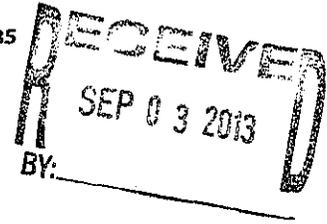


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August 30, 2013

VIA E-MAIL: vizzo@waterboards.ca.gov
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Victor Izzo
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

**Re: Corona and Twin Peaks Mine Remediation Project
Comments on Remediation Work Plan**

Dear Mr. Izzo:

We represent the James Creek Valley Land Company, LLC ("JCVLC"), the owner of property located adjacent to and downstream of the properties on which the defunct Corona and Twin Peaks Mines are located. JCVLC is deeply concerned with the untreated and unpermitted discharges of acid mine drainage that for years have flowed from the mine adit known as the Corona Drainage Tunnel Portal or the Lower Corona Mine Adit (hereafter "Corona Mine Adit") to the surface waters of Kidd Creek, a tributary of James Creek, in violation of applicable water quality objectives.

The owner of the Corona and Twin Peaks Mines properties, the Corona/Twin Peaks Historical Association, LLC ("CTPHA"), is responsible for taking whatever actions are necessary to evaluate potential remedial alternatives to treat or otherwise dispose of the acid mine drainage from the Corona Mine Adit and to implement appropriate remedial measures to prevent further ongoing violations of water quality objectives. In the absence of such actions by the property owner, JCVLC supports the goals of Tueloyme's proposed remediation project. However, JCVLC has two fundamental concerns with the Tuleyome's Remediation Work Plan ("Work Plan"): (1) the proposed subsurface chemical amendment system that is intended to reduce metal loadings from the Corona Mine Adit to surface waters is an innovative technology that is unlikely to be effective in improving water quality; and (2) the project includes a number of activities, such as improving existing infiltration trenches and revegetation of mine waste piles, that will diminish the limited available funds but have little or no beneficial impact on water quality.

The draft resolution to adopt the Mitigated Negative Declaration (“MND”) and approve the Work Plan contains a proposed finding by the Central Valley Regional Water Quality Control Board (“Regional Board”) “that the Remediation Plan will substantially improve water quality affected by abandoned mine waste.” JCVLC respectfully submits that there is no evidence, much less substantial evidence, in the record to support this proposed finding. In particular, with respect to the proposed subsurface chemical amendment system, the MND repeatedly notes that “if successful” or “if effective,” the system will improve water quality above the existing baseline conditions. *See, e.g.*, MND at 1.2, 2.4, 2.6, 2.44. Yet, the MND includes no evaluation of the likelihood that the proposed system will actually be effective.

As you may know, the California Department of Fish and Wildlife (“DFW”), which has provided grant funding for Tuleyme’s proposed project, stated in a May 31, 2013 letter that there have been “[r]adical changes in the project description including a switch to a treatment technology previously not reviewed during the technical evaluation of the proposal.” The Regional Board staff presumably has the expertise to evaluate the technical aspects of the proposed subsurface chemical amendment system, and its likelihood of success, but there is no indication in the MND that staff has performed such an evaluation or that the questions raised by DFW’s letter regarding this technology have been addressed. JCVLC requests that the staff report on this matter, which we expect will be prepared for the October hearing before the Regional Board, include the staff’s technical evaluation of the proposed subsurface chemical amendment system and assessment of the likelihood that the system will be effective in improving the quality of the acid mine drainage discharges from the Corona Mine Adit.

The draft resolution to adopt the MND and approve the Work Plan contains a proposed finding that the remediation plan satisfies the requirements of Water Code Section 13398.3. Although the proposed Work Plan addresses each of the statutory requirements, it is clear that the Work Plan is deficient in at least two respect.

First, Water Code Section 13398.3(h) requires that a remediation plan include: “[a] budget and identified funding to pay for the implementation of the plan.” However, the Work Plan notes only that, in 2011, “Tuleyme was awarded a three-year, \$1.5 million dollar grant by the [DFW’s] Ecosystem Restoration Program to address drainage waters from the Corona and Twin Peaks Mines in northwest Napa County.” While the Work Plan identifies a source of funding, it fails to acknowledge that Tuleyme has already expended a considerable portion of the grant funds on various studies, including the evaluation of potential remedial approaches, and to prepare the proposed Work Plan and MND. JCVLC requests that the Work Plan be revised to state how much of the \$1.5 million in grant funds remain available to implement the Work Plan.

Moreover, a statement of the amount of funds available does not constitute a budget. To comply with Section 13398.3(h), the Work Plan should be revised to include a budget showing how much of the remaining grant funds will be used to perform each of the various tasks specified in the Work Plan (*i.e.*, mine waste consolidation and stabilization, revegetation of mine waste piles, improvement to existing infiltration trenches, implementation of the subsurface chemical amendment system, etc.) The budget should also show how much of the funds will be used to develop and implement an operations, maintenance, and monitoring plan, which is a

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required mitigation measure with respect to Hydrology and Water Quality, "to measure the long-term sustainability and effectiveness of the project treatment systems." MND at 2.46.

Second, Water Code Section 13398.3(k) requires that a remediation plan include "[a] description of the remediating agency's legal right to enter and conduct remedial activities." The Work Plan states that "Tuleyome has entered into an access agreement with Corona and Twin Peaks Historical Association, LLC, the property owner." However, the access agreement included as Attachment IV to the Work Plan was entered into effective February 1, 2012, between Tuleyome and the former, now deceased, property owner John S. Livermore, "an individual."

In August 2012, Mr. Livermore created the CTPHA, and in September 2012, he transferred title to the properties on which the Corona and Twin Peaks Mines are located to CTPHA. Thus, the February 2012 access agreement entered into by Mr. Livermore as an individual, and now deceased former owner, does not give Tuleyome the legal right to enter the subject properties and conduct remedial activities. In that regard, we note that DFW, in its May 31, 2013, correspondence, also raised questions regarding the death of the former landowner and change of land ownership that do not appear to have been addressed. If Tuleyome has entered into an access agreement with CTPHA, such an agreement should be included as an attachment to the Work Plan.

Conclusion

JCVLC appreciates that the primary goal of Tuleyome's project is to reduce metal loadings from the Corona Mine Adit to surface waters, but is concerned that the limited available grant funds will be expended on an innovative technology that will not achieve that goal and on other ancillary activities that will have little or no beneficial impact on water quality. For these reasons, JCVLC looks forward to reviewing the requested Regional Board staff technical evaluation of the proposed subsurface chemical amendment system and assessment of the likelihood that the system will be effective.

On behalf of JCVLC, thank you for your consideration.

Sincerely,



Marc A. Zeppetello

MAZ/fmc

cc: Via U.S. Mail
Gordon Atkinson, Esq., Corona/Twin Peaks Historical Association, LLC
Bob Schneider, Tuleyome
Mike Lozeau, Esq.