



United States
Department of
Agriculture

Forest
Service

Tahoe
National
Forest

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File Code: 2810

Date: November 30, 2011

The Honorable Tom McClintock
United States House of Representatives
428 Cannon House Office Building
Washington, DC 20515-0504

Dear Congressman McClintock:

I'm writing this letter in response to inquiries and discussions between your staff and the Forest Service, as well as to the document titled "Resolution" (Enclosure 1) that your staff delivered to the Tahoe National Forest on September 30, 2011. The issue centers on Mr. Richard Sykora and his Red Ink Maid and Big Seam unpatented mining claims located within the American River Ranger District on the Tahoe National Forest.

As discussed with your staff and reiterated by Regional Forester Randy Moore in his letter to you dated November 28, 2011 (Enclosure 2), the Environmental Protection Agency (EPA) has delegated authority to the State of California to regulate water quality and water pollution in California under the Clean Water Act. The Regional Water Quality Control Boards (RWQCBs) make the determination on whether to issue waste discharge requirements (WDRs) for mining operations on National Forest System (NFS) lands. This is consistent with State law and regulation, as well as the 1981 Management Agency Agreement, Best Management Practices for mining. The Forest Service is complying with Federal and State law and the 1981 MAA by not limiting the authority of the RWQCB in carrying out their legal responsibilities for management or regulation of water quality.

Mr. Sykora was issued WDRs for his Red Ink Maid/Big Seam mining operations (R5-2007-0181), which detail compliance requirements for which Mr. Sykora is responsible. The WDRs include a provision to comply with Monitoring and Reporting Program (MRP) No. R5-2007-0181. The Forest Service has been informed by the State that Mr. Sykora is currently not in compliance with his WDR No. R5-2007-0181 or his MRP No. R5-2007-0181 for the Red Ink Maid /Big Seam mining operations. Mr. Sykora must pay annual WDR fees, and the RWQCB has determined that Mr. Sykora failed to make his annual payments. Mr. Sykora is also responsible for annual monitoring reports, which are not current.

In regards to Mr. Sykora's reclamation plan for the Red Ink Maid and Big Seam mines, the Forest Service has not taken responsibility for the reclamation of waste dumps #1-4. A letter from Mr. Ted Rel of the Placer County Community Development Resource Agency dated November 8, 2010 (Enclosure 3), mistakenly characterizes the Forest Service's statements in an October 21, 2009, letter (Enclosure 4) from the District Ranger to Mr. Rel of Placer County. The Ranger's comments were limited to Mr. Sykora's responsibilities to the Forest Service at that



time based on the terms and conditions in Mr. Sykora's then Plan of Operations. No statement in that letter alters or changes Mr. Sykora's obligations and responsibilities for his reclamation plan issued under California's Surface Mining and Reclamation Act (SMARA). The Forest Service cannot speak for the County or the State regarding Mr. Sykora's compliance with his reclamation plan under SMARA or absolve Mr. Sykora of his obligations for compliance with his reclamation plan under SMARA.

In addition, the Forest Service has been informed by the State that Mr. Sykora is in noncompliance with his reclamation plan approved under SMARA for the Red Ink Maid Mine (additionally known as the Red Ink Maid and Big Seam mining claims). The Forest Service and the Office of Mine Reclamation (OMR) have separate and independent statutory and regulatory authorities to regulate a mining operator's reclamation on NFS lands. In 1992, the Forest Service and the State entered into a Memorandum of Understanding (MOU) to coordinate the agencies' regulation of mining reclamation on NFS lands. Under the MOU, the SMARA lead agency has the principal responsibility for approving a reclamation plan and the enforcement of a mining operator's compliance with SMARA on federal lands. Our understanding is that the OMR has taken the SMARA lead agency role from Placer County on the Red Ink Maid Mine. On August 11, 2011, the OMR sent Mr. Sykora a Notice of Violation for failure to comply with his reclamation plan.

As stated above, Mr. Sykora is subject to all applicable federal, state and local regulatory requirements for his mining operations on federal lands and is personally required to operate in compliance with all applicable regulatory requirements; this includes compliance with the RWQCB WDRs and Orders, and OMR SMARA requirements. The Forest Service does not have the authority to direct State agencies on how to regulate under State law or how to apply state law requirements for mining operations.

If you have any additional questions or would like to discuss this matter further, please contact me at (530) 478-6202.

Sincerely,

/s/ Tom Quinn
TOM QUINN
Forest Supervisor

cc: Daniel Jiron
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