

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD
24/25 APRIL 2025 BOARD MEETING

RESPONSE TO COMMENTS

FOR

JAMESTOWN TRUST II, COUNTY OF TUOLUMNE, WHISKEY LAKE LP,
JAMESTOWN PROPERTY DEVELOPMENT LLC, DAVID AND SUSAN KASLIN, JOHN
AND AMY CURTIN, MIKE AND AMBER DOESCHER, JOSHUA AND MISTY WILSON
JAMESTOWN MINE

TENTATIVE WASTE DISCHARGE REQUIREMENTS

AND

MONITORING AND REPORTING PROGRAM

In a 22 January 2025 Notice of Public Hearing, Regional Water Quality Control Board Central Valley Region (Central Valley Water Board) staff circulated the Tentative Waste Discharge Requirements (WDR) and Monitoring and Reporting Program (MRP) Orders for the Jamestown Mine (Facility) in Tuolumne County with the intent of consideration by the Central Valley Water Board at a public hearing held on 24/25 April 2025.

This document contains responses to written comments received from interested persons regarding the tentative WDR and MRP Orders. Written comments were required by public notice to be received by the Central Valley Water Board by 21 February 2025 to receive full consideration. Timely comments were received from:

1. The Jamestown Trust II (Trust II), and
2. The County of Tuolumne t (Tuolumne County).

The submitted comments were accepted into the record and are enclosed and summarized below, followed by Central Valley Water Board staff responses (WB Response). The quoted comments are shown in italics.

The Central Valley Water Board staff also made minor changes to the tentative WDRs to improve clarity and fix typographical errors.

1. JAMESTOWN TRUST II COMMENTS

1.1. Waste Discharge Requirements Order R5-2025-XXXX

GLOSSARY

COMMENT

The draft WDRs incorrectly refer to July 26, 2006 as the Effective Date. July 26, 2006, is the date that the Stipulated Judgment was recorded in the Official County Records – not the date of the judgment. The Effective Date of the Stipulated Judgment is in fact June 7, 2006, the date that the Stipulated Judgment was filed in Stanislaus County Superior Court. Based on the above, the following changes should be made:

- *The definition of “Effective Date” on page v of the draft WDRs should be revised as follows: “The date that the Judge of the Superior Court approved and entered the Stipulated Judgment to become final and non-appealable (~~26 July 7 June 2006~~).*
- *The definition of “Stipulated Judgment” on page vii of the draft WDRs should be revised as follows: “The Stipulated Judgement by and Between Plaintiffs and Landowner Defendants (~~26 July 7 June 2006~~)*
- *The same comment applies to page 8, paragraph 17.a. of the draft WDRs: the reference to July 26, 2006 should be changed to June 7, 2006, along with additional necessary revisions, as follows: “Twenty (20) years from the Effective Date which is the date when the Judge of the Superior Court approved and entered the Stipulated Judgment and it became final and non-appealable (the Effective Date of stamp on the Stipulated Judgement is June 7, 2006 ~~reads 7/26/2006~~).*

WB RESPONSE: The referenced sections were changed as requested. On page 8. Paragraph 17.a., “the stamp on the Stipulated Judgement reads 7/26/2006)” was removed.

COMMENT

In addition to the above, the Trust proposes that the following specific definitions be added to the Glossary. These terms are used throughout the WDRs and, for reasons apparent in the WDRs and in the Stipulated Judgment, require additional clarification.

