NATURAL RESOURCES AGENCY

EDMUND G. BROWN, JR., GOVERNOR

DEPARTMENT OF CONSERVATION

Managing California's Working Lands

OFFICE OF MINE RECLAMATION

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June 27, 2011

Via Certified Mail: 7010 2780 0000 4951 1894
Via email: mjohnson@placer.ca.gov

Mr. Michael Johnson, Director
Community Development Resource Agency
County of Placer
3091 County Center Drive, Suite 120
Auburn, CA 95603

Dear Mr. Michael Johnson:

15-DAY NOTICE OF SURFACE MINING AND RECLAMATION ACT (SMARA) NON-COMPLIANCE, RED INK MAID MINE, CA MINE ID #91-31-0020, COUNTY OF PLACER

The purpose of this letter is to notify the County of Placer (County) of violations of the Surface Mining and Reclamation Act of 1975 (SMARA) at the Red Ink Maid Mine. The County of Placer is the SMARA lead agency for this surface and underground mine, which is operated by Mr. Richard Sykora at Wildcat Mining Enterprises, LLC.

Reclamation Plan Violations

The Red Ink Maid mine is out of compliance with its reclamation plan. This operation has been issued a Notice of Violation (NOV) from the Central Valley Regional Water Quality Control Board (RWQCB) dated March 23, 2010 for violations of Waste Discharge Requirements (WDRs) Order No. R5-2007-0181 (enclosed), violations that have not been resolved. According to this mine's approved reclamation plan (PMPB 2005 0399), specifically under condition of approval No. 4, all reclamation activities on-site shall comply with any regulations and requirements of the RWQCB.

Further, the mine's landowner, the United States Department of Agriculture, Forest Service, in their July 19, 2010 letter (enclosed), stated they will not approve the proposed plan of operations for this mine, or permit the operator to conduct any mining operations on National Forest System lands, until Mr. Sykora meets the conditions required by the Forest Service and Waste Discharge Order No. R5-2007-0181.

These two notices, one from the Regional Water Quality Control Board and the other from the US Forest Service, document failure of the mine operator to follow SMARA performance standards for stream, surface and groundwater protection as required by the Federal Clean Water Act (CCR Section 3710(a)). Failure to comply with federal and state

clean water laws constitutes a violation of the reclamation plan and of SMARA reclamation standards. Therefore this surface mining operation is in violation of its lead agency-approved reclamation plan.

There are other violations of the reclamation plan, specifically at waste dumps #1 through #4. At the time of our inspection, there was insufficient topsoil, and no pocket planting locations, or test plots present; an insufficient number of young ponderosa pine trees, and no young oaks, were present; an insufficient amount of native grass species were present; most vegetation present was non-native; star thistle and rush skeleton weeds were abundant and appeared to be unmanaged; there were no weed mats, mulch or rice straw present (page 6 of reclamation plan requirements); and, vegetation was not found to have met the 80% coverage required performance standards stated on page 6 of the reclamation plan.

Finally, landfill #5 does not have a gabion basket retaining wall present at the base as required on page 3 of the reclamation plan.

Financial Assurance Mechanism

The Office of Mine Reclamation (OMR) is aware, based on a telephone conversation with the County on June 7, 2011, that Wells Fargo Bank has issued a Notice of Non-Extension dated April 20, 2011 of the surface mining operation's financial assurance Letter of Credit No. NZS605567. According to the notice, the Letter of Credit, and, thus, the financial assurance for this mine, will expire on December 1, 2011, and will not be extended for any additional period. Public Resources Code (PRC) Section 2773.1(a)(2) provides that the financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed. This potential loss of the mine operation's financial assurance will constitute a violation of SMARA if not remedied by the mine operator and the County before its expiration.

PRC Section 2773.1(b) provides that if the lead agency determines that a mine operator has abandoned its surface mining operation or is financially incapable of performing reclamation, following a public hearing, it shall take appropriate action pursuant to PRC Section 2773.1(b) to seize the financial assurance for the purposes of reclamation. Although the lead agency has primary responsibility for seeking forfeiture of the financial assurance, forfeiture proceedings may be initiated by the Department of Conservation (Department), per PRC Section 2773.1(d), but only after the lead agency has been notified in writing for at least 15 days and has not taken appropriate measures to seek forfeiture.

Appropriate Enforcement

PRC Section 2774.1 provides that, if the lead agency or the Director of the Department determines that a violation of SMARA has occurred, either may notify the mine operator of the violation by personal service or certified mail. If the violation extends beyond 30 days after the date of the notification, the lead agency or the Department may issue an order requiring the operator to comply with SMARA. Although the lead agency has primary responsibility for enforcing SMARA, enforcement actions may be initiated by the

Department, but only after the lead agency has been notified in writing of the violation for at least 15 days and has not taken appropriate enforcement action.

Pursuant to PRC Section 2774.1, this letter serves as official notice to the County that, unless appropriate action is taken to cause the operator to correct the violations noted above and come into compliance with SMARA, the Department will take such action as it deems appropriate to enforce SMARA. Pursuant to California Public Resources Code (PRC) Section 2773.1(d), this letter also notifies you that unless Placer County takes appropriate enforcement measures, including the renewal, or forfeiture of, the financial assurance for the Red Ink Maid Mine, 91-31-0020, the Department of Conservation, Office of Mine Reclamation will initiate its own appropriate enforcement measures.

