Searles Valley Minerals

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November 11, 2010

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Dear Ms. Townsend:

Re: Draft Policy for Toxicity Assessment and Control

Searles Valley Minerals (SVM) writes to express concerns about the State Water Resources Control Board's (SWRCB) Draft Policy for Toxicity Assessment and Control (Policy). The Policy allows case-by-case exceptions as long as the "exception will not compromise protection of ... inland surface waters for beneficial uses..." SVM believes that if the Policy is approved as written, the facility will not be able to continue operation under the specified requirements because the beneficial use designations assigned to Searles Dry Lakebed, a saline lake, are REC-1, REC-2, SAL, and WILD.

SMV's feed brines, pumped from beneath the surface of Searles Dry Lake, contain 200,000 mg/L to 400,000 mg/L total dissolved solids (TDS). The Bureau of Land Management requires SVM to maintain the integrity of the brine resource by returning the partially depleted brine to the lakebed. The return brine, or effluent, from SVM's facility contains 150,000 mg/L to 350,000 mg/L TDS. In 2001, a study to obtain adequate data from both process brine and ephemeral waters at Searles Dry Lake to compare the composition and evaluate the similarities of these waters was done in cooperation with the Lahontan Regional Water Quality Control Board. One objective of the study was to determine if any of the ephemeral water ponds are statistically different from the process brine return pond. The findings from the comparison of ephemeral waters to the process brine indicate that though the ephemeral ponds are different from the process brine, the ephemeral ponds contained water with total dissolved solids concentrations higher than concentrations found in process brine. A comparison between the ephemeral ponds and the brine return ponds also showed this to be the case for arsenic, boron, selenium and tungsten. IMC Chemicals, Inc. "Report of Compaison of Searles Dry Lake Ephemeral and Process Ponds Brine Composition" Kennedy/Jenks Consultants, 15 June 2001. Clearly, neither SVM's effluent brine discharges nor the surface waters at Searles Dry Lake would pass a toxicity test in accordance with 40 CFR 136.3.

The Draft Policy for Toxicity Assessment and Control would require the SWRCB and Regional Boards to impose numeric toxicity objectives to Searles Dry Lake and to SVM's effluent discharges. Because the Trona hydrogeologic basin is a closed basin and the native brine, either prior to or after beneficiation, will not support any of the test species, this does not seem to be a prudent policy for this location. The beneficial use designation for groundwater at Searles Dry Lake is Industrial Process Supply, and the nearest source of drinking water is some 25 miles to the east in the Indian Wells Valley.

I spoke to Brian Ogg at the SWRCB by phone in July and was advised to wait until the final draft came out to make comments. Mr. Ogg explained that the SWRCB is hesitant to put specific exclusions in the Policy, and that SVM will probably have to take it up with our regional board when the time comes. SVM will, of course, work with the Lahontan Regional Board; however, we believe SWRCB should be aware of the potential impact of the Policy. If the Policy does not contain a site-specific exclusion for Searles Dry Lake, or language similar to the 2005 Policy that allows Regional Boards to pursue other approaches to achieve the applicable criterion whenever it determines it is appropriate to do so, it will seriously threaten SVM's ability to operate.

Thank you for the opportunity to comment on the draft Policy. Please do not hesitate to contact me if you have any questions. I can be reached by phone at 760-372-2118 or by e-mail at kirchner@svminerals.com.

Sincerely,

Denise Kirchner