- *Add “**Dischargers**” to the Glossary as follows:*
 - ***Dischargers.** As of the date of this Order, Landowners plus the Jamestown Trust II are “Dischargers” hereunder. As of the Completion Date, the Trust II will no longer be a Discharger and will no longer have to comply with any Discharger-specific requirements set forth in this Order.*

WB RESPONSE: The definition has been added to the glossary; however, Completion Date in the requested definition has been changed to Termination Date as the time when the Trust II will no longer be a Discharger. Upon the Completion Date, the Trust II will remain a Discharger, but will no longer be responsible for Landowner O&M. The Trust is responsible for remediation activities not included in Landowner O&M, including any active remedy, until the Termination Date. To clarify, we modified the title above and specification B.7. on page 32 as follows:

Jamestown Trust II and Landowner Operations and Maintenance

7. Pursuant to the 2006 Settlement Documents, Jamestown Trust II is responsible for the management of the Facility until the Completion Date or the Termination Date, whichever is earlier. On Completion Date, the responsibility for operations and maintenance reverts to Landowners (Landowner O&M) for mining units or parts of mining units and associated infrastructure on their respective properties shown on Attachment E as described in Finding 17. Between Completion Date and Termination Date, the Jamestown Trust II shall continue to manage environmental remediation activities not included in Landowner O&M.”

COMMENT

- Add “**Landowners**” to the Glossary as follows (taken, in part, from finding 1):
 - **Landowners.** *The County of Tuolumne, Whiskey Lake LP, Jamestown Property Development LLC, David and Susan Kaslin, John and Amy Curtin, Mike and Amy Doescher, and Joshua and Misty Wilson, as also set forth on Table 1 herein, and any successors, assigns, and transferees thereof as set forth in section 9.J. of the Stipulated Judgment.*

WB RESPONSE: Added to glossary.

COMMENT

- Add “**Litigation**” to the Glossary as follows (taken from finding 11):
 - **Litigation.** *The Complaint for Injunctive Relief filed by the Attorney General’s Office in Tuolumne County Superior Court on December 12, 2001 (Complaint), and the First Amended Complaint for Injunctive Relief filed by the Attorney General’s Office in Stanislaus County Superior Court on June 10, 2004 (FAC).*

WB RESPONSE: Added to glossary.

COMMENT

- *The Glossary should also include the definition of “Settlement Documents.” That term is referred to in the draft WDRs in finding 12, alluded to in finding 14, and referred to in finding 19. The Trust recommends that the term be defined as follows, including the additional language noted in **bold underline**:*
 - **Settlement Documents.** Settlement Documents are the documents agreed to and signed by the parties and Stanislaus County Superior Court to settle the Litigation on June 7, 2006. Settlement Documents include the Stipulated Judgment and related documents by and among the Central Valley Water Board and the other parties to the Litigation, **and any amendments thereto.**

WB RESPONSE: Added to glossary.

COMMENT

- *Revise the order of “SPPRs” to alphabetically follow the definition of “RSA.” As currently drafted, “SPPRs” is out of alphabetical order.*

WB RESPONSE: The order has been corrected.

COMMENT

- *The definition of **Termination Date** in the Glossary (draft WDRs p. vii) incorrectly quotes the Trust II Agreement. In the definition, “later” should be revised to “earlier”, as follows: “Defined in the Trust II Agreement section X.2.(a): “on the **earlier** of (I) depletion of assets held...”*

WB RESPONSE: The text has been corrected.

FINDINGS**COMMENT**

- *Finding 4, Table 2: The Process Water Retention Pond (“PWRP”) no longer stores Group B mine waste. The Tailings Management Facility (“TMF”) Leachate Collection and Removal System (“LCRS”) does not flow into the PWRP but is instead plumbed directly to Harvard Mine Pit (as described in Finding 5.g.) When not dry, the PWRP contains non-contact stormwater.*

WB RESPONSE: Proposed changes have been made to Table 2.

COMMENT

- *Finding 4, Table 2: Table 2 indicates that the Rock Storage Area is Reclaimed/Closed. In fact, approximately 10.5 acres in the Mexican Flat area has not been reclaimed.*

WB RESPONSE: Proposed changes have been made to Table 2.

