

February 12, 2008

DELIVERED BY EMAIL

Ms. Diana Messina
Senior Engineer
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Subject: Comments on Tentative Waste Discharge Requirements from Lazarus Mining LLC for the Klondike, Dutch, and Telegraph Tunnel Mines, Sierra County

Dear Ms. Messina:

Robertson-Bryan, Inc. is submitting the attached comments on behalf of Lazarus Mining LLC. Lazarus Mining LLC appreciates the opportunity to provide comments on the Tentative Waste Discharge Requirements, which are provided in Attachment A. We look forward to discussing these comments with you at our meeting, scheduled for 1:00 pm on February 13, 2008 at your office.

If you have any questions regarding these comments, please do not hesitate to call me at (916) 714-1802, or Mr. Patrick Fagen at (530) 541-8492.

Sincerely,

ROBERTSON-BRYAN, INC.



Michael Bryan, Ph.D.
Partner/Principal Scientist

cc:

Mr. Patrick Fagen, Lazarus Mining LLC

Attachment A: Comments on Tentative WDRs

Attachment A

COMMENTS
ON
TENTATIVE WASTE DISCHARGE REQUIREMENTS
FOR
LAZARUS MINING LLC
KLONDIKE, DUTCH, AND TELEGRAPH TUNNEL MINES
TAHOE NATIONAL FOREST

February 12, 2008

I. General Comments

In general the Order needs to be expanded to include planned changes to the facility and operations scheduled for spring 2008. Lazarus Mining LLC intends to rehabilitate the portals and underground at both sites and then begin limited mining and on-site milling similar to the previously permitted Klondike operations.

Issuance of a renewed NPDES permit for drainage only will not facilitate near-term planned operations of Lazarus Mining LLC and, therefore, is of little utility to Lazarus Mining LLC or the Regional Water Board. At a minimum, we believe that the mining operations permitted under the previous Order (for Klondike California Mining Corporation) be carried forward in this Order. If this Tentative permit cannot be modified in a timely manner to accommodate planned mining operations, we recommend the permit be pulled from the March 2008 Board hearing to provide the time needed to make such changes before the permit is adopted. This may represent the most efficient approach for both Lazarus Mining LLC and the Regional Water Board.

II. Specific Comments

KEY PERMIT/TSO ISSUES AND COMMENTS

p. 2 II. A. Background. “Despite requests from....” Needs to be changed to show that the requests were only made to the USFS and not Lazarus Mining LLC. Lazarus Mining LLC never received any notice and does not want the record to misrepresent non-compliance in this manner.

p. 3 II. D. Background and Rationale for Requirements. Since there was never an application submitted, this statement is incorrect and, therefore, needs to be modified appropriately.

p. 3. The permit states:

“Currently mining operations are not being conducted; however tunnel drainage from the Dutch and Telegraph tunnels continues to be discharged. Re-initiating operations at the site is being considered by the current mining claimant. However this Order does not address discharges from any mining activities. If the Discharger desires to initiate operations, in accordance with Standard Provision V.A (Attachment D), the Discharger

must furnish the data and information necessary for the Regional Water Board to determine whether cause exists for modifying, revoking and reissuing the Order to ensure proper regulation of discharges from the proposed mining activities.”

Need to discuss whether this Order needs to permit the mining activities covered by the previous permit for this facility.

Findings

p. 2, A. Background. This section should be expanded to clarify the status of the Facility with respect to permitting. This section states that the “Discharger is currently discharging without a permit.” But, later sections (e.g., p. 8 first paragraph, p. F-4, section B.) reference previous Order No. 98-119. Providing additional background on the permitting history would clarify the relationship of this previous order to current activities.

Also, who was the ROWD requested from? If previous mine claimant, then such information needs to be clarified and presented accurately.

p. 3, B. Facility Description. The first full sentence should read, “The Telegraph Tunnel discharges directly into Goodyears Creek approximately 2,500 feet upstream from the ~~other two tunnels~~ unnamed tributary.” A similar change is needed on p. F-4, Section II.A.

p. 10 Table 6 and section c. Footnote 1 for this table states: “based on a design flow of 0.30 mgd.” Section C., below, states:

“c. Average Daily Discharge Flow. The average daily discharge flow shall not exceed 0.30 mgd.”

First, if this permit is only permitting mine drainage, then “design flow” terminology is not appropriate (see also p. F-3). Second, the old permit stated: “The average dry weather May through October discharge flow shall not exceed 0.30 mgd” (see p. 4). We request this same language in this permit. (see also p. F-12 and Tables F-4 and F-7).

p. 11, pH: On October 25, 2007, the Regional Water Board adopted Basin Plan amendments for pH and 0-5 NTU turbidity objectives (see Resolution No. R5-2007-0136). In its adopting Resolution, the Board made the following findings.

