



California Regional Water Quality Control Board Central Valley Region

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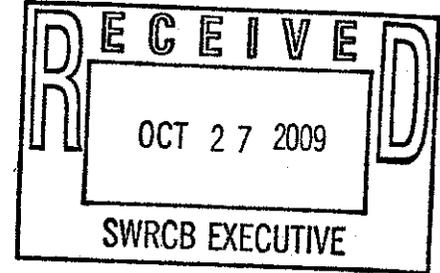
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11/17/09 Bd Mtg
A-1948 Soper Company
Deadline: 10/27/09 by 12 noon

27 October 2009

Via email to commentletters@waterboards.ca.gov and U.S. Mail

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



COMMENTS FOR PETITION OF WASTE DISCHARGE REQUIREMENTS, ORDER NO. R5-2008-0104 (NPDES NO. CA0085286) FOR SOPER COMPANY, SPANISH MINE, NEVADA COUNTY

SWRCB/OCC FILE A-1948 – 17 NOVEMBER 2009 STATE WATER RESOURCES CONTROL BOARD MEETING

Thank you for the opportunity to comment on the 14 October 2009 draft State Water Resources Control Board (State Water Board) Water Quality Order (Draft Order) referenced above. The Draft Order remands Waste Discharge Requirements Order No. R5-2008-0104 (Adopted Permit) to the Central Valley Regional Water Quality Control Board (Central Valley Water Board) to; (1) revise the Adopted Permit to establish numeric effluent limitations for priority pollutants or submit to the State Water Board a proposed case-by-case exception to the SIP, and (2) if the required mixing zone study supports the allowance of a dilution credit, the Central Valley Water Board must apply that credit to the receiving water limitations.

We thank the State Water Board for their careful consideration of our comments and support adoption of the Draft Order with only some minor changes as described below.

Comment 1

Page 4 of the Draft Order, Section II.A. **Contentions and Findings, Effluent Limitations, Discussion** states, in part:

“Both the SIP and the federal regulation have procedures that can be applied to allow the use of BMPs in lieu of numeric effluent limitations.¹⁷”

Footnote 17 states:

¹⁷See 40 C.F.R., [section]122.44(d) and SIP, Section 1.3 and 1.4.

The citations to the CFRs and SIP relate to the development and calculation of numeric effluent limits and do not discuss procedures to allow for the use of BMPs. This footnote should be corrected.

Comment 2

Page 8, Footnote 34 of the Draft Order states:

³⁴Resolution No. 79-149, *Amendment to Water Quality Control Plan and Action Plan for Mining*. We note that this is an inactive mine rather than an abandoned mine, in that there is a known property owner. Nonetheless, the fact that the owner is not engaged in mining and apparently has no plans to mine makes it appropriate to consider this Basin Plan provision."

This use of the term "abandoned" mine is inconsistent with Section 2770(h)(6) of the Surface Mining And Reclamation Act which states, in part:

"...a surface mining operation which remains idle for over one year after becoming idle as defined in Section 2727.1 without obtaining approval of an interim management plan shall be considered **abandoned** and the operator shall commence and complete reclamation in accordance with the approved reclamation plan" [emphasis added].

Therefore, an abandoned mine is not a mine without a known or financially viable owner, but a mine where mining operations have ceased and the site has not been reclaimed to appropriate standards. Such mines often contain physical or environmental hazards. The two sentences of footnote 34 should be removed.

Thank you again for this opportunity to respond to the Draft Order. If you have any questions, please contact Mr. Jim Pedri at (530) 224-4855 or jpeditri@waterboards.ca.gov.

original signed by James C. Pedri

(For) Pamela C. Creedon
Executive Officer

PVW: sae

cc: Mr. Douglas Eberhardt, USEPA, Region IX, WTR-5, San Francisco
Mr. Phil Isorena, DWQ, State Water Resources Control Board, Sacramento
Ms. Elizabeth M. Jennings, State Water Resources Control Board, Sacramento
Mr. Paul Violett, Soper Company, Strawberry Valley
Mr. Bill Jennings, California Sportfishing Protection Alliance, Stockton
Mr. Mike Jackson, Esq. Law Office of Mike Jackson, Quincy
Mr. Andrew Packard, Esq., Law Office of Andrew Packard, Petaluma
Ms. Lori Okun, OCC, State Water Resources Control Board, Sacramento
Ms. Emel Wadhvani, OCC, State Water Resources Control Board, Sacramento