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November 2, 2007

Via Facsimile and Mail.

Kenneth Landau
Dave Carlson
James D. Marshall
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, California 95670

Re: Meridian Beartrack Company, Royal Mountain King Mine
Tentative Draft Waste Discharge Requirements Order and NPDES Permit

Dear Messrs. Landau, Carlson and Marshall:

This letter contains the joint comments of Meridian Beartrack Company ("Meridian") and California Sportfishing Protection Alliance ("CSPA") on the tentative draft NPDES permit issued by the Central Valley Regional Water Quality Control Board ("Regional Board") on October 2, 2007 for the Royal Mountain King Mine ("RMKM") site. Although these comments are printed on Farella stationary, they are submitted on behalf of both entities and are signed by the attorneys for both entities.

We realize that it is unusual for the Regional Board to receive joint comments from a proposed discharger and CSPA for a particular permit. However, as part of the settlement of an earlier lawsuit relating to storm water issues, these two entities agreed to engage in a collaborative process designed to discuss and attempt to resolve issues that may arise relating to the proposed NPDES permit for the RMKM site. We have each engaged experts, prepared reports, held meetings and actively engaged in discussions regarding the permit issues.

We can report that this innovative process has been successful. Meridian and CSPA have now agreed that five terms should be added to the proposed permit and/or the supporting fact sheet and we jointly request that the Regional Board incorporate them into these documents. If all of the terms are incorporated, the parties will have successfully resolved their differences regarding this NPDES permit. If not, the parties have reserved all of their potential rights relating to the permit issuance.



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As you might expect, Meridian and CSPA have different viewpoints regarding the legal necessity for these permit changes. Meridian believes that neither the Clean Water Act nor the Porter-Cologne Water Quality Control Act requires that these terms be included, while CSPA believes that additional terms beyond the five proposed terms are legally required. Regardless of these differences, the parties have agreed to jointly advocate for these changes to be made in the final NPDES permit. Moreover, the parties jointly request that, if the Board agrees with our proposed incorporation of these five terms into the final permit, it consider putting this permit on the “uncontested matter” portion of the Board agenda at the upcoming meeting.

Meridian and CSPA are each also submitting a separate comment letter to preserve the parties’ separate objections to the draft permit’s terms in the event that the Regional Board decides not to accept the parties’ proposed amendments. If the Regional Board believes the jointly submitted proposed amendments and fact sheet changes (as distinguished from the parties’ separate comments) are appropriate and amends the permit/fact sheet accordingly, and with the exception of any unforeseen substantive changes to the permit that either Meridian or CSPA finds objectionable, both parties agree that they will not pursue any administrative or other appeal of the initial RMKM permit issuance.

With this preface, Meridian and CSPA request that the following five provisions be incorporated into the RMKM permit and/or fact sheet:

- 1. TDS Mass-Based Effluent Limitation:** The parties request that the Regional Board add a mass-based effluent limitation for TDS of 3000 tons “per year” (which would apply to each water year – August through July – rather than to each calendar year) in Table 6 of the permit at Section IV.A.1.a. This limitation was calculated on the basis of an expected RMKM discharge to meet permit requirements during an extremely wet year.
- 2. Dissolved Oxygen Effluent Limitation:** The parties request that the Regional Board modify the instantaneous minimum effluent limitation for dissolved oxygen to be 7.0 mg/L in Table 6 of the permit at Section IV.A.1.a.
- 3. Nitrate Limitation:** The parties request that the Regional Board add an effluent limitation for nitrate as N of 5.0 mg/liter for the short term and 3.0 milligrams/liter for the long term in Table 6 of the permit at Section IV.A.1.a. To implement this agreement, the parties request that the Regional Board add an effluent limitation for nitrate as N of 5.0 mg/L as a maximum daily concentration in Table 6 of the permit at Section IV.A.1.a and then add a footnote which specifies: “Effective 1 November 2007 or when the water level in Skyrocket Pit Lake drops below 955 feet amsl, whichever is sooner, the effluent limitation for nitrate as N shall be 3.0 mg/L.” The



