



California Regional Water Quality Control Board

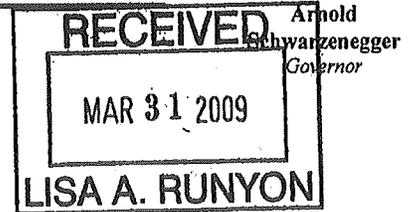
Central Valley Region

Karl E. Longley, ScD, P.E., Chair



Linda S. Adams
Secretary for
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25 March 2009

Lisa A. Runyon, Senior Counsel
Sunoco, Inc.
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Philadelphia PA 19103-7583

Jack and Carolyn Wessman
PO Box 949
Clayton, CA 94517

ORDER TO SUNOCO INC. TO SUBMIT TECHNICAL REPORTS IN ACCORDANCE WITH SECTION 13267 OF THE CALIFORNIA WATER CODE, MOUNT DIABLO MERCURY MINE, CONTRA COSTA COUNTY

YOU ARE LEGALLY OBLIGATED TO RESPOND TO THIS ORDER, PLEASE READ THIS ORDER CAREFULLY.

Mt. Diablo Mercury Mine is an inactive mercury mine on approximately 109 acres on the northeast slope of Mount Diablo in Contra Costa County. Acid mine drainage containing elevated levels of mercury and other metals are being discharged to a pond that periodically overflows into Horse and Dunn Creeks. Further site investigation is required to assess the extent of pollution discharged from the mine site and to evaluate the remedial options to mitigate the discharge. This site investigation and subsequent remedial option evaluation are needed to select the remedial option to restore the impacted waters of the state and to protect public health and the environment.

Presently, the mine consists of an exposed open cut and various inaccessible underground shafts, adits, and drifts. Extensive waste rock piles and mine tailings cover the hill slope below the open cut, and several springs and seeps discharge from the tailings-covered area. Three surface impoundments at the base of the tailings capture most spring flow and surface runoff. However, during winter the ponds commonly spill into Horse and Dunn Creeks, which drain to the Marsh Creek watershed.

Jack and Carolyn Wessman, who are the current owners of the Mount Diablo Mercury Mine property and are considered to be dischargers, have made some improvements to reduce surface water exposure to tailings and waste rock, including the construction of a clean fill cap was over parts of the tailings/waste rock piles. Although improvements have been made without an engineering design or approved plan, these improvements may have reduced some of the impacts from the mine site. However, discharges that contain elevated mercury levels continue to impact the site and site vicinity.

Cordero Mining Company, owned by Sunoco, Inc. in the 1950s, operated the Mt. Diablo Mine from approximately 1954 to 1956 and was responsible for the past discharge of mining waste. Cordero was dissolved in 1975. Because Cordero Mining Company operated the mine, and due to the interrelationship between Sunoco and Cordero Mining Company, the United States

California Environmental Protection Agency

Environmental Protection Agency (USEPA), Region IX, named Sunoco Inc. a