasterock Stability Evaluation and Initial Characterization*. Our analysis was performed using Stabl6™ software utilizing the Janbu and Bishop's simplified methods of slices.

The stability of a slope is evaluated by calculating its "factor of safety". The factor of safety is a ratio obtained by dividing the resisting forces (i.e., the shear strength of the material comprising the slope) by the driving forces (resulting from the slope gradient, the weight of the material, groundwater, and surcharge loading). If the factor of safety is greater than 1, the slope is theoretically stable. A factor of safety equal to or less than 1 means the slope is theoretically unstable.

Required factors of safety are selected in an effort to address uncertainties in the conditions as well as the anticipated consequences of slope instability. Higher design factors of safety are often appropriate where slope instability would threaten a critical facility or create a hazard to health and safety. In some cases a more thorough investigation of subsurface conditions, including extensive laboratory testing to reliably establish lower bound shear strength and accurately identify material properties, allows the use of lower factors of safety. In general, we use minimum required factors of safety of 1.5 to account for variability in groundwater, subsurface soil and rock conditions, and laboratory test results when analyzing slopes associated with critical facilities, inhabited structures, and other locations where the consequences of a slope failure would be high. Factors of safety as low as 1.2 are often employed for slopes of relatively low risk and where conditions can be readily observed and confirmed by



HOLDREGE & KULL

CONSULTING ENGINEERS • GEOLOGISTS

Project No. 2890-01
January 26, 2007

Richard Sykora
P.O. Box 622
Foresthill, California 95631

Reference: *Big Seam and Red Ink Maid Mining Claims*
Foresthill, California

Subject: *Proposed Stockpile 5 Plan Sheets and Stability Review*

Dear Mr. Sykora,

At your request, we have prepared the enclosed plan sheets which depict two alternate wasterock configurations for proposed Stockpile 5. The plans are intended to facilitate the review and permitting process associated with the existing mine operation onsite. The enclosed plan sheets, as well as the corresponding stability analysis results, will be provided to the Placer County Planning Department for distribution to associated reviewing agencies.

Our plan sheets depict anticipated finished wasterock stockpile configurations based on the existing topography at the proposed stockpile location as well as the recommended maximum finished slope gradient. The finished dimensions of the stockpile are expected to vary, depending on the actual slope gradient used, the optional construction of a gabion basket retaining structure at the toe of the slope, and the variation of the natural topography. ~~We anticipate that, during wasterock placement, temporary slope gradients approaching the friction angle of the material will occur, particularly at the location of dumping. However, it is critical that the finished slope gradient at the end of wasterock placement not exceed the recommended slope gradient of 33 degrees unless further stability analysis and site review is performed to confirm stability.~~

Site preparation, wasterock placement and eventual reclamation of the stockpile should incorporate the recommendations presented by the USDA Forest Service in their recommended Mitigation Measures for this project. We can provide additional site specific erosion control and reclamation recommendations for the project, if requested.

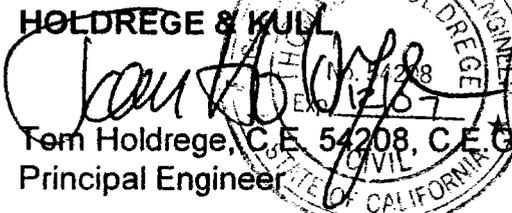
One concern associated with the placement of wasterock on steeply sloping sites is the increased likelihood of wasterock and fine grained sediments being transported from the

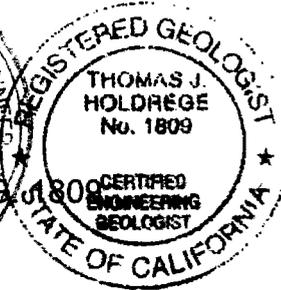
- We take no exception to the proposed design of Waste Rock Site #5 as outlined in Appendix A of the Plan of Operations. If a gabion wall is to be constructed at the toe of Waste Rock Site #5, the wall should be designed by a registered engineer; construction of the wall should be observed by representatives of the engineer that designs the wall.

Please contact us if you need any additional information or clarification.

Sincerely,

HOLDREGE & KULL


Tom Holdrege, C.E. 54208, C.E.C. 1809
Principal Engineer



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laboratory testing such as cut slopes for driveways and rural roads. In addition, the use of lower factors of safety may be justified for existing slopes where information regarding past performance is available. One reason for this is that the degree of uncertainty regarding shear strength and piezometric levels can be reduced through back analysis.

Furthermore, reduced factors of safety are often used when the stability analysis considers short term seismic loading, rapid change in groundwater elevation, or other events of relatively short duration or infrequent occurrence.

Our slope stability analysis was based on a wide variety of assumptions and variables including:

1. Strength data variables - The strength data used in our analysis was based on laboratory test results performed on the sand and finer portions of samples collected from the wasterock onsite. We used the lower internal friction angle and apparent cohesion values obtained during two direct shear tests performed on loose specimens. Based on our laboratory testing, the wasterock was modeled as possessing an internal friction angle of 43.1 degrees and having an apparent cohesion of 110 pounds per square foot. The model also assumed a saturated, approximate 3-foot thick native soil/colluvium layer below the wasterock. The strength properties of the underlying colluvium was estimated with consideration of the native slope gradients, our experience with soil and rock conditions in the area, and the results of back calculations of the past slope instability in wasterock stockpile 4. No direct shear testing was performed on the colluvium and underlying weathered rock onsite.
2. We considered seismic loading (modeled as a horizontal acceleration of 0.2g) in our analysis of the proposed stockpile configuration.

~~Based on our analysis, we calculate a factor of safety of 1.5 for the proposed wasterock stockpile configuration. The calculated factor of safety is extremely sensitive to the horizontal acceleration due to seismic loading. The use of an acceleration of 0.2g, assumed to occur precisely in the out of slope direction, is considered to be conservative. The apparent cohesion present in the stockpile materials, as well as the effect of slope armoring due to the accumulation of course material on the lower slope surface, will likely cause the factor of safety for the configuration to vary. However, even without the presence of apparent cohesion in the stockpile material, we estimate that the factor of safety considering dynamic analysis is greater than 1.0.~~

In addition to our stability analysis, we considered the likelihood of rock fall during wasterock placement which would result in individual boulders traveling beyond the toe of the wasterock stockpile and rolling into the steeply sloping canyon below. To evaluate the likelihood of rock fall, we used the Colorado Rockfall Simulation Program (CRSP) distributed by the Colorado Department of Transportation. CRSP models rock fall considering user selected slope and rock properties. Empirically derived functions correlating slope geometry, friction, and rock properties are used in conjunction with conservation of energy principles to calculate the trajectory of individual rocks. The simulation is repeated for hundreds of rock fall events, allowing statistical analysis of probable rock fall behavior for a given slope. CRSP output includes estimates of probable rock fall velocities, bounce heights, and kinetic energies.

To perform our rock fall evaluation, we considered 12-inch boulders dropped on the finished slope surface during the final stages of wasterock placement. Although blasting and excavation of the rock onsite generates subangular and angular rock fragments, the boulders are conservatively modeled as being spherical. It is also assumed that the rock does not break into smaller fragments during the fall. The stockpile slope was modeled as having a 33 degree slope, and a relatively rough surface similar to a talus slope, armored with coarse rock fragments. Furthermore, we considered the placement of a smooth-faced gabion basket retaining wall at the toe of the slope, with fill placement to the top of the wall.

Our CRSP analysis indicated that, with the dropping of 1,000 spherical, 12-inch diameter boulders on the 33 degree slope, one boulder may reach the gabion basket wall. No boulders were calculated to pass beyond the debris barriers or approach the steeper canyon slopes below the proposed stockpile location. CRSP output is attached for reference.

Based on our stability analysis, our opinion is that the proposed wasterock stockpile configuration, utilizing a maximum finished slope gradient of 33 degrees, provides an appropriate factor of safety for the intended use. In addition, the rock fall simulation performed indicated that it is unlikely that individual boulder-sized wasterock fragments will travel beyond the toe of the stockpile onto the canyon slopes below.

Limitations

~~_____~~
project. The limitations presented in that report apply.

Please contact us if you need any additional information or clarification.

Sincerely,

~~HOLDREGE & KULL~~



Robert Fingerson, G.E. 2699
Senior Engineer

attachments: Sheets 1 and 2 - Site Plan
Stability Analysis Graphical Results Summary
CRSP Rock Fall Simulation Output

copies: 1 to Placer County Planning Department / Attn: Crystal Jacobsen
(6) Sheets 1 and 2

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Project No. 2890-01
May 12, 2006

5/12/06 SMS

5/12/06 SMS

Richard Sykora
P.O. Box 622
Foresthill, California 95631

Reference: *Big Seam and Red Ink Maid Mining Claims*
Foresthill, California

Subject: *Addendum to Report Dated December 7, 2005*

Dear Mr. Sykora,

At your request, we completed this addendum to our report entitled *Stability of Waste Rock Sites #1 - #5* dated December 7, 2005 for the above referenced project. Information in this letter is based on our review of a California Department of Conservation, Office of Mine Reclamation (OMR) letter dated January 19, 2006, discussions with Crystal Jacobsen with the Placer County Planning Department, and site visit on March 23, 2006 with personnel from the California Region Water Quality Control Board (RWQCB), OMR, Placer County Planning Department, and the U.S. Forest Service.