Appropriate action required by this notice means that within 15 days of the receipt of this notice, the County shall, at a minimum, issue a notice of violation to require the mine operator to:

1. Comply with its approved reclamation plan, particularly Condition #4 regarding waste discharge requirements, and perform reporting and monitoring per the RWQCB's NOV dated March 23, 2010;
2. Remedy the specific reclamation plan violations noted above at waste dumps #1-5; and,
3. Replace and update the financial assurance mechanism for which Wells Fargo Bank has provided a Notice of Non-renewal.

This 15-day notice is based on a review of all of the information available to OMR at this time. If Placer County has additional information to disclose demonstrating that appropriate enforcement action has been taken or is not warranted, please forward it to OMR within 15 days.

If you have any questions regarding this notice, please contact me at (916) 323-9198.

Sincerely,

Kenneth E. Trott, Manager
Reporting, Compliance and Review Unit

cc: Ted Rel, Engineer, County of Placer
Rick Weaver, Tahoe National Forest, property owner of record.
Richard Sykora, Wildcat Mining Enterprises, LLC.
Jeff Huggins, CA RWQCB
Mike Luksic, OMR
Stephen M. Testa, State Mining and Geology Board

Enclosures: March 23, 2010 RWQCB NOV to Richard Sykora
July 19, 2010 USDA letter to Richard Sykora

Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board
Central Valley Region
Katherine Hart, Chair

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
http://www.waterboards.ca.gov/centralvalley

Arnold
Schwarzenegger
Governor

23 March 2010

CERTIFIED MAIL No.
7006 2150 0000 7086 8396

Richard Sykora
P.O. Box 622
Forest Hill, CA 95631

NOTICE OF VIOLATION

RED INK MAID AND BIG SEAM MINING CLAIMS, PLACER COUNTY

Richard Sykora (Discharger) is in violation of Waste Discharge Requirements (WDRs) Order No. R5-2007-0181 and Monitoring and Reporting Program (MRP) No. R5-2007-0181 for the Red Ink Maid and Big Seam Mining Claims in Placer County. The violations are specifically:

1. Discharge Specification B.6 of the WDRs requires the following:

   "*Waste dumps #1-4 shall be fully reclaimed by **30 October 2009**. Reclamation measures such as hydroseeding or hydromulching that establish self-sustaining plant cover to control erosion, reduce infiltration, and provide for increased slope stability must be implemented. Reclamation and closure of waste dumps #1-4 shall be conducted under the direct supervision of a California registered civil engineer or certified engineering geologist.*"

   Based on observation from our site inspection on 10 March 2010, waste dumps #1-4 had not been reclaimed in the manner specified by Discharge Specification B.6. of the WDRs. In fact, we observed no substantial effort by the Discharger to reclaim dumps #1-4 in order to address the slope stability concerns noted in Finding 17 of the WDRs.

2. Discharge Specification B.7 of the WDRs requires the following:

   "*By **30 November 2009**, the Discharger shall submit a report describing completion of reclamation and closure of waste dumps #1-4. The report shall be prepared by a registered civil engineer or certified engineering geologist and certified by the Discharger, pursuant to Standard Provisions Item VIII. A. 5 of the Standard Provisions.*"

   As of the date of this letter, the Central Valley Regional Water Quality Board (Central Valley Water Board) has not received a report from the Discharger describing completion of reclamation and closure of waste dumps #1-4.

3. Discharge Specification B.9. of the WDRs requires the following:

   Waste dump #5 shall be designed, constructed and maintained to prevent scouring and/or erosion of the mine waste material, the surrounding area, and shall incorporate the provisions of Findings 27 through 29.

   Based upon our observations during the 10 March 2010 site inspection waste dump #5 is not being constructed as required, nor incorporating the provisions of Findings 27 through 29 of the WDRs. If continued, the current method of construction of waste dump #5 will result in waste dump #5 not achieving the stability requirements of Title 27 of the California Code of Regulations Section 21750(f)(5).

   Similar observations were noted in our 18 August 2009 letter. In that letter we requested **by 30 September 2009**, a report prepared by a California-registered geotechnical engineer presenting the results of the evaluation of the current placement method and stability of waste dump #5. As of the date of this letter, the Central Valley Water Board has not received the requested report from the Discharger.

4. Section C.1 of the MRP requires that the Discharger submit the following:

   *"By **1 July** of each year, the Discharger shall submit an Annual Monitoring Summary Report covering the previous monitoring year. The report shall include a copy of the annual industrial stormwater report."*

   The Central Valley Water Board has not received the Dischargers Annual Monitoring Summary Reports for the following periods:

   - Annual Monitoring Summary Report for 2007-2008, which was due by 1 July 2008.
   - Annual Monitoring Summary Report for 2008-2009, which was due by 1 July 2009.