COMMENT

- Finding 5:
 - An additional reference to work performed in 2007 investigating, dewatering and closing of Detention Pond – 5 (“DP-5”) should be added.
 - An additional reference to work performed in 2007, to re-grade portions of the TMF Dam, and delisting the TMF Dam from the jurisdiction of the Department of Water Resources, Division of Dam Safety should be added.
 - Please add a reference to the Seismic Analysis conducted in 2021 for the Jamestown Mine Site.

WB RESPONSE: The information was incorporated into Finding 5.

COMMENT

- Finding 12: Upon the addition of the definition of Settlement Documents to the Glossary, the second sentence of finding 12 should be deleted: “Settlement Documents include the Stipulated Judgment and related documents by and among the Central Valley Water Board and the other parties to the Litigation.”

WB RESPONSE: No changes were made as it may be useful to keep this information in the text.

COMMENT

- Finding 14 should be revised as follows: “~~The Stipulated Judgment and settlement agreements~~ **Settlement Documents** established two trusts.

WB RESPONSE: The proposed changes have been made.

COMMENT

- Finding 16: Since Completion Date is defined in the Glossary, the language at the end of the finding can be deleted (“...are to end at the Completion Date which is defined in Finding 17.”).

WB RESPONSE: The reference to Finding 17 has been removed.

COMMENT

- Finding 17.a. contains a typographical error. Please revise “the stamp on the Stipulate Judgment” to “the stamp on the Stipulated Judgment...”

WB RESPONSE: The text “the stamp on the Stipulated Judgment...” has been removed.

COMMENT

- *Finding 20.d: A sentence should be added after the second sentence stating that TMF LCRS water is no longer managed in the PWRP.*

WB RESPONSE: “The TMF drain liquids are no longer managed in the PWRP.” has been added.

COMMENT

- *Finding 23: Bold “Attachment”.*

WB RESPONSE: The proposed changes have been made.

COMMENT

- *Finding 28: Add a comma to “10-year 24-hour” as follows: “10-year, 24-hour”.*

WB RESPONSE: A comma has been added.

COMMENT

- *Finding 33: Revise the groundwater elevation range reference as follows “(2nd Semester and Annual 2024 Monitoring Report)”*

WB RESPONSE: The reference was changed. We added a reference to Attachment C which was also updated.

COMMENT

- *Finding 40, Table 4: Well “Harvard-7” is missing from the table. Please add “Harvard-7” and in the associated columns (Program, Monitoring Unit and Water-Bearing Zone) add its characteristics – “Elevation”, “Harvard Pit”, and “Shallow”, respectively, in Table 4.*

WB RESPONSE: The information was added to Table 7.

COMMENT

- *Finding 41: Un-bold “surface water”.*

WB RESPONSE: The text has been corrected.

COMMENT

- *Finding 53: In the first sentence, after, “In 2018”, insert the words “portions of” as follows: “In 2018, portions of the liner detached...”*

WB RESPONSE: The text has been corrected.

COMMENT

- *Finding 62: Please add a period at end of the Finding after “Bell Mooney Road.”*

WB RESPONSE: The text has been corrected.

COMMENT

- *Finding 64: Please delete the parens [sic] after “Model)”.*

WB RESPONSE: The text has been corrected.

COMMENT

- *Finding 72: In the first sentence, please replace “evaporation” with “irrigation” as follows: “In response, the Trust submitted an amended ROWD in 2023 which removed the spray ~~evaporation~~ irrigation proposal.”*

WB RESPONSE: The text has been corrected.

COMMENT

- *Finding 76: In the second sentence, please replace “can” with “are expected to”, as follows: “The remaining funds of Trust II ~~can~~ are expected to provide the financial assurances for these activities until the Completion Date.”*

WB RESPONSE: The text has been changed as follows: “The remaining funds of Trust II shall provide the financial assurances for these activities until the Completion Date or the Termination Date, whichever is earlier.”

COMMENT

- *Finding 81: In the last sentence, there is a period after “specifications” that should be changed to a comma.*

WB RESPONSE: The text has been corrected.