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monitoring program does not need to be updated as effluent monitoring for nitrate is already incorporated at a frequency consistent with other constituents of concern. Please note that this is a “negotiated” number which Meridian is voluntarily willing to include in the permit and, from Meridian’s viewpoint, it is not required by law. Likewise, CSPA is willing to agree to the proposed limits despite its belief that an even lower nitrate limit is required to implement various Basin Plan narrative standards and to limit the contribution of nutrients to the impaired San Joaquin River downstream. Accordingly, the parties request that inclusion of this standard be justified on the basis of Meridian’s expected performance, best professional judgment based on the discharger’s potential contribution to downstream water quality concerns, and the site-specific agreement of the parties and not as a limitation specifically required by anti-degradation or narrative water quality standards. We would be willing to work with you further regarding potential fact sheet language.

4. **Mixing Zone Study:** The proposed permit requires Meridian to prepare a Mixing Zone Study and submit it to the Regional Board within six months of the adoption of the Order. The parties request that, in the fact sheet supporting the permit, the following sentence be added: “Meridian has agreed to provide the Mixing Zone Study to California Sportfishing Protection Alliance for comment at least 20 days prior to submittal of this Study to the Regional Water Board.”

5. **Updated Best Available Technology Economically Achievable Study:** Meridian has agreed with CSPA to prepare an updated Best Available Technology Economically Achievable study during this permit term that could be utilized for the next NPDES permit for this site. This study would be prepared 3-4 years after permit issuance, so that it can take into account any advances in salinity treatment technology that occur in the next few years and it would be submitted with Meridian’s Report of Waste Discharge for the future renewal of the current permit. This study is not intended to be utilized for, or to reopen or modify, the current NPDES permit – rather, the study is specifically intended to provide updated information that can be utilized in the next permitting round. Meridian also will not be deemed, by performing the study, to be admitting or advocating the need for any further technological controls at this site. The parties request that the following language be added to Section C.2 of the permit to incorporate this agreement:

“Best Available Technology Economically Achievable. Discharger shall conduct an updated Best Available Technology Economically Achievable Study (BAT Study) applying the criteria set forth in the applicable federal regulations. The BAT Study shall review existing treatment technologies available to the Discharger, taking into account new developments in salinity



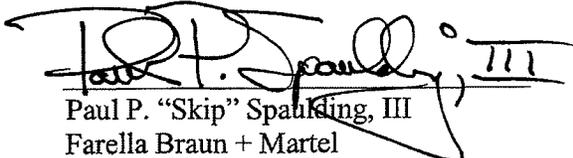
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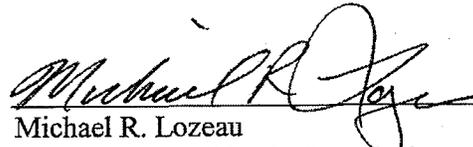
and other pollutant control technologies. Discharger shall submit the BAT Study with its application for renewal of the Permit as set forth in Section ___ of the Permit.”

The parties also request that, in the fact sheet supporting the permit, the following sentences be added: “Meridian shall provide a BAT analysis as part of its permit renewal application pursuant to Section ___ of the Permit. Meridian has agreed to provide the BAT Study to California Sportfishing Protection Alliance for comment at least 30 days prior to submittal of this Study to the Regional Water Board.”

Please feel free to contact the undersigned if you have any questions or comments relating to these provisions.

Sincerely,


Paul P. “Skip” Spaulding, III
Farella Braun + Martel
Attorneys for Meridian Beartrack
Company


Michael R. Lozeau
Attorney for California Sportfishing
Protection Alliance

cc: Mr. Edgar Smith
Bill Jennings
Darlene Ruiz, Esq.
Mr. Ian Hutchison
Mr. Tom Patterson