

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.

- 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, waddies, 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-raping, 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 wattles.

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 possibly 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
BEST MANAGEMENT PRACTICES**

September 2000

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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.

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

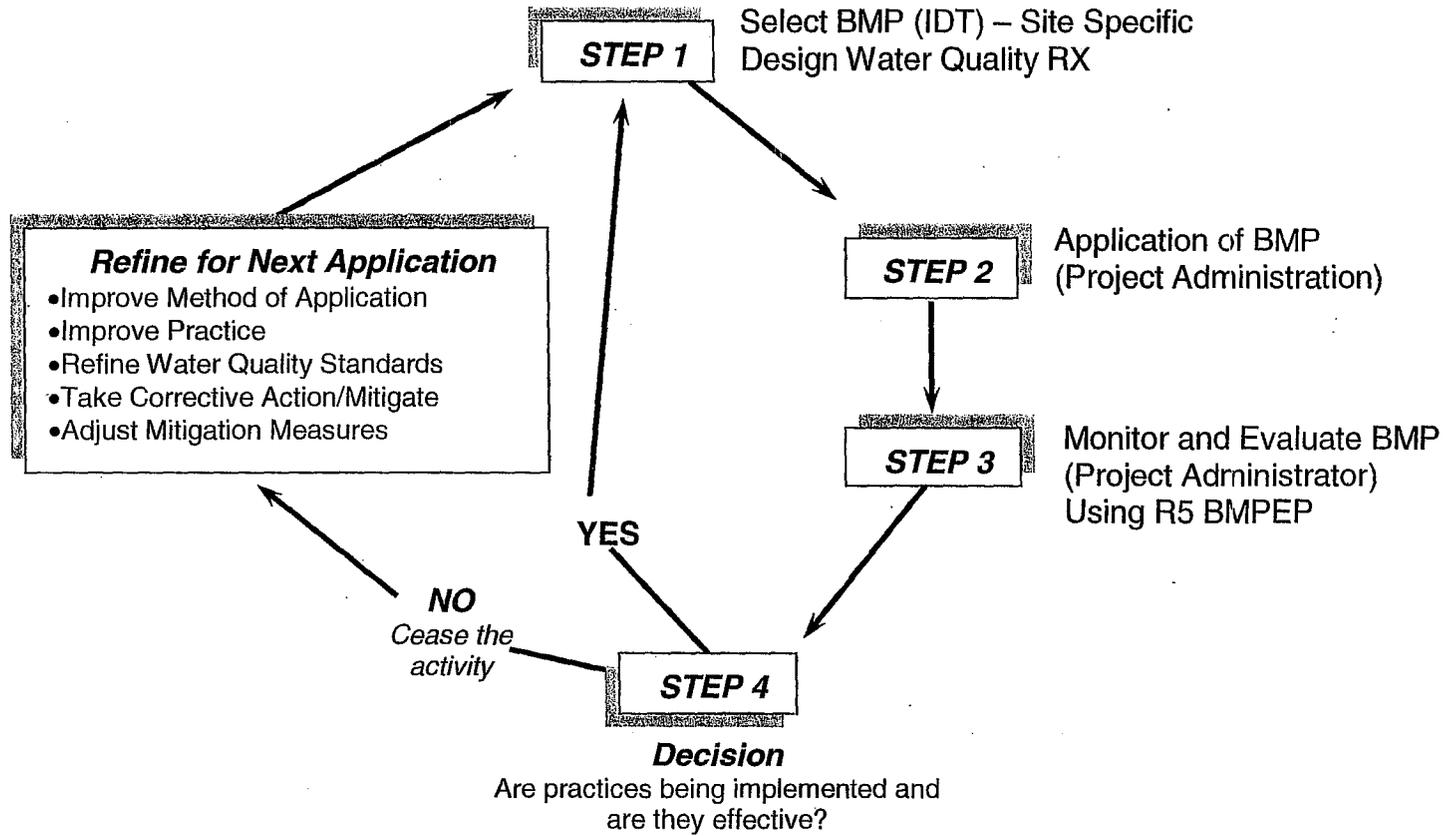


Figure 1: Iterative Process of Non-Point Pollution Control

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.