REQUIREMENTS**COMMENT**

- *Page 32, Item B.7.c: The reference to “TIF” should be to “TMF”.*

WB RESPONSE: The text has been corrected.

COMMENT

- *Page 32, Item B.7.e: Please add the following language to the end of the entry, as follows: “Stormwater permitting, sampling, and reporting (**except as required under the Inactive Mine exemption of the General Industrial Stormwater Permit [General Permit] Order 2014-0057-DWQ, provided the Facility meets the conditions in Section XIII of the General Permit**).*

WB RESPONSE: The text has been corrected as follows:

- e. Stormwater permitting, sampling, and reporting as required by the General Industrial Stormwater Permit [General Permit] Order 2014-0057-DWQ, or the Inactive Mine exemption provided the Facility meets the conditions in Section XIII of the General Permit.

COMMENT

- Page 34, Item B.14: This statement is somewhat misleading, as MIW is no longer stored in the PWRP. As such, the Trust requests Item B.14 be clarified as follows: “Until closure, ~~the level of MIW in PWRP~~ **if MIW is stored in the PWRP, it shall be kept below the level of ~~the failed~~ liner damage.**”

WB RESPONSE: The text has been corrected.

COMMENT

- Page 36, Item C.1: Please revise as follows: “These WDRs are being issued to regulate closure and post-closure of the Facility and continued operation of Harvard Pit. Jamestown Trust II, ~~consisting of the funds of the trust,~~ is to provide financial assurances for these activities until the **Completion Date** or the **Termination Date**, whichever is earlier.”

WB RESPONSE: The text has been corrected.

COMMENT

- Page 37, Item C.4: This item includes the term “Post-closure.” The Trust noticed that the term is referenced throughout the document as “Post-Closure”, “Post-closure”, and “post-closure”. The Trust recommends that in this Item and throughout the Draft WDRs, the term should be consistently referred to as “Post-Closure”.

WB RESPONSE: Sentence case is used when referring to general terms such as post-closure period. The title case is used in titles and when referring to Closure and Post-Closure Reports. Changes were made where appropriate.

COMMENT

- Page 39, Section F., Table 7, Item 4: If the definition of Settlement Documents proposed herein is incorporated into the draft WDRs, the “Task” language for Item 4 should be revised as follows: “Pursuant to the **Settlement Documents 2006 Stipulated Judgement** or as specified within any other subsequent settlement, the Landowners assume operations and monitoring for their respective properties. TMF and RSA owners also assume responsibility for the integrity of unit cover.

WB RESPONSE: The text has been corrected.

COMMENT

- Attachment C, page 44: Please update Attachment C to reflect the most recent Groundwater Elevations as shown in the 2nd Semester and Annual 2024 Monitoring Report.

WB RESPONSE: Attachment C has been updated.

OTHER CHANGES

Attachment D showing mine infrastructure by the owner has been added.

Monitoring and Reporting Program R5-2025-XXXX**COMMENT**

- *Section B.1.a, footnote 1, page 3: The Trust proposes adding reference to the attached Figure 1 prepared by SLR and dated February 21, 2025 to the MRP in this section, as follows: “FN1: Add to the end of the existing footnote “**Figure 1 attached hereto depicts the Groundwater Monitoring Network and wells not currently monitored and existing site infrastructure for individual Landowner parcels.**”*

WB RESPONSE: Figure 1 was added as Attachment E to the Waste Discharge Requirements Order. The following text and footnote were added to Section B.1.a of the MRP.

“Groundwater monitoring wells TMDW-3, -7, -11, -14, -18, and RSMW-7² have been removed from groundwater monitoring program and shall be destroyed as required by California Well Standards. GW-25 has been destroyed.” A footnote # 2 referring to Attachments B, C and E has been added.

COMMENT

- *Section C.4, page 12 (entitled “Annual Facility Inspections”), last sentence: The sentence says “See **Section E.4** for Reporting Requirements.” The reference to Section E is incorrect and should be revised to D.4.*

WB RESPONSE: The text has been corrected.