5. Section C.2 of the MRP requires that the Discharger submit the following:

   *"The Facility inspection report required by Section A, 3, a, is due by **15 November** each year."*

   The Central Valley Water Board has not received the Dischargers Annual Facility inspection report for 2009.

6. Richard Sykora is also in violation of California Water Code Section (CWC) 13260(d)(1)(A) which states:

   Each person who is subject to subdivision (a) or (c) shall submit an annual fee according to a fee schedule established by the state board.

   - The State Water Resources Control Board (SWRCB) has not received the Dischargers annual WDRs fee for the billing period 1 July 2008 to 30 June 2009 which was due by 28 December 2008.
   - The SWRCB has not received the Discharger annual WDRs fee for the billing period 1 July 2009 to 30 June 2010 which was due by 8 January 2010.

You are requested to provide a written response signed by you to this office by **9 April 2010** that either confirms the correction of each violation listed above or identifies a date by which

each violation will be corrected. The Central Valley Water Board reserves the right to take any enforcement action authorized by law.

Any person failing to furnish a report or pay a fee under CWC Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly. Civil liability may be administratively imposed by a regional board or the state board in accordance with CWC Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount that may not exceed one thousand dollars ($1,000) for each day in which the violation occurs.

If you have any questions, please call me at (916) 464-4626 or Jeff Huggins of my staff at (916) 464-4639.

VICTOR IZZO
Senior Engineering Geologist
Title 27 Permitting and Mining

cc: (electronic copies to)

Chris Fischer, District Ranger, US Forest Service, American River Ranger District Foresthill
Rick Weaver, Hydrologist, US Forest Service, Tahoe National Forest
Mike Luksic, Department of Conservation, Office of Mine Reclamation, Sacramento
Ted Rel, Placer County Community Resource Agency, Auburn
Patrick Pulupa, Staff Counsel, Office of Chief Counsel, SWRCB, Sacramento

United States Department of Agriculture
Forest Service
American River Ranger District
22830 Foresthill Road
Foresthill, CA 95631
530-367-2224
530-367-2226 TDD
530-367-2992 FAX

File Code: 2810
Date: July 19, 2010

Richard Sykora
PO Box 622
Foresthill, CA 95631

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
NUMBER: 7006 5150 0003 3382 9942

Dear Mr. Sykora:

My staff and I completed reviewing your proposed Plan of Operation for the Big Seam and Red Ink Mine dated April 9, 2009. Before I can approve your plan there are several issues that you need to resolve.

I have inquired with the Regional Water Quality Control Board to verify that you are current with your fees and monitoring reports. I have been informed that the RWQCB has not received your Annual Storm Water Report (2009-2010) for the Red Ink Maid Mine which was due by July 1, 2010. In addition, there is no record that you have submitted the Annual Monitoring Summary Reports required by the Monitoring and Reporting Program (MRP) for WDR Order Number R5-2007-0181 which are due on July 1st of every year and cover the previous monitoring year. Please see the attached NOV dated March 23, 2010 from the RWQCB. I will need written verification from the RWQCB that they have received these documents prior to approving your Plan of Operation.

On June 28, 2010 a Forest Service engineer conducted a cursory stability evaluation of the Waste Dump #5 (WD#5). This stability evaluation indicates that the current configuration of the slope at WD #5 is marginally stable with a slope inclination of 80% and a factor of safety approaching 1.0. At an inclination of 80%, the slope is potentially unsafe if it becomes saturated with water or subject to strong seismic forces.

At the elevation that you are currently placing waste rock material into the existing ravine, it will be difficult for you to construct a road down to the bedrock shelf where the gabion baskets are proposed to be installed. You have been sidecasting material from the top of the slope, and the result is that the waste rock material is being deposited at the angle of repose, which is resulting in the construction of marginally stable slopes. Using this method of construction will make it very difficult if not impossible to construct a road to the base of the slope. You are required to construct the fill from the bottom up as described in your consultant's revised stability report dated March 12, 2007 and the mitigation measures from you previous approved Plan of Operation that expired on December 1, 2009.

A Forest Service engineer has suggested that that there are at least two potential options available to remedy this problem, and possibly others. An access road constructed at a lower elevation could be constructed that will allow access the toe of the slope for a bulldozer so that the fill can be properly placed. Another potential option is to anchor a bulldozer at the top of the slope and work the material to a less steep, more stable slope. Once you have the bulldozer at the base of the slope, you could continue to work material using benched construction. You may propose other reasonable options.

Before I can approve your plan of operation you must consult with a geotechnical engineer or engineering geologist and submit a report signed and stamped by a California Registered Engineer on an alternative method or plan that will fulfill the objectives to construct a stable slope that meet the conditions required by the Forest Service and Waste Discharge Order No. R5-2007-0181.

Until you have Forest Service authorization in an approved plan of operations, you may not conduct any mining operations on National Forest System lands. If you have any issues or questions regarding this notice, please contact this office and I will be happy to set up a time to meet with you and discuss your concerns.

Sincerely,

/s/ Chris Fischer
CHRIS FISCHER
District Ranger

cc: Rick Weaver
Rich Teixeira
Rose Miksovsky
Ted Rel
Jeff Huggins
Mike Luksic