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 conveyance. - 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 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 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

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 301-541
Operator

FORESTHILL RANGER DISTRICT
TAHOE NATIONAL FOREST
PLACER COUNTY, CALIFORNIA

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.

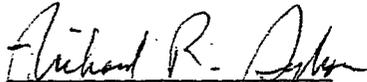
7. Scenic Values

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.

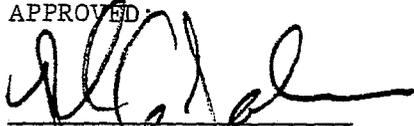
ACCEPTED:


RICHARD R. SYKORA

Operator

3-19-93
Date

APPROVED:


RICHARD A. JOHNSON

District Ranger

3-23-93
Date

MINE SURFACE DIAGRAM

EXHIBIT B

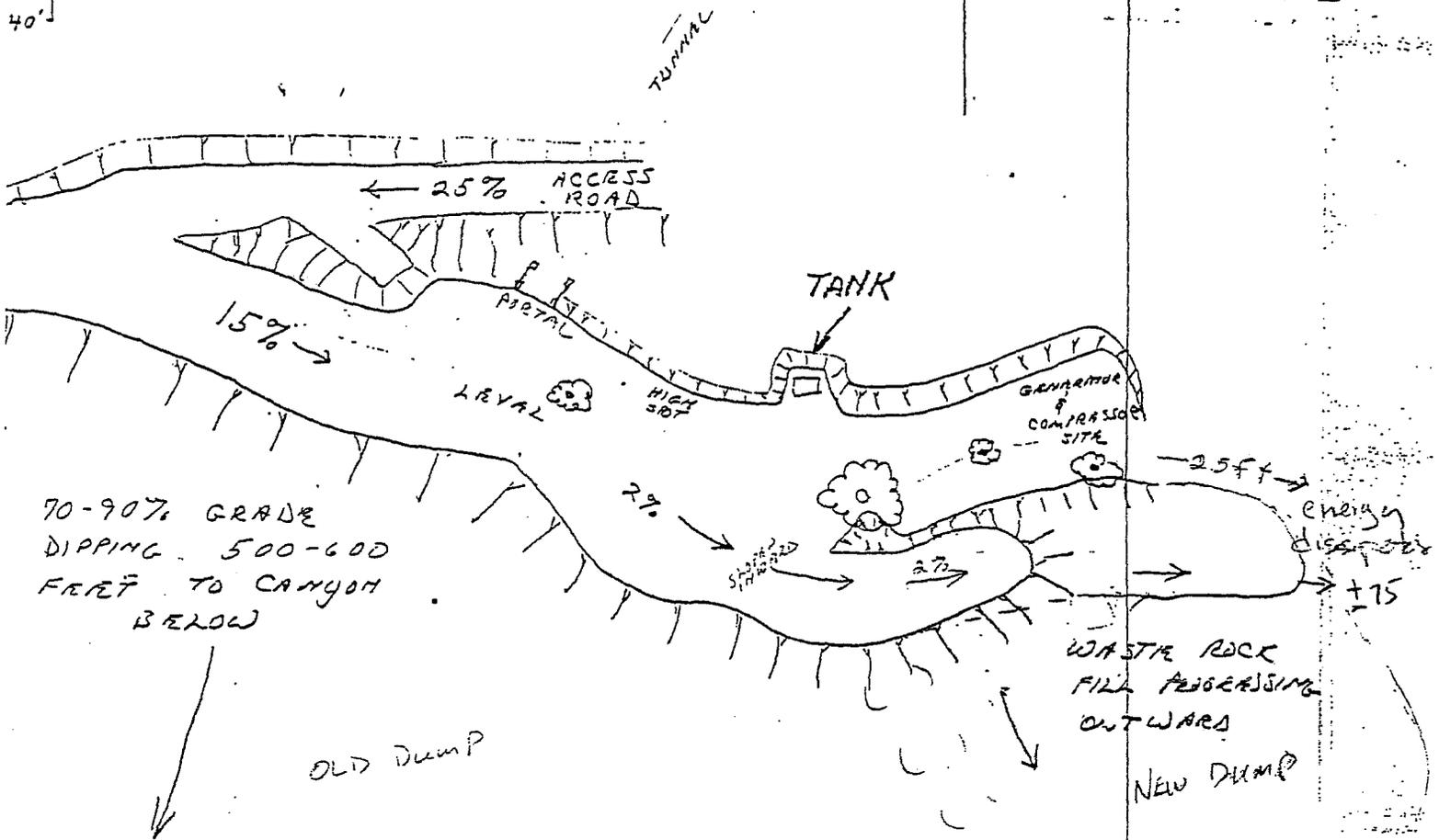
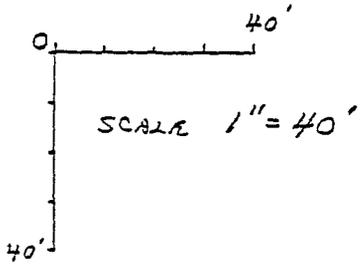


