

**Note: This document has been prepared by the  
Central Valley Water Board's Prosecution Team**

ITEM: 20

SUBJECT: The Original Sixteen to One Mine, Inc., Sixteen to One Mine, Sierra County

BOARD ACTION: *Consideration of an Administrative Civil Liability Order (ACLO) for Assessment of Mandatory Minimum Penalties*

BACKGROUND: The Original Sixteen to One Mine, Inc. (Discharger) owns and operates the Sixteen to One Mine (Facility), an underground hard rock gold mine in Sierra County. The Facility discharges mine drainage from the 21 Tunnel Portal to Kanaka Creek, which is tributary to the Middle Yuba River, Yuba River, Feather River, and Sacramento River, a water of the United States in the Sacramento Hydrologic Basin.

On 5 February 2015, the Board adopted WDRs R5-2015-0002 (2015 WDRs), which became effective as of 16 April 2015. The 2015 WDRs were modified on 10 September 2015 to clarify the due dates for monitoring reports. The 2015 WDRs contain effluent limits for antimony, arsenic, cadmium, copper, iron, lead, manganese, nickel, and electrical conductivity.

The Discharger was not able to immediately comply with the final effluent limitations and therefore, on 17 April 2015, the Board issued Time Schedule Order (TSO) R5-2015-0035. As allowed by the Water Code, the TSO provides protection from mandatory minimum penalties (MMPs) for electrical conductivity, arsenic, antimony, cadmium, copper, iron, lead, manganese, and nickel until 16 April 2020, if the Discharger is in compliance with interim effluent limitations.

PREVIOUS ENFORCEMENT Between February 2006 and January 2007, the Discharger did not submit twelve monitoring reports as required by WDRs in effect at the time. Failure to submit these monitoring reports resulted in 78 serious violations of Water Code sections 13385 and 13385.1. In February 2015, the parties entered into a Stipulated Judgment for resolve the outstanding violations for \$237,083 to be paid in monthly installments.

On 21 April 2016, the Central Valley Water Board adopted Administrative Civil Liability Order R5-2016-0021 for assessment of MMPs in the amount of \$6,000. This Order resolved two effluent limitation violations for antimony, which occurred from 16 April 2015 to 30 September 2015.

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT: On 11 September 2017, the Assistant Executive Officer issued Administrative Civil Liability Complaint R5-2017-0549 (Complaint). The Complaint alleges 12 effluent limitation violations from 1 October 2015 through 31 December 2016, 11 of which are allegedly each subject to \$3,000 in MMPs under Water Code section 13385, subdivision (h)(2).

The Complaint considers MMP protection provided by the TSO, and only alleged MMPs for constituents that have interim effluent limitations in the TSO if the discharge exceeded the interim effluent limitation.

**ISSUES:** There are no known issues, as the Discharger did not submit evidence for this case.

**RECOMMEND:** The Prosecution Team recommends that the Board adopt the Order assessing mandatory minimum penalties in the amount of \$33,000, as proposed.

Mgmt. Review   KH  

Legal Review   KE  

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11020 Sun Center Dr., Suite 200  
Rancho Cordova, CA 95670