- “6. The current water quality objectives for pH and turbidity, which are not supported by current science regarding the effects of pH and low-level turbidity on beneficial uses, create regulatory compliance problems for some municipal wastewater treatment plants.
7. The current pH objectives both maintain pH within a safe range (6.5 to 8.5) and limit changes from background conditions within that safe range. The 1986 U. S. Environmental Protection Agency (USEPA) Quality Criteria for Water does not limit the amount of change when the pH ranges from 6.5 to 9, which is generally considered a safe range for freshwater aquatic life. There are no known aquatic life impacts when pH varies but is maintained within the safe range.”

Moreover, the current Basin Plan language for implementing the pH objective states:

“In determining compliance with the water quality objective for pH, appropriate averaging periods may be applied provided that beneficial uses will be fully protected.”

Based on the Regional Water Board’s adoption of the Basin Plan amendment for pH, which removes the 0.5-unit pH restriction completely, and its findings justifying this amendment (see Resolution No. R5-2007-013 and supporting Staff report at http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/ph_turbidity/ph_turbidity_staff_report.pdf), it is appropriate to apply the 0.5-unit change component of the current objective on an annual, rather than 30-day basis. Doing so, along with the requirement to maintain pH between 6.5 and 8.5 at all times, would provide for conditions that would be fully protective of beneficial uses. As such, the Discharger requests that the pH limitation in the draft permit be changed to read as follows:

“8. **pH.** The pH to be depressed below 6.5, raised above 8.5, nor the annual average changed by more than 0.5 units.”

Provisions

A. Standard Provisions. It would appear that much of the language here is not applicable to this discharge, particularly language such as:

p. 13. “a. If the Discharger’s wastewater treatment plant is publicly owned

p. 15. “ii. Upon written request by the Regional Water Board the Discharger shall submit a written description of safeguards. Such safeguards may include alternate power sources, standby generators,

The same comment is made for all of Section D – Standard Provisions of the Tentative permit.

p. 17. B. Monitoring and Reporting Program (MRP) Requirements. This section states:

“2. This permit, and the MRP which is part of this permit, requires that certain parameters be monitored on a continuous basis. The Facility is not staffed on a full time basis. Permit violations or system upsets can go undetected during this period. The Discharger is required to establish an electronic system for operator notification for continuous recording device alarms. For existing continuous monitoring systems, the electronic notification system shall be installed **within 6 months of adoption** of this permit. For systems installed following permit adoption, the notification system shall be installed simultaneously.”

This may not be warranted because only flow is monitored continuously, and there is not control on the drainage rate. Also, there are no power or phone lines to the site. The site will be manned until inaccessible by snow.

p. 20, b. Priority Pollutant Study. It does not make sense to require a Priority Pollutant Study on the mine drainage alone. If the planned mining operations, which are anticipated to be similar to

those that occurred under the previous permit held by Klondike California Mining Corporation were permitted under this Order, then conducting such a study would make sense because data would be gathered on mine discharge quality under normal, long-term operations. Conducting such an expensive study before normal mining operations are in place is unwarranted and would likely need to be repeated when mining operations were occurring. If mining operations are not to be included in this Order (as currently written), then Lazarus Mining LLC requests that the Priority Pollutant Study requirement be removed from this order and included in a future order that does permit mining operations.

Attachment B-2. The discharge points are not accurately located on the map.

Attachment E – Monitoring and Reporting Program

p. E-3, V.A.4. Methods. The Discharger requests the following modification to ensure that the most current analytical methods are implemented:

“The acute toxicity testing samples shall be analyzed using EPA-821-R-02-012, Fifth Edition and its subsequent amendments or revisions.”

p. E-4, V.B.5. Methods. The Discharger requests the following modification to ensure that the most current analytical methods are implemented:

“The presence of chronic toxicity shall be estimated as specified in *Short-term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Waters to Freshwater Organisms, Fourth Edition*, EPA/821-R-02-013, October 2002 and its subsequent amendments or revisions.”

Fact Sheet

p. F-6 D. Compliance Summary. These “Notice of Violations” were issued to Klondike California Mining Corporation and, therefore, are not appropriate to be included in a permit issued to Lazarus Mining LLC. We request that they be removed from the permit.

p. F-17 Satisfaction of the Antidegradation Policy. Based on findings here, coupled with fact that “...this Order does not address discharges from any mining activities,” it does not make sense to require a Priority Pollutant Study on the mine drainage alone. Rather, the planned mining operations, which are anticipated to be similar to those that occurred under the previous permit held by Klondike California Mining Corporation, need to be permitted under this Order or, alternatively, the Priority Pollutant Study should be required after this permit is reopened and modified to accommodate planned mining operations. (see also Section B.2. p. F-19).