LETTER FROM TUOLUMNE COUNTY

The County of Tuolumne submitted a letter that included a request to postpone the issuance of WDR until a new settlement is reached. However, as explained below, Central Valley Waterboard staff intend on placing the Tentative Order on the April Board Meeting Agenda as specified in the Notice of Public Hearing.

The County provides two specific reasons why the Central Valley Water Board should defer consideration of the Tentative WDR at this time. These comments are addressed separately below. Excerpts from the enclosed letter are provided in italics.

WB RESPONSE: The current WDR Order was adopted by the Central Valley Water Board in 2007 and no longer accurately reflects the conditions at the facility therefore it should be revised. As listed in the Tentative WDRs Order Finding 5, several significant changes which include closure of Tailings Management Facility have occurred at the site since the time of adoption of the current WDR Order.

To facilitate the WDR Order revision, Central Valley Water Board staff requested a submittal of Report of Discharge (ROWD) on 22 April 2021. Trust II, through its Trustee, submitted a ROWD on 19 July 2021. The ROWD was resubmitted as an amended ROWD in July 2023 to provide additional information. The Tentative WDR and Monitoring and Reporting Program (MRP) R5-2025-XXXX were prepared using the information provided in the July 2023 ROWD.

The purpose of the WDRs is to prescribe requirements to protect water quality at the Site through management of the Harvard Pit water level and ensuring proper post-closure operations, maintenance and monitoring of the Facility. The Settlement Documents provide for a mechanism for the dischargers (and other settling parties) to fund reclamation and remediation of the Facility through Trust I and II. While the WDR and Settlement Documents both involve the Facility, the WDR is managing current environmental conditions while the Settlement Documents determine the financial obligations and liability for prior actions at the Facility. They are separate documents that serve different regulatory and legal functions.

COMMENT 1: THE TERM AND IMPORTANT PROVISIONS OF THE STIPULATED JUDGEMENT SHOULD BE ADDRESSED BEFORE THE TENTATIVE WDR IS CONSIDERED

As acknowledged in Finding 19 of Tentative WDR, the Stipulated Judgement should be addressed before the Tentative WDR is considered. Since this is the case, issues with the Stipulated Judgement should be addressed before the Tentative WDR is considered.

WB RESPONSE: The language in Finding 19 provides flexibility for any future Settlement to control the rights and obligations of different parties. If new Settlement Documents are issued and there are inconsistencies between the new Settlement Documents and the WDR Order, the Settlement Documents will control the rights and obligations of parties to those documents. As stated in Finding 19, the WDR will be revised to address a new settlement if necessary. Therefore, the adoption of Tentative WDR/MRP doesn't have to be postponed.

COMMENT 1, CONTINUED

The Regional Board has been in communication with Tuolumne County leadership regarding extending the term of the Stipulated Judgment. There has been an agreement in concept to pursue such an extension. The Tuolumne County Board of Supervisors instructed staff at a meeting on September 24, 2024, to pursue an extension. The Board of Supervisors will provide additional direction, with two newly elected County Board members now seated, in March 2025. It would be prudent to defer consideration of the Tentative WDR until the hoped for extension can be pursued. To do otherwise would be to "put the cart in front of the horse".

WB RESPONSE: The Central Valley Water Board staff welcomes the Tuolumne County Board's decision to pursue an extension of the Stipulated Judgment. If we understand the comment correctly, this refers to a potential negotiation of new Settlement Documents between the parties of the 2006 Settlement Documents. The Central Valley Water Board staff are committed to participating in this process, which is not hindered by the adoption of the Tentative WDR and MRP Orders. As explained above, the new Settlement Documents will control the rights and obligations until a WDR Order can be revised, if necessary.