Important ←

During the site visit on March 23, 2006, several ideas were discussed regarding the reclamation of Waste Rock Sites #2 through #4. Descriptions of these waste rock areas were included in our December 7, 2005 report. Our conclusions and recommendations are as follows:

Waste Rock Sites #2 and #3

We obtained additional information during the March 23, 2006 site visit regarding a landslide that occurred in early January 1997, impacting Waste Rock Site #2. We stated in our December 2005 report that the failure impacted both Waste Rock Sites #2 and #3. However, we understand that material in Waste Rock Site #3 (referenced by the mine operators as the "Bridge") was placed under the direction of the Forest Service after the landslide occurred. The material comprising Waste Rock Site #3 was placed across the failure scar, near the head scarp of the landslide. The mine operators observed that the failure did not extend to bedrock and that colluvium was still present at the base of the failure zone prior to the placement of the Waste Rock Site #3 material.

The placement of the "bridge" resulted in a topographic depression between the waste rock and the head scarp of the landslide. This existing depression was discussed during our March 2006 site visit. One alternative that was discussed would entail removing material immediately downslope of Waste Rock Site #3 and placing the material in the topographic depression to reduce the accumulation of surface water in the depression. In addition, this proposed solution would effectively reduce the volume of material comprising Waste Rock Site #2, immediately downslope of Waste Rock Site #3. We do not recommend this alternative for the following reasons:

- The waste rock that would be used to fill the topographic depression is comprised of cobble- to boulder-sized material. Placement of this material in the depression would not preclude the infiltration of surface water into the depression.
- The mine operators have indicated that they have never observed ponding of water in the depression. We observed during our site visits that the tributary area immediately upslope of the depression is very limited.
- Most importantly, the removal of material from Waste Rock Site #2 to fill the depression would result in a less stable slope configuration. The observations made by the mine operators in 1997 that colluvial material was still present near the base of the slide scar lead us to believe that future movement could occur in the colluvial material. Removal of material from the middle of the slope (i.e., decreasing the resisting forces) and placement of that material higher up on the slope (i.e., increasing the driving forces) would effectively decrease the slope's stability.

We make the following recommendations for reclamation of Waste Rock Site #3:

- Once all reclamation is completed of Waste Rock Sites #2 and #4, deep rip the surface of the "bridge" to a minimum depth of 18 inches and promote revegetation by applying an appropriate seed mix.
- We observed evidence of surface water ponding on the western edge of the "bridge", closest to the mine entrance. We recommend this area be regraded to promote drainage and reduce ponding.
- Construct a water bar immediately east of the "bridge" on the access road between Waste Rock Sites #3 and #4. Currently, runoff is directed down the

Done

Done

access road toward the "bridge". The water bar would direct runoff to the native slope exposed between Waste Rock Sites #3 and #4.

Waste Rock Site #4

- With wac personnel

In the OMR letter dated January 19, 2006 and during the March 23, 2006 site visit, a number of ideas were discussed regarding reclamation of the access road to Waste Rock Site #4. In general, the options that were discussed included outsloping the existing road surface by placing material from the berm that is directly downslope from the access road and from the slope directly below the berm and placing it on the access road.

Done

We recommend leaving the access road between Waste Rock Sites #3 and #4 in its present condition (other than possibly seeding it) for the following reasons :

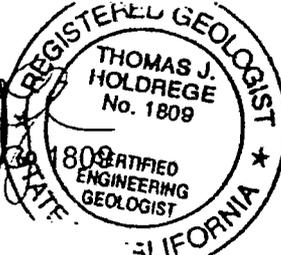
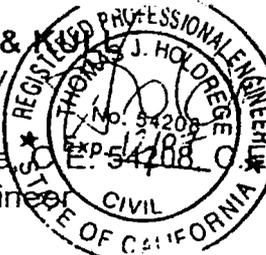
- The road and downslope berm would act as a catchment area for any failures that occur in the historic waste rock pile immediately upslope of Waste Rock Site #4.
- Vegetation has become established on both the road and berm. Given the rocky nature of the material comprising the road and the berm, bringing heavy equipment into the area to outslope the road would compromise the revegetation process. It would take many years to re-establish vegetation back to its present state.
- The access road is a mid-slope bench that directs surface water (which appears to be minimal) away from the waste rock slope, effectively increasing slope stability.

Please contact us if you need any additional information or clarification.

Sincerely,

HOLDREGE & KULL

Tom
Tom Holdrege
Principal Engineer



copies: 3 to Richard Sykora



HOLDREGE & KULL
CONSULTING ENGINEERS • GEOLOGISTS

Project No. 2890-01
August 18, 2006

Richard Sykora
P.O. Box 622
Foresthill, California 95631

8/18/06 sms
9/21/06 sms

Reference: *Big Seam and Red Ink Maid Mining Claims*
Foresthill, California

Subject: *Additional Comments Regarding Site Slopes*

Dear Mr. Sykora,

At your request, we are providing additional comments regarding Waste Rock Sites #1 through #4 located at the above referenced project site. Information in this letter is based on our August 9, 2006 site visit to observe the slope failure at Waste Rock Site #4, our review of a California Department of Conservation, Office of Mine Reclamation (OMR) letter dated June 26, 2006, and our discussions with Crystal Jacobsen of the Placer County Planning Department.

We understand the slope failure at Waste Rock Site #4 occurred in late March 2006 following a month of unusually heavy precipitation. The Foresthill area received on the order of 90 inches of rain during the winter and spring, which was well above average. The failure involved approximately half of the access road, including the soil berm, directly upslope of the waste rock site. The failure resulted in vertical and slight lateral displacement of the soil berm. Slide debris was substantially contained in a relatively flat lying area located just downslope of the waste rock. Debris did not appear to extend beyond the mine property. In general, very little lateral displacement of waste occurred as a result of the slide. Our opinion is that the slide occurred as a direct result of the heavy precipitation in March. Other significant slope failures occurred in the Foresthill area (including Foresthill Road) and throughout the Sierra Nevada foothills as a result of the above average precipitation.

We will be performing a slope stability analysis of the waste rock sites to comply with California Regional Water Quality Control Board (RWQCB) requirements. We will be observing the slide at Waste Rock Site #4 in greater detail as part of that study. Our report will be issued in the next few weeks summarizing the results of our analysis.

With regard to the requirements in the California Code of Regulations (CCR), Sections 3704 (d) and (e), we have the following comments:

CCR Section 3704 (d) requires that all permanent piles or dumps of mine waste rock and overburden shall not exceed 2:1, horizontal to vertical (H:V). This site is unique in that the existing native slopes exceed 2:1 (on the order of 1.7:1, H:V), making it impossible to comply with this requirement without complete removal of the waste rock at the site. Waste rock removal would be difficult to achieve without significant grading to provide access for heavy equipment. A new access road from Mosquito Ridge Road (crossing currently undisturbed portions of the property) would likely be necessary and several new road cuts would be required to provide adequate access to the lower reaches of each waste rock site. Our opinion is that the grading required to remove waste rock at the site would result in significant worker safety issues, additional erosion control concerns, and increased potential for slope failure.

Our opinion is that the existing waste rock sites substantially comply with CCR Section 3704 (e) in that the mine waste dumps do "generally conform with the surrounding topography."

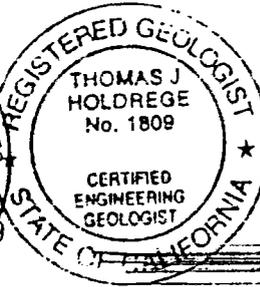
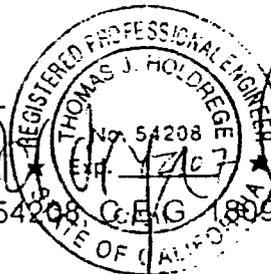
Please contact us if you need any additional information or clarification.

Sincerely,

HOLDREGE & KULL



Tom Holdrege, C.E. 54208
Principal Engineer



copies: 3 to Richard Sykora
1 to Placer County Planning Department/ Attn: Crystal Jacobsen

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EXHIBIT v



HOLDREGE & KULL
CONSULTING ENGINEERS • GEOLOGISTS

Project No. 2890-01
March 30, 2010

Mr. Richard Sykora
P.O. Box 622
Foresthill, California 95631

Reference: *Big Seam and Red Ink Maid Mining Claim*
Placer County, California

Subject: *2008-2009 Storm Water Monitoring Report*

Dear Mr. Sykora,

At your request, we present this storm water monitoring report for the Big Seam and Red Ink Maid mining claim for the 2008-2009 rainy season. This report was prepared in general accordance with the procedures outlined in the water quality monitoring section (2.6) of the September 4, 2007 Storm Water Pollution Prevention Plan (SWPPP) for the site.

Site Observations

Holdrege & Kull (H&K) visited the site on October 4, 2008 to observe the condition of the structural best management practices (BMPs) and implementation of non-structural BMPs at the site.

As mentioned in our November 12, 2008 *Annual Facility Inspection Report*, we observed that the berms along the site roadways and along the top of stockpiles 1, 2, and 3 were in place to restrict storm water from flowing over the roadside slopes and stockpile faces. We also observed that the drainage swales were in proper condition to convey storm water off of roadways toward vegetated areas and/or sedimentation basins, with the following exception: The 2 swales closest to the mine portal on the stockpile 5 haul road were filled with soil and rock. We recommended to you that the swales across the road be re-established to direct storm water off the road surface into adjacent natural drainages. Based on conversations with you and photographs provided, we understand that organic debris and loose soil and rock were removed from the onsite drainage swales on November 3, 2008 to allow for proper water conveyance.

The non-structural BMPs observed during our site visit included a plastic catch basin located beneath a 55-gallon fuel tank and drip pans located beneath a generator and compressor. We also observed a storage locker near the generator that contained absorbent spill clean-up materials.