EXHIBIT E

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.

A handwritten signature in dark ink, appearing to read "George Arnold Inouye", is written over the typed name and title.

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:

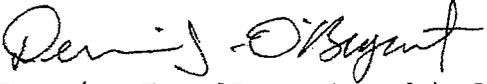
Enclosed please find an Order of Recision for the Administrative Penalty (Case No. 91-31-7001-94A) previously issued by our office.

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

IN THE MATTER OF
RICHARD SYKORA

MINING OPERATION
RED INK MAID AND BIG SEAM CLAIMS

AGENT
RICHARD SYKORA

) NOTICE AND ORDER RESCINDIN
) ADMINISTRATIVE PENALTY
) CASE NO. 91-31-7001-94A

YOU ARE HEREBY GIVEN NOTICE THAT:

1. The Notice and Order Imposing Administrative Penalty to Richard Sykora, issued by the Department of Conservation's Office of Mine Reclamation, and dated September 2, 1994, (Case No. 91-37-7001-94A) is hereby rescinded. No penalties or amounts included in the Order are payable or due to the Department of Conservation.

If you have any questions regarding this Order, please contact my office at (916) 323-9198.

9/30/94
Date

Dennis J. O'Bryant
DENNIS J. O'BRYANT
Office of Mine Reclamation

DJO/cs

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.

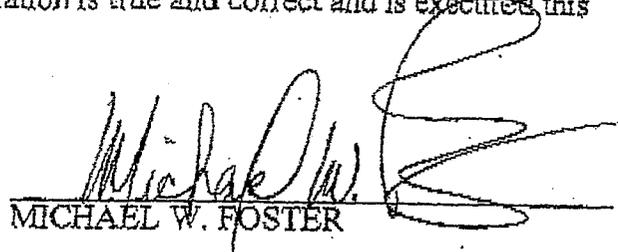
16
17
18 
MICHAEL W. FOSTER

EXHIBIT H

Assemblyman
Tim Leslie

Memo

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

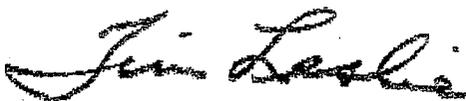
Mr. Secretary:

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

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

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
9-21-06*

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

STAE

[REDACTED]

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. FARRISH: 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.

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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.

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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

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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).

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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

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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

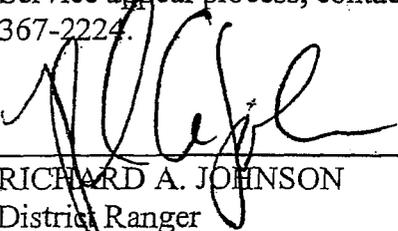
This decision is subject to appeal in accordance with 36 CFR 215. An appeal may only be filed by persons, organization, or entities that have submitted substantive comments during the comment period (36 CFR 215.6), pursuant to 36 CFR 215.13 (herein 215.xx). Appeals must be filed 45 days following the 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

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