COMMENT 2: The Tentative WDR should be Clarified, consistent with the Stipulated Judgement, to Permit Reuse of Remediated and Closed Portions of the Mine

The Tentative WDR recognizes in requirement 23 that other uses of both the TMF and RSA more [sic] occur, subject to specific requirements. Clarifying these requirements would help further the ultimate goal of the Stipulated Judgment and the remediation process in general, which is to remediate the problem and permit future reuse of the remediation area. Here again, it would be prudent to first have discussion of these issues in the context of the Stipulated Judgment and then consider how the Tentative WDR may be drafted to protect water quality and foster appropriate reuse of closed and remediated areas. The County believes that both of these goals can and should be achieved.

WB RESPONSE: The land use limitations for closed mining units are defined in the California Code of Regulations, Title 27, Section 22510 (a):

“Closure Performance Standard - New and existing Mining Units shall be closed so that they no longer pose a threat to water quality. No post-closure land uses shall be permitted that might impair the integrity of containment structures.”

The Tentative Order requirements don't limit the Dischargers from pursuing beneficial land uses for their properties if these uses are in compliance with applicable regulations and are protective of mining unit integrity. Any proposals require Central Valley Water Board approval and should contain sufficient technical information to allow for evaluation of compliance with applicable regulations and to assess the potential impact on the integrity of mining units.

In our letter of 3 March 2023 accompanying a Record of Communication following the meeting with the County staff, we provided the following analysis of secondary use of closed mining units such as TMF and RSA:

“Following the discussion of potential secondary use of mining units, staff reviewed California Code of Regulations Title 27 for specific language. Title 27 regulates Land Use of Closed Unit in section 21769 (c)(2)(H). In summary, for any use that is not non-irrigated open space, the Discharger is required to submit detailed technical documentation about planned project to the Regional Water Board for review and approval. The technical documentation has to include water balance evaluations, plans and design for water penetration monitoring system, and final cover protection plan. Additional requirement details are provided in the referenced section and can be obtained by request.”

COMMENT 2, CONTINUED

The County of Tuolumne has been in ongoing discussions with proponents of beneficial use opportunities, among them, the Governor's Office of Land Use and Climate Innovation and multiple renewable energy design and engineering subject matter experts. Opportunities do exist that would foster environmental protection, community benefit, and remediation cost reduction for all parties. What is most pertinent at this time is to collaborate toward solution-based opportunities through the mechanism of the Stipulated Judgment first, and then through implementation in the WDR. In addition, under Finding 18, the proposed WDP mischaracterized the Stipulated judgment, indicating that “The Stipulated Judgement excluded any active off-site pump and treat groundwater remediation and operation of evaporation ponds from Landowner O&M.” In fact, the Stipulated Judgement provided a pathway, albeit vague, for remediation, closure, and terms of eligible post-closure land use opportunities.

The new plan makes no progress in clarifying the eligibility of onsite water reuse projects, terms of discharge, or conditions for achieving Phase Two remediation (long-term response actions).

WB RESPONSE: We welcome the County's initiatives and desire to assume responsibility and search for long term solutions for the environmental issues at the Facility. Although the existing Settlement Documents exclude active remediation from Landowner O&M after Completion Date, they do not prohibit the Landowners from assuming these responsibilities voluntarily to achieve a particular post-closure land use. The purpose of the Stipulated Judgment is to remediate the impacts of mining activities on the Site, and to the extent the post-closure land use opportunities are separate and distinct from that purpose, they are not covered by the Stipulated Judgment and can't be funded by Trust II. Instead, they are governed by this WDR and applicable regulations.

The Tentative WDR Order doesn't prescribe a certain mode of active remediation or prohibit the Dischargers including the Tuolumne County from seeking active remedy solutions that may also provide beneficial use of mine resources providing that the submitted proposals can be evaluated and found to be in compliance with applicable regulations and potential additional permitting requirements. Central Valley Water Board Staff are available to evaluate any proposals which contain sufficient information to determine whether the proposed actions are in compliance with applicable regulations.