Storm Water Monitoring

October 4, 2008 Site Visit

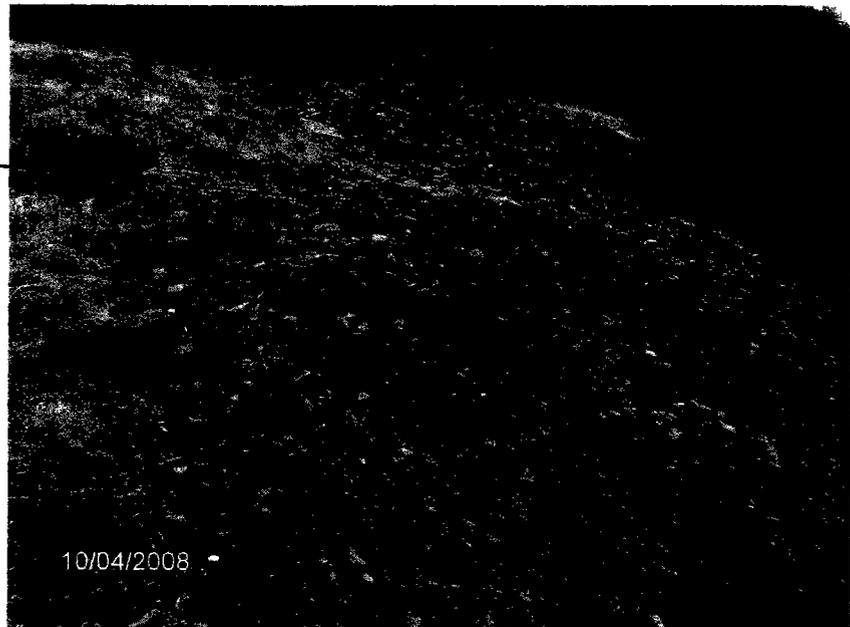
We also performed storm water monitoring during our October 4, 2008 site visit, which coincided with the first significant rainfall event of the season. The weather station at the Foresthill Ranger Station (FRH) reported approximately 1.0 inches of rain during this event.

We arrived at the site at approximately 9:30AM, at which time the rainfall intensity was decreasing and the storm appeared to be passing the site. We attempted to collect storm water samples at sampling location S1, located below the toe of stockpile 5 on a small bedrock outcrop in the base of the drainage channel. At approximately 10:00AM, we were not able to collect samples because there was no surface water flowing over the outcrop (see photo below).



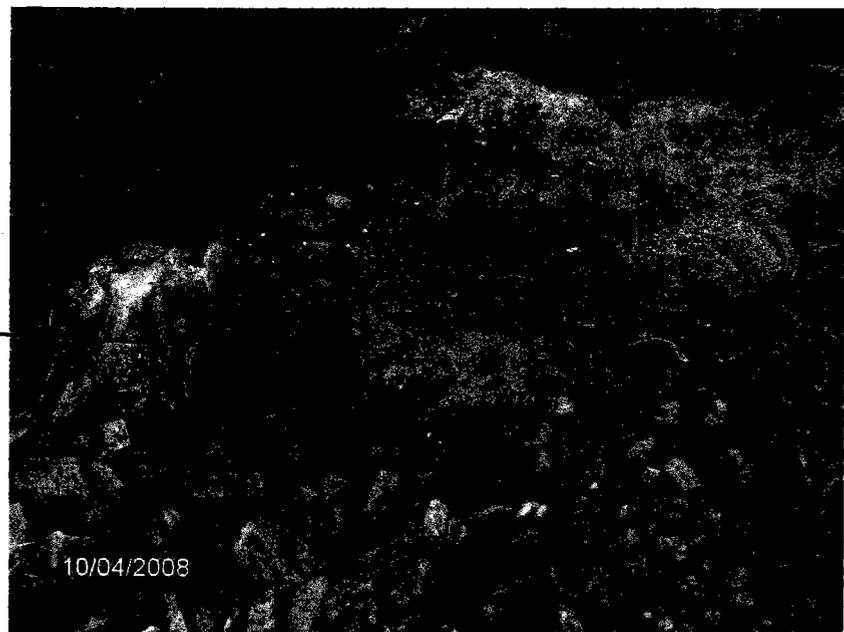
We also attempted to collect storm water samples from location S2. Sampling location S2 is located near the headscarp formed by the past slope failure near the base of stockpile 2 (see Figure 1 and photo below). At approximately 10:30AM, we were not able to collect storm water samples because there was no surface water flowing at sampling location S2.

Sampling
Location S2



At approximately 11:15AM we attempted to collect storm water samples at sampling location S3, located at the base of stockpile 4 (see photo below). As with the other sampling locations, we were not able to collect samples because there was no surface water flowing at this sampling location.

Sampling
Location S3



During our October 4, 2008 site visit we did not observe surface water on the site roadways or drainage swales. However, we did observe standing water up to 1 inch in depth in the level area adjacent to the mine portal.

March 1, 2009 Site Visit

We returned to the site on March 1, 2009 to perform additional storm water monitoring. We arrived at the site at approximately 2:30PM, at which time relatively high intensity rain was falling. The FRM weather station reported a storm total for this event of approximately 2¾ inches of rainfall.

As with previous attempts, we were not able to collect storm water samples because there was no surface water flowing at the sampling locations. However, we observed a small volume of water flowing in the drainage swales located on the site access road between Mosquito Ridge Road and the mine portal. We also observed a trickle of water in the drainage swales on the new haul road to wasterock stockpile 5 and standing water area adjacent to the mine portal.

Visual Monitoring

Based on our conversations with you, we understand that the mine operator performed visual monitoring during rainfall events at the site. The drainage swale located on the site access road was the only location where surface water runoff was observed during the 2008-2009 rainy season. The location is noted on the attached Figure 1.

Conclusions and Recommendations

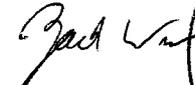
Based on our experience and site visits, our opinion is that the infiltration rate for the on-site soil/rock is relatively high and that surface water runoff at the toe of the wasterock stockpiles occurs relatively infrequently. Based on our site observations and monitoring performed during the 2008-2009 rainy season, we do not recommend revisions to the SWPPP.

We appreciate the opportunity to provide you with our services. If you have any questions regarding this letter, please feel free to contact us.

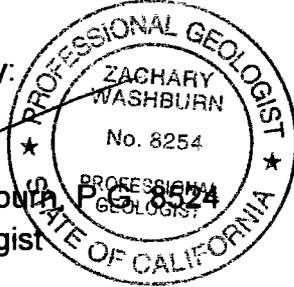
Sincerely,

HOLDREGE & KULL

Prepared by:



Zack Washburn
Staff Geologist



Reviewed by:



Robert Fingerson, G.E.
Senior Engineer



attachments: Figure 1 - Site Plan Showing Drainage and Physical Features

copies: 4 to Richard Sykora

F:\1 Projects\2890 Big Seam-Red Ink Mine\SWPPP\Monitoring\2009 monitoring rpt.doc

2008-2009

ANNUAL REPORT

SPECIFIC INFORMATION

MONITORING AND REPORTING PROGRAM

D. SAMPLING AND ANALYSIS EXEMPTIONS AND REDUCTIONS

1. For the reporting period, was your facility exempt from collecting and analyzing samples from two storm events in accordance with sections B.12 or 15 of the General Permit?

YES Go to Item D.2

NO Go to Section E

2. Indicate the reason your facility is exempt from collecting and analyzing samples from two storm events. Attach a copy of the first page of the appropriate certification if you check boxes ii, iii, iv, or v.

- i. Participating in an Approved Group Monitoring Plan

Group Name: _____

- ii. Submitted No Exposure Certification (NEC)

Date Submitted: _____

Re-evaluation Date: _____

Does facility continue to satisfy NEC conditions?

YES

NO

- iii. Submitted Sampling Reduction Certification (SRC)

Date Submitted: _____

Re-evaluation Date: _____

Does facility continue to satisfy SRC conditions?

YES

NO

- iv. Received Regional Board Certification

Certification Date: _____

- v. Received Local Agency Certification

Certification Date: _____

3. If you checked boxes i or iii above, were you scheduled to sample one storm event during the reporting year?

YES Go to Section E

NO Go to Section F

4. If you checked boxes ii, iv, or v, go to Section F.

E. SAMPLING AND ANALYSIS RESULTS

1. How many storm events did you sample? 0

If less than 2, attach explanation (if you checked item D.2.i or iii. above, only attach explanation if you answer "0").

2. Did you collect storm water samples from the first storm of the wet season that produced a discharge during scheduled facility operating hours? (Section B.5 of the General Permit)

YES

NO, attach explanation (Please note that if you do not sample the first storm event, you are still required to sample 2 storm events)

3. How many storm water discharge locations are at your facility? 3

4. For each storm event sampled, did you collect and analyze a sample from each of the facility's storm water discharge locations? YES, go to Item E.6 NO
5. Was sample collection or analysis reduced in accordance with Section B.7.d of the General Permit? YES NO, attach explanation
- If "YES", attach documentation supporting your determination that two or more drainage areas are substantially identical.
- Date facility's drainage areas were last evaluated _____
6. Were all samples collected during the first hour of discharge? YES NO, attach explanation
7. Was all storm water sampling preceded by three (3) working days without a storm water discharge? YES NO, attach explanation
8. Were there any discharges of stormwater that had been temporarily stored or contained? (such as from a pond) YES NO, go to Item E.10
9. Did you collect and analyze samples of temporarily stored or contained storm water discharges from two storm events? (or one storm event if you checked item D.2.i or iii. above) YES NO, attach explanation
10. Section B.5. of the General Permit requires you to analyze storm water samples for pH, Total Suspended Solids (TSS), Specific Conductance (SC), Total Organic Carbon (TOC) or Oil and Grease (O&G), other pollutants likely to be present in storm water discharges in significant quantities, and analytical parameters listed in Table D of the General Permit.
- a. Does Table D contain any additional parameters related to your facility's SIC code(s)? YES NO, Go to Item E.11
- b. Did you analyze all storm water samples for the applicable parameters listed in Table D? YES NO
- c. If you did not analyze all storm water samples for the applicable Table D parameters, check one of the following reasons:
- _____ In prior sampling years, the parameter(s) have not been detected in significant quantities from two consecutive sampling events. **Attach explanation**
- _____ The parameter(s) is not likely to be present in storm water discharges and authorized non-storm water discharges in significant quantities based upon the facility operator's evaluation. **Attach explanation**
- Other. **Attach explanation**
11. For each storm event sampled, attach a copy of the laboratory analytical reports and report the sampling and analysis results using Form 1 or its equivalent. The following must be provided for each sample collected:
- Date and time of sample collection
 - Name and title of sampler.
 - Parameters tested.
 - Name of analytical testing laboratory.
 - Discharge location identification.
 - Testing results.
 - Test methods used.
 - Test detection limits.
 - Date of testing.
 - Copies of the laboratory analytical results.

F. QUARTERLY VISUAL OBSERVATIONS

1. Authorized Non-Storm Water Discharges

Section B.3.b of the General Permit requires quarterly visual observations of all authorized non-storm water discharges and their sources.

a. Do authorized non-storm water discharges occur at your facility?

YES NO Go to Item F.2

b. Indicate whether you visually observed all authorized non-storm water discharges and their sources during the quarters when they were discharged. **Attach an explanation for any "NO" answers.** Indicate "N/A" for quarters without any authorized non-storm water discharges.

July -September YES NO N/A October-December YES NO N/A
 January-March YES NO N/A April-June YES NO N/A

c. Use **Form 2** to report quarterly visual observations of authorized non-storm water discharges or provide the following information.

- i. name of each authorized non-storm water discharge
- ii. date and time of observation
- iii. source and location of each authorized non-storm water discharge
- iv. characteristics of the discharge at its source and impacted drainage area/discharge location
- v. name, title, and signature of observer
- vi. **any new or revised BMPs necessary to reduce or prevent pollutants in authorized non-storm water discharges. Provide new or revised BMP implementation date.**

2. Unauthorized Non-Storm Water Discharges

Section B.3.a of the General Permit requires quarterly visual observations of all drainage areas to detect the presence of unauthorized non-storm water discharges and their sources.

a. Indicate whether you visually observed all drainage areas to detect the presence of unauthorized non-storm water discharges and their sources. **Attach an explanation for any "NO" answers.**

July -September YES NO October-December YES NO
 January-March YES NO April-June YES NO

b. Based upon the quarterly visual observations, were any unauthorized non-storm water discharges detected?

YES NO Go to item F.2.d

c. Have each of the unauthorized non-storm water discharges been eliminated or permitted?

YES NO **Attach explanation**

d. Use **Form 3** to report quarterly unauthorized non-storm water discharge visual observations or provide the following information.

- i. name of each unauthorized non-storm water discharge.
- ii. date and time of observation.
- iii. source and location of each unauthorized non-storm water discharge.
- iv. characteristics of the discharge at its source and impacted drainage area/discharge location.
- v. name, title, and signature of observer.
- vi. **any corrective actions necessary to eliminate the source of each unauthorized non-storm water discharge and to clean impacted drainage areas. Provide date unauthorized non-storm water discharge(s) was eliminated or scheduled to be eliminated.**

G. MONTHLY WET SEASON VISUAL OBSERVATIONS

Section B.4.a of the General Permit requires you to conduct monthly visual observations of storm water discharges at all storm water discharge locations during the wet season. These observations shall occur during the first hour of discharge or, in the case of temporarily stored or contained storm water, at the time of discharge.

1. Indicate below whether monthly visual observations of storm water discharges occurred at all discharge locations. Attach an explanation for any "NO" answers. Include in this explanation whether any eligible storm events occurred during scheduled facility operating hours that did not result in a storm water discharge, and provide the date, time, name and title of the person who observed that there was no storm water discharge.

	YES	NO		YES	NO
October	<input checked="" type="checkbox"/>	<input type="checkbox"/>	February	<input checked="" type="checkbox"/>	<input type="checkbox"/>
November	<input checked="" type="checkbox"/>	<input type="checkbox"/>	March	<input checked="" type="checkbox"/>	<input type="checkbox"/>
December	<input checked="" type="checkbox"/>	<input type="checkbox"/>	April	<input checked="" type="checkbox"/>	<input type="checkbox"/>
January	<input checked="" type="checkbox"/>	<input type="checkbox"/>	May	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. Report monthly wet season visual observations using Form 4 or provide the following information.
 - a. date, time, and location of observation
 - b. name and title of observer
 - c. characteristics of the discharge (i.e., odor, color, etc.) and source of any pollutants observed.
 - d. any new or revised BMPs necessary to reduce or prevent pollutants in storm water discharges. Provide new or revised BMP implementation date.

ANNUAL COMPREHENSIVE SITE COMPLIANCE EVALUATION (ACSCE)

H. ACSCE CHECKLIST

Section A.9 of the General Permit requires the facility operator to conduct one ACSCE in each reporting period (July 1-June 30). Evaluations must be conducted within 8-16 months of each other. The SWPPP and monitoring program shall be revised and implemented, as necessary, within 90 days of the evaluation. The checklist below includes the minimum steps necessary to complete a ACSCE. Indicate whether you have performed each step below. Attach an explanation for any "NO" answers.

1. Have you inspected all potential pollutant sources and industrial activities areas? YES NO
The following areas should be inspected:

- areas where spills and leaks have occurred during the last year.
- outdoor wash and rinse areas.
- process/manufacturing areas.
- loading, unloading, and transfer areas.
- waste storage/disposal areas.
- dust/particulate generating areas.
- erosion areas.
- building repair, remodeling, and construction
- material storage areas
- vehicle/equipment storage areas
- truck parking and access areas
- rooftop equipment areas
- vehicle fueling/maintenance areas
- non-storm water discharge generating areas

2. Have you reviewed your SWPPP to assure that its BMPs address existing potential pollutant sources and industrial activities areas? YES NO

3. Have you inspected the entire facility to verify that the SWPPP's site map, is up-to-date? The following site map items should be verified: YES NO

- facility boundaries
- outline of all storm water drainage areas
- areas impacted by run-on
- storm water discharges locations
- storm water collection and conveyance system
- structural control measures such as catch basins, berms, containment areas, oil/water separators, etc.

4. Have you reviewed all General Permit compliance records generated since the last annual evaluation? YES NO

The following records should be reviewed:

- quarterly authorized non-storm water discharge visual observations
- monthly storm water discharge visual observation
- records of spills/leaks and associated clean-up/response activities
- quarterly unauthorized non-storm water discharge visual observations
- Sampling and Analysis records
- preventative maintenance inspection and maintenance records

5. Have you reviewed the major elements of the SWPPP to assure compliance with the General Permit? YES NO

The following SWPPP items should be reviewed:

- pollution prevention team
- list of significant materials
- description of potential pollutant sources
- assessment of potential pollutant sources
- identification and description of the BMPs to be implemented for each potential pollutant source

6. Have you reviewed your SWPPP to assure that a) the BMPs are adequate in reducing or preventing pollutants in storm water discharges and authorized non-storm water discharges, and b) the BMPs are being implemented? YES NO

The following BMP categories should be reviewed:

- good housekeeping practices
- spill response
- employee training
- erosion control
- quality assurance
- preventative maintenance
- material handling and storage practices
- waste handling/storage
- structural BMPs

7. Has all material handling equipment and equipment needed to implement the SWPPP been inspected? YES NO

I. ACSCE EVALUATION REPORT

The facility operator is required to provide an evaluation report that includes:

- identification of personnel performing the evaluation
- the date(s) of the evaluation
- necessary SWPPP revisions
- schedule for implementing SWPPP revisions
- any incidents of non-compliance and the corrective actions taken.

Use Form 5 to report the results of your evaluation or develop an equivalent form.

J. ACSCE CERTIFICATION

The facility operator is required to certify compliance with the Industrial Activities Storm Water General Permit. To certify compliance, both the SWPPP and Monitoring Program must be up to date and be fully implemented.

Based upon your ACSCE, do you certify compliance with the Industrial Activities Storm Water General Permit?

YES NO

If you answered "NO" attach an explanation to the ACSCE Evaluation Report why you are not in compliance with the Industrial Activities Storm Water General Permit.

ATTACHMENT SUMMARY

Answer the questions below to help you determine what should be attached to this annual report. Answer NA (Not Applicable) to questions 2-4 if you are not required to provide those attachments.

- 1. Have you attached Forms 1,2,3,4, and 5 or their equivalent? YES (Mandatory) See *EXPLANATION*
- 2. If you conducted sampling and analysis, have you attached the laboratory analytical reports? YES NO NA
- 3. If you checked box II, III, IV, or V in item D.2 of this Annual Report, have you attached the first page of the appropriate certifications? YES NO NA
- 4. Have you attached an explanation for each "NO" answer in items E.1, E.2, E.5-E.7, E.9, E.10.c, F.1.b, F.2.a, F.2.c, G.1, H.1-H.7, or J? YES NO NA

ANNUAL REPORT CERTIFICATION

I am duly authorized to sign reports required by the INDUSTRIAL ACTIVITIES STORM WATER GENERAL PERMIT (see Standard Provision C.9) and I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those person directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Printed Name: Richard Sykora
Signature: *Richard Sykora* Date: 1 April 10
Title: Manager

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SIDE B

FORM 1-SAMPLING & ANALYSIS RESULTS

SECOND STORM EVENT

- If analytical results are less than the detection limit (or non detectable), show the value as less than the numerical value of the detection limit (example: <.05)
- If you did not analyze for a required parameter, do not report "0". Instead, leave the appropriate box blank
- When analysis is done using portable analysis (such as portable pH meters, SC meters, etc.), indicate "PA" in the appropriate test method used box.
- Make additional copies of this form as necessary.

NAME OF PERSON COLLECTING SAMPLE(S): _____ TITLE: _____ SIGNATURE: _____

DESCRIBE DISCHARGE LOCATION Example: NW Out Fall	DATE/TIME OF SAMPLE COLLECTION ____ AM ____ PM	TIME DISCHARGE STARTED ____ AM ____ PM	ANALYTICAL RESULTS For First Storm Event								
			BASIC PARAMETERS			OTHER PARAMETERS					
			pH	TSS	SC		O&G	TOC			
			<i>No Discharge event</i>								
			<i>Unable to Sample</i>								
TEST REPORTING UNITS:			pH Units	mg/l	umho/cm	mg/l	mg/l				
TEST METHOD DETECTION LIMIT:											
TEST METHOD USED:											
ANALYZED BY (SELF/LAB):											

TSS - Total Suspended Solids SC - Specific Conductance O&G - Oil & Grease TOC - Total Organic Carbon

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FORM 2-QUARTERLY VISUAL OBSERVATIONS OF AUTHORIZED
NON-STORM WATER DISCHARGES (NSWDs)

SIDE 1

- Quarterly dry weather visual observations are required of each authorized NSWD.
- Observe each authorized NSWD source, impacted drainage area, and discharge location.
- Authorized NSWDs must meet the conditions provided in Section D (pages 5-6) of the General Permit.
- Make additional copies of this form as necessary.

QUARTER: JULY-SEPT. DATE: _____	Observers Name: _____ Title: _____ Signature: _____ 	WERE ANY AUTHORIZED NSWDs DISCHARGED DURING THIS QUARTER? <input type="checkbox"/> YES <input type="checkbox"/> NO <small>If YES, complete reverse side of this form.</small>
QUARTER: OCT.-DEC. DATE: _____	Observers Name: _____ Title: _____ Signature: _____ 	WERE ANY AUTHORIZED NSWDs DISCHARGED DURING THIS QUARTER? <input type="checkbox"/> YES <input type="checkbox"/> NO <small>If YES, complete reverse side of this form.</small>
QUARTER: JAN.-MARCH DATE: _____	Observers Name: _____ Title: _____ Signature: _____	WERE ANY AUTHORIZED NSWDs DISCHARGED DURING THIS QUARTER? <input type="checkbox"/> YES <input type="checkbox"/> NO <small>If YES, complete reverse side of this form.</small>
QUARTER: APRIL-JUNE DATE: _____	Observers Name: _____ Title: _____ Signature: _____	WERE ANY AUTHORIZED NSWDs DISCHARGED DURING THIS QUARTER? <input type="checkbox"/> YES <input type="checkbox"/> NO <small>If YES, complete reverse side of this form.</small>

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SIDE A

FORM 3-QUARTERLY VISUAL OBSERVATIONS OF UNAUTHORIZED NON-STORM WATER DISCHARGES (NSWDs)

- Unauthorized NSWDs are discharges (such as wash or rinse waters) that do not meet the conditions provided in Section D (pages 5-6) of the General Permit.
- Quarterly visual observations are required to observe current and detect prior unauthorized NSWDs.
- Quarterly visual observations are required during dry weather and at all facility drainage areas.
- Each unauthorized NSWD source, impacted drainage area, and discharge location must be identified and observed.
- Unauthorized NSWDs that can not be eliminated within 90 days of observation must be reported to the Regional Board in accordance with Section A.10.e of the General Permit.
- Make additional copies of this form as necessary.

QUARTER: JULY-SEPT.	DATE/TIME OF OBSERVATIONS	Observers Name:	WERE UNAUTHORIZED NSWDs OBSERVED?	If YES to either question, complete reverse side.
	Sept 12 2:00 PM 08 P.M	Richard Sykes M Angeles	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
		Signature: <i>Richard Sykes</i>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
QUARTER: OCT.-DEC.	DATE/TIME OF OBSERVATIONS	Observers Name:	WERE UNAUTHORIZED NSWDs OBSERVED?	If YES to either question, complete reverse side.
	Dec. 10 3:00 PM 08		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
		Signature: _____	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
QUARTER: JAN.-MARCH	DATE/TIME OF OBSERVATIONS	Observers Name:	WERE UNAUTHORIZED NSWDs OBSERVED?	If YES to either question, complete reverse side.
	2-20 2:15 PM 09		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
		Signature: _____	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
QUARTER: APRIL-JUNE	DATE/TIME OF OBSERVATIONS	Observers Name:	WERE UNAUTHORIZED NSWDs OBSERVED?	If YES to either question, complete reverse side.
	3-16 2:30 PM 09		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
		Signature: _____	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

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SIDE B

FORM 3 QUARTERLY VISUAL OBSERVATIONS OF UNAUTHORIZED
NON-STORM WATER DISCHARGES (NSWDs)

OBSERVATION DATE (FROM REVERSE SIDE)	NAME OF UNAUTHORIZED NSWD EXAMPLE: Vehicle Wash Water	SOURCE AND LOCATION OF UNAUTHORIZED NSWD EXAMPLE: NW Corner of Parking Lot	DESCRIBE UNAUTHORIZED NSWD CHARACTERISTICS Indicate whether unauthorized NSWD is clear, cloudy, discolored, causing stains, contains floating objects or an oil sheen, has odors, etc.		DESCRIBE CORRECTIVE ACTIONS TO ELIMINATE UNAUTHORIZED NSWD AND TO CLEAN IMPACTED DRAINAGE AREAS. PROVIDE UNAUTHORIZED NSWD ELIMINATION DATE.
			AT THE UNAUTHORIZED NSWD SOURCE	AT THE UNAUTHORIZED NSWD AREA AND DISCHARGE LOCATION	
— <input type="checkbox"/> AM <input type="checkbox"/> PM					
— <input type="checkbox"/> AM <input type="checkbox"/> PM					
— <input type="checkbox"/> AM <input type="checkbox"/> PM					
— <input type="checkbox"/> AM <input type="checkbox"/> PM					
— <input type="checkbox"/> AM <input type="checkbox"/> PM					

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FORM 4-MONTHLY VISUAL OBSERVATIONS OF

SIDE A

STORM WATER DISCHARGES

- Storm water discharge visual observations are required for at least one storm event per month between October 1 and May 31.
- Visual observations must be conducted during the first hour of discharge at all discharge locations.
- Discharges of temporarily stored or contained storm water must be observed at the time of discharge.
- Indicate "None" in the first column of this form if you did not conduct a monthly visual observation.
- Make additional copies of this form as necessary.
- Until a monthly visual observation is made, record any eligible storm events that do not result in a storm water discharge and note the date, time, name, and title of who observed there was no storm water discharge.

Observation Date: <u>October 4, 2008</u>	#1	#2	#3	#4
Observers Name: <u>Richard Sybert</u>	S-1	S-2	S-3	
Title: <u>MANAGER</u>	3:30 P.M. <input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	3:50 P.M. <input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	2:00 P.M. <input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	
Signature: <u>[Signature]</u>	None YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	None YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	None YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
Time Discharge Began Were Pollutants Observed (if yes, complete reverse side)				
Observation Date: <u>November 6, 2008</u>	#1	#2	#3	#4
Observers Name: <u>Same</u>	S-1	S-2	S-3	
Title: _____	1:30 P.M. <input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	12:15 P.M. <input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	2:30 P.M. <input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	
Signature: _____	None YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	None YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	None YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
Time Discharge Began Were Pollutants Observed (if yes, complete reverse side)				
Observation Date: <u>December 16, 2008</u>	#1	#2	#3	#4
Observers Name: <u>Name</u>	S-1	S-2	S-3	
Title: _____	4:30 P.M. <input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	3:30 P.M. <input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	1:30 P.M. <input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	
Signature: _____	None YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	None YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	None YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
Time Discharge Began Were Pollutants Observed (if yes, complete reverse side)				
Observation Date: <u>January 20, 2009</u>	#1	#2	#3	#4
Observers Name: <u>Name</u>	S-1	S-2	S-3	
Title: _____	10:45 P.M. <input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	11:40 P.M. <input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	1:00 P.M. <input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	
Signature: _____	None YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	None YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	None YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
Time Discharge Began Were Pollutants Observed (if yes, complete reverse side)				

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SIDE B

FORM 4-MONTHLY VISUAL OBSERVATIONS OF
STORM WATER DISCHARGES

DATE/TIME OF OBSERVATION (From Reverse Side)	DRAINAGE AREA DESCRIPTION EXAMPLE: Discharge from material storage Area #2	DESCRIBE STORM WATER DISCHARGE CHARACTERISTICS Indicate whether storm water discharge is clear, cloudy, or discolored; causing staining; containing floating objects or an oil sheen, has odors, etc.	IDENTIFY AND DESCRIBE SOURCE(S) OF POLLUTANTS EXAMPLE: Oil sheen caused by oil dripped by trucks in vehicle maintenance area.	DESCRIBE ANY REVISED OR NEW BMPs AND THEIR DATE OF IMPLEMENTATION
<p>____</p> <p>___ <input type="checkbox"/> AM ___ <input type="checkbox"/> PM</p>				
<p>____</p> <p>___ <input type="checkbox"/> AM ___ <input type="checkbox"/> PM</p>		<p style="text-align: center;">N</p>		
<p>____</p> <p>___ <input type="checkbox"/> AM ___ <input type="checkbox"/> PM</p>		<p style="text-align: center;">A</p>		
<p>____</p> <p>___ <input type="checkbox"/> AM ___ <input type="checkbox"/> PM</p>				
<p>____</p> <p>___ <input type="checkbox"/> AM ___ <input type="checkbox"/> PM</p>				

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FORM 4 (Continued)-MONTHLY VISUAL OBSERVATIONS OF

SIDE A

STORM WATER DISCHARGES

- Storm water discharge visual observations are required for at least one storm event per month between October 1 and May 31.
- Visual observations must be conducted during the first hour of discharge at all discharge locations.
- Discharges of temporarily stored or contained storm water must be observed at the time of discharge.
- Indicate "None" in the first column of this form if you did not conduct a monthly visual observation.
- Make additional copies of this form as necessary.
- Until a monthly visual observation is made, record any eligible storm events that do not result in a storm water discharge and note the date, time, name, and title of who observed there was no storm water discharge.

Observation Date	Drainage Location Description	#1	#2	#3	#4
February 10 2009		S-1	S-2	S-3	
Observers Name <u>Richard Sykes</u>	Drainage Location Description				
Title <u>Manager</u>	Observation Time	<input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	<input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	<input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	<input type="checkbox"/> P.M. <input type="checkbox"/> A.M.
Signature <u>[Signature]</u>	Time Discharge Began	None	None	None	
	Were Pollutants Observed (If yes, complete reverse side)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
March 1 2009		S-1	S-2	S-3	
Observers Name <u>Same</u>	Drainage Location Description				
Title	Observation Time	<input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	<input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	<input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	<input type="checkbox"/> P.M. <input type="checkbox"/> A.M.
Signature	Time Discharge Began	None	None	None	
	Were Pollutants Observed (If yes, complete reverse side)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
April 1 2009		S-1	S-2	S-3	
Observers Name <u>Same</u>	Drainage Location Description				
Title	Observation Time	<input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	<input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	<input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	<input type="checkbox"/> P.M. <input type="checkbox"/> A.M.
Signature	Time Discharge Began	None	None	None	
	Were Pollutants Observed (If yes, complete reverse side)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
May 5 2009		S-1	S-2	S-3	
Observers Name <u>Same</u>	Drainage Location Description				
Title	Observation Time	<input type="checkbox"/> P.M. <input checked="" type="checkbox"/> A.M.	<input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	<input checked="" type="checkbox"/> P.M. <input type="checkbox"/> A.M.	<input type="checkbox"/> P.M. <input type="checkbox"/> A.M.
Signature	Time Discharge Began	None	None	None	
	Were Pollutants Observed (If yes, complete reverse side)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>

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SIDE B

FORM 4 (Continued)-MONTHLY VISUAL OBSERVATIONS OF
STORM WATER DISCHARGES

DATE/TIME OF OBSERVATION (From Reverse Side)	DRAINAGE AREA DESCRIPTION EXAMPLE: Discharge from material storage Area #2	DESCRIBE STORM WATER DISCHARGE CHARACTERISTICS Indicate whether storm water discharge is clear, cloudy, or discolored; causing staining; containing floating objects or an oil sheen, has odors, etc.	IDENTIFY AND DESCRIBE SOURCE(S) OF POLLUTANTS EXAMPLE: Oil sheen caused by oil dripped by trucks in vehicle maintenance area.	DESCRIBE ANY REVISED OR NEW BMPs AND THEIR DATE OF IMPLEMENTATION
<p>____</p> <p><input type="checkbox"/> AM <input type="checkbox"/> PM</p>	<p>_____</p>	<p>_____</p>	<p>_____</p>	<p>_____</p>
<p>____</p> <p><input type="checkbox"/> AM <input type="checkbox"/> PM</p>	<p>_____</p>	<p>_____</p>	<p>_____</p>	<p>_____</p>
<p>____</p> <p><input type="checkbox"/> AM <input type="checkbox"/> PM</p>	<p>_____</p>	<p>_____</p>	<p>_____</p>	<p>_____</p>
<p>____</p> <p><input type="checkbox"/> AM <input type="checkbox"/> PM</p>	<p>_____</p>	<p>_____</p>	<p>_____</p>	<p>_____</p>
<p>____</p> <p><input type="checkbox"/> AM <input type="checkbox"/> PM</p>	<p>_____</p>	<p>_____</p>	<p>_____</p>	<p>_____</p>

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SIDE A

FORM 5-ANNUAL COMPREHENSIVE SITE COMPLIANCE EVALUATION
POTENTIAL POLLUTANT SOURCE/INDUSTRIAL ACTIVITY BMP STATUS

EVALUATION DATE: 6-12-09 INSPECTOR NAME: Richard Sykora TITLE: M. Manager SIGNATURE: [Signature]

POTENTIAL POLLUTANT SOURCE/INDUSTRIAL ACTIVITY AREA (as identified in your SWPPP)	HAVE ANY BMPs NOT BEEN FULLY IMPLEMENTED?		If yes, to either question, complete the next two columns of this form	Describe deficiencies in BMPs or BMP Implementation	Describe additional/revised BMPs or corrective actions and their date(s) of implementation
	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>			
Rock Drainage Swail To Prevent Runoff Water from waste Runoff	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>			
	ARE ADDITIONAL/REVISED BMPs NECESSARY?				
	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>			
POTENTIAL POLLUTANT SOURCE/INDUSTRIAL ACTIVITY AREA (as identified in your SWPPP) Plastic Catch Basin under 55 gal. Fuel Tank	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>			
	ARE ADDITIONAL/REVISED BMPs NECESSARY?				
	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>			
POTENTIAL POLLUTANT SOURCE/INDUSTRIAL ACTIVITY AREA (as identified in your SWPPP) Generator, compressor protected frequently for damage hoses and leaking	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>			
	ARE ADDITIONAL/REVISED BMPs NECESSARY?				
	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>			
POTENTIAL POLLUTANT SOURCE/INDUSTRIAL ACTIVITY AREA (as identified in your SWPPP) Have Adequate supply of absorbent clean-up kits on site and off site and, if used will be disposed of properly	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>			
	ARE ADDITIONAL/REVISED BMPs NECESSARY?				
	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>			

ANNUAL REPORT

SIDE B

**FORM 5 (Continued)-ANNUAL COMPREHENSIVE SITE COMPLIANCE EVALUATION
POTENTIAL POLLUTANT SOURCE/INDUSTRIAL ACTIVITY BMP STATUS**

EVALUATION DATE: 6-12-09

INSPECTOR NAME: Richard Suterka TITLE: Manager

SIGNATURE: [Signature]

POTENTIAL POLLUTANT SOURCE/INDUSTRIAL ACTIVITY AREA (as identified in your SWPPP)	HAVE ANY BMPs NOT BEEN FULLY IMPLEMENTED? ARE ADDITIONAL/REVISED BMPs NECESSARY?	If yes, to either question, complete the next two columns of this form	Describe deficiencies in BMPs or BMP implementation	Describe additional/revISED BMPs or corrective actions and their date(s) of implementation
<p>POTENTIAL POLLUTANT SOURCE/INDUSTRIAL ACTIVITY AREA (as identified in your SWPPP)</p> <p><i>Fuel Tanks shall not be topped off when full.</i></p>	<p>HAVE ANY BMPs NOT BEEN FULLY IMPLEMENTED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>ARE ADDITIONAL/REVISED BMPs NECESSARY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p>	<p>If yes, to either question, complete the next two columns of this form</p>	<p>Describe deficiencies in BMPs or BMP implementation</p>	<p>Describe additional/revISED BMPs or corrective actions and their date(s) of implementation</p>
<p>POTENTIAL POLLUTANT SOURCE/INDUSTRIAL ACTIVITY AREA (as identified in your SWPPP)</p> <p><i>Drip pans are placed under equipment when maintenance occurs</i></p>	<p>HAVE ANY BMPs NOT BEEN FULLY IMPLEMENTED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>ARE ADDITIONAL/REVISED BMPs NECESSARY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p>	<p>If yes, to either question, complete the next two columns of this form</p>	<p>Describe deficiencies in BMPs or BMP implementation</p>	<p>Describe additional/revISED BMPs or corrective actions and their date(s) of implementation</p>
<p>POTENTIAL POLLUTANT SOURCE/INDUSTRIAL ACTIVITY AREA (as identified in your SWPPP)</p>	<p>HAVE ANY BMPs NOT BEEN FULLY IMPLEMENTED? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>ARE ADDITIONAL/REVISED BMPs NECESSARY? <input type="checkbox"/> YES <input type="checkbox"/> NO</p>	<p>If yes, to either question, complete the next two columns of this form</p>	<p>Describe deficiencies in BMPs or BMP implementation</p>	<p>Describe additional/revISED BMPs or corrective actions and their date(s) of implementation</p>
<p>POTENTIAL POLLUTANT SOURCE/INDUSTRIAL ACTIVITY AREA (as identified in your SWPPP)</p>	<p>HAVE ANY BMPs NOT BEEN FULLY IMPLEMENTED? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>ARE ADDITIONAL/REVISED BMPs NECESSARY? <input type="checkbox"/> YES <input type="checkbox"/> NO</p>	<p>If yes, to either question, complete the next two columns of this form</p>	<p>Describe deficiencies in BMPs or BMP implementation</p>	<p>Describe additional/revISED BMPs or corrective actions and their date(s) of implementation</p>

BMP INSPECTION CHECKLIST

Project Name Big Seem + Red Oak Road
Inspection Date 10-4-2008

Project No.: 2890-1

Storm Information

Beginning of storm event: 4: Am I Time elapsed since last event: _____
Duration of storm event: 5 hrs. ± Approx. rainfall amount: _____

Description of any inadequate BMPs

None observed

Observations of all BMPs (if possible)

Complete

Observations of discharge points (if possible)

also viewed S-1, S-2, S-3

Corrective Actions

2 small swales cleaned out

Inspected by: Richard S. Kora
Signed: [Signature]
Date: Oct. 4, 2008

BMP INSPECTION CHECKLIST

Project Name Big Seam + Red Ink Mail
Inspection Date Mar. 1, 2009

Project No.: 2890-1

Storm Information

Beginning of storm event: _____ Time elapsed since last event: _____
Duration of storm event: _____ Approx. rainfall amount: 2 3/4"

Description of any inadequate BMPs

None observed

Observations of all BMPs (if possible)

Complete

Observations of discharge points (if possible)

also viewed S-1, S-2, S-3

Corrective Actions

None Required

Inspected by: Richard Sykora
Signed: [Signature]
Date: Mar. 1, 2009

2008-2009

Explanations

Section E.4-10 and form 1- No discharge from facility site. All water percolates into the ground and does not run off of the site. Since no discharge event occurred (no rain event qualified for discharge), sampling was not possible.

Other Explanations:

US Forest Service HWY 96 has a culvert pipe running underneath it that has water running through it during some rain events. The water runs off of the road into this culvert but has not been identified as being related to this facility (see facility map).

Waste Discharge Monitoring
for years 2008-2009
Waste Dump # 5

1. Quantity Discharged - 80 YDS \pm MONTHLY
2. Estimated Quantity Discharged - 800 YDS. ANNUALLY
3. ESTIMATED Remaining Capacity 4300 YDS \pm

EXHIBIT W

Big Seam and Red Ink Mined Mining Claims
Appendix E
Response to Comment

Two comment letters were received including one from the Claimant, Mr. Richard Sykora, and one from James S. Pompy, Manager of Reclamation Unit, California Department of Conservation. Mr. Richard Sykora, submitted comments to the EA on July 8, 2004, 28 days following the end of the opportunity to comment period on the EA. The District Ranger chose to accept Mr. Sykora's comments.

Comment #1: Mr. Pompy identified items the state requires in the reclamation plan,
Response to Comment #1: The Forest Service (USFS), Tahoe National Forest, and the Foresthill Ranger District agree that the development of a single reclamation plan that meets both State and USFS requirements is desirable. However, the mining claimant has informed the Foresthill District Ranger (DR) and authorizing officer, that he is suing the State regarding SMARA applicability to his mining claim. The USFS will still require reclamation of the mining claim, and so takes into consideration the States detailed response in the reclamation plan that is a part of the Plan of Operations.

Comment #2: Mr. Pompy raised the concern of the potential for waste rock to generate acid rock drainage.

Response to Comment #2: The USFS has recognized the potential of acid rock drainage due to the nature of the rock that has been, and is being, removed from the mine that is now exposed to air and moisture. Since it is unknown if there is an acid drainage problem, [REDACTED] ed

[REDACTED] Upon results of the testing, if it is determined that there is acid rock drainage that would be a significant disturbance to surface resources, the Plan of Operations Conditions of Approval would be changed or modified under 36CFR228.4 (e).

Comment #3: Mr. Sykora asserts that this is a supplement to his Plan of Operations.

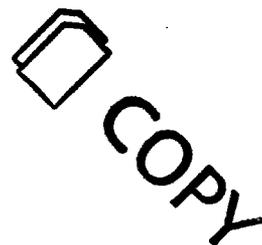
Response to Comment #3: The past and proposed mining activities authorized in the first Plan of Operations approved in 1987 has gone beyond the initial terms, conditions, and requirements authorized at that time. The claimant's most recent Plan of Operations, dated March 27, 2000 has gone beyond the expiration date of July 30, 2000. Thus, there is no authorized plan currently in effect. The claimant submitted a third proposed Plan of Operations on July 2, 2002. The 2002 Plan is evaluated in this EA and authorizes operations on the claim that although taking place at the same general area, include new and different mining activities than previously authorized. The EA, and Decision Notice (DN) and Finding of No Significant Impact (FONSI) will result in a new authorized Plan of Operations, as well as new terms and conditions that include the Appendix A's (BMP's and Mitigation Measures) from the EA. .

Comment #4: Mr. Sykora's comments indicate that his vision was that this EA was prepared to only evaluate Waste Area #5.

Response to Comment #4: This EA is not isolated to waste dump 5 because the claimant proposes the continued use of the existing portal and access road, and will need the new access

EXHIBIT X

February 29, 2008

 COPY

Pamela Creedon
Executive Officer
Water Quality Control Board
11020 Sun Center Dr. - Suite 200
Rancho Cordova, CA. 95670

Dear Pamela,

After a conversation with your office's front desk receptionist, please accept this as written formal notification that the mine's operations and any and all liability pertaining to all aspects of the Red Ink Maid and Big Seam mines have been transferred to, and accepted by, Wildcat Mining Enterprises L.L.C. on this date.

Please send all correspondence to the Wildcat Mining Enterprises L.L.C.'s main office at 711 So. Carson St. - Suite 4, Carson City, NV, 89701. California's contact person is Richard Sykora, Manager at P.O. Box 622 Foresthill, CA. 95631.

Sincerely,



Richard Sykora (Manager)

cc: Wildcat Mining Enterprises, L.L.C.
Red Ink Maid L.L.C.
Red Ink L.L.C.
Jessica Mining Co. L.L.C.

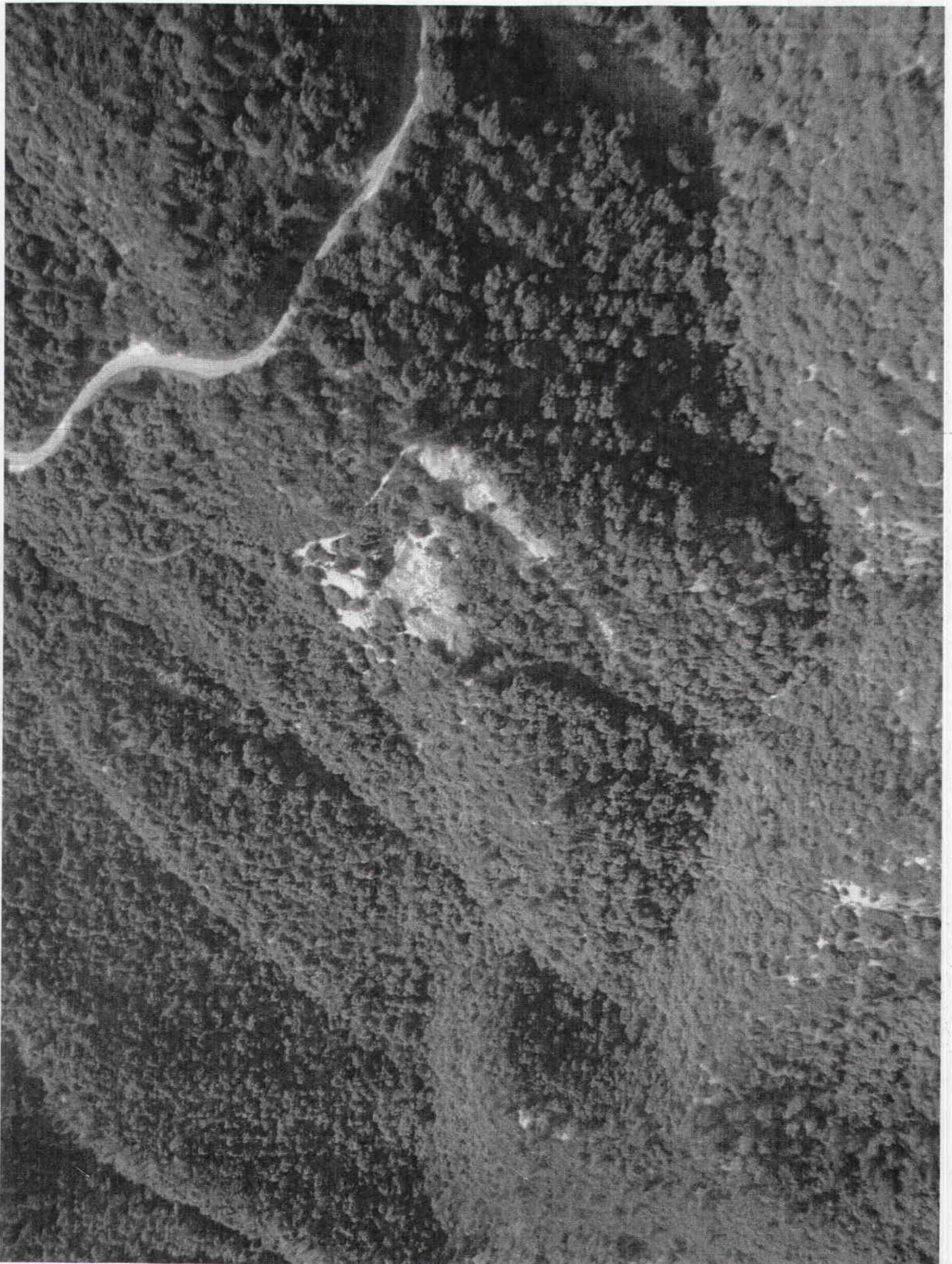
*Put in Mail
Today Feb 29, 2008
To Pamela
Creedon*

EXHIBIT Y



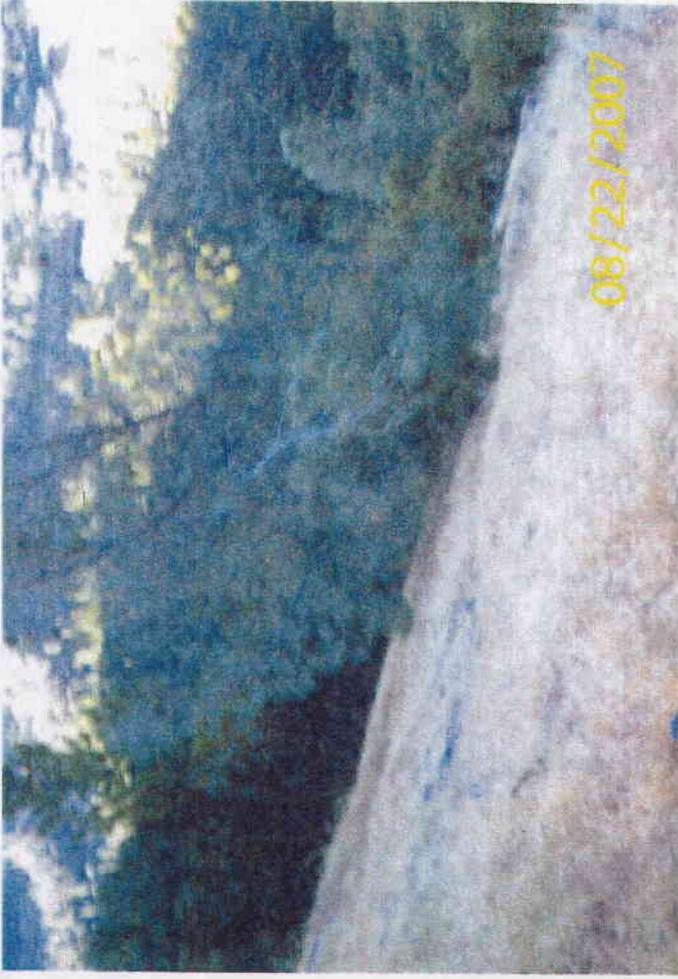
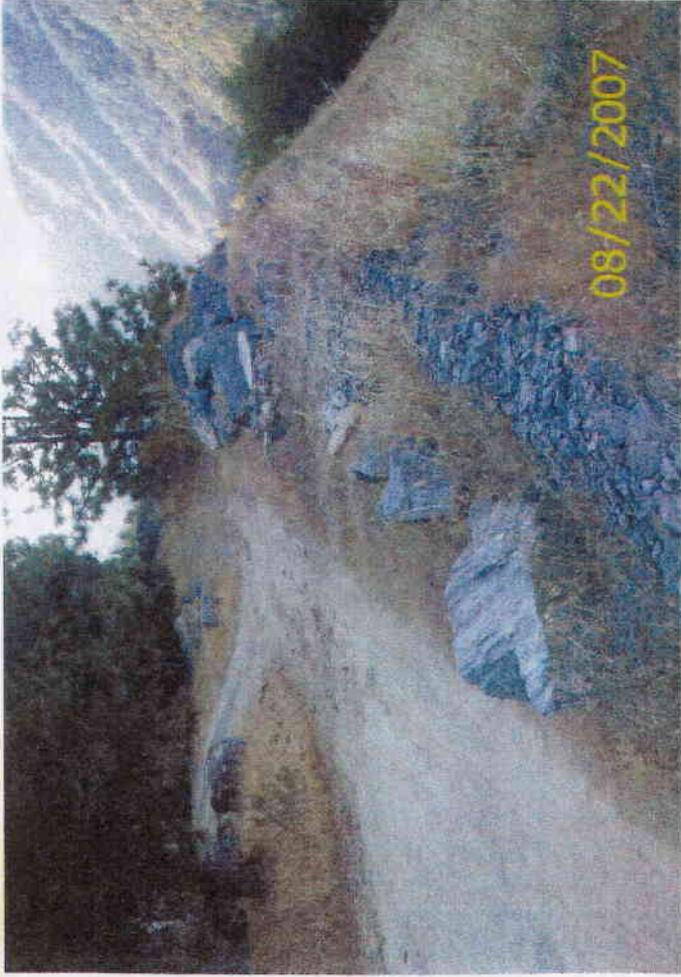
1. Date		Mo		Da		Yr		2. Event Number							
04		20		12		11		55668							
3. Served To								4. Operator							
Richard Lybica								Richard Lybica							
5. Mine								6. Mine ID							
Big Bear Mine								04-04928							
7. Violation		A. Section of Act						B. Part/Section of Title 30 CFR							
		E14						57.11001							
8. Type of Inspection		9. Primary or M/M													
Safety code		A													
10. Citation															
There was not a safe means of access															
the outer perimeter of dump site One															
and Two															
11. Signature															
Randy C. Lybica															

EXHIBIT z



STOCKPILE 1

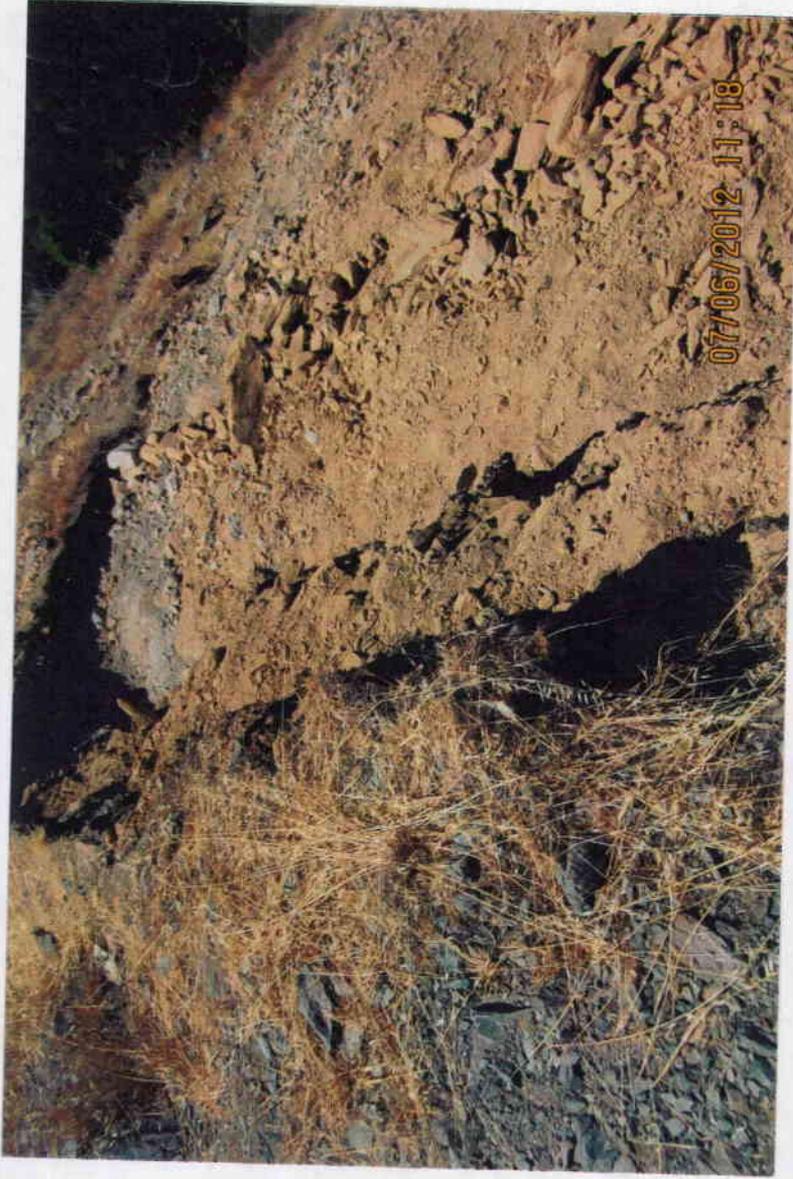
BEFORE - #1 ↘



↘ NOW - #1 ↓

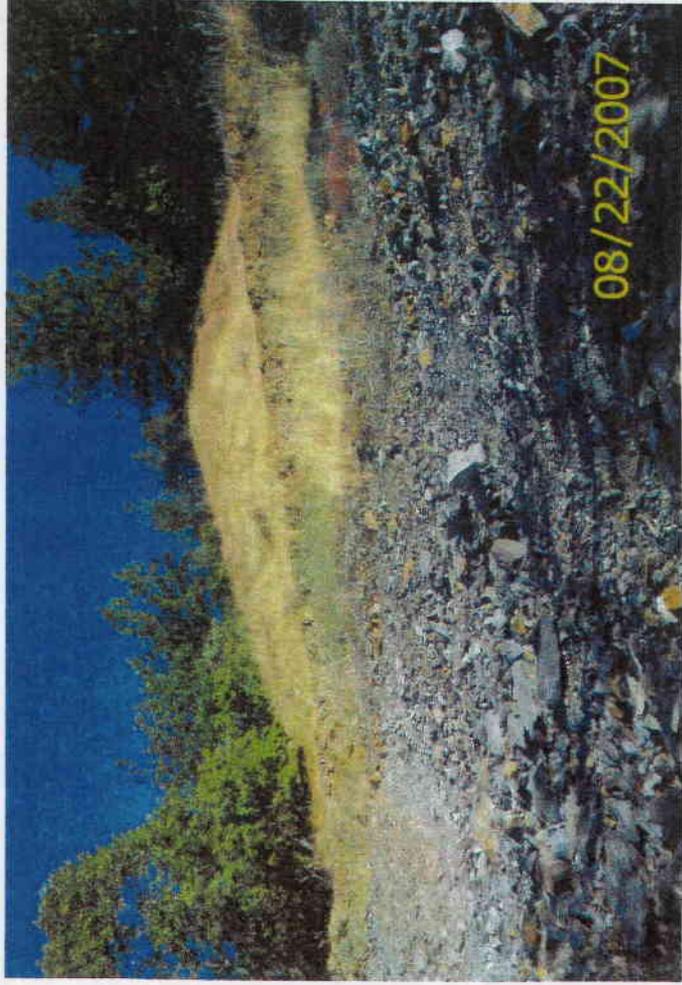


Now-#1
↑
→
↓



STOCKPILE 4

↓ Before - # 4 →



← Now - # 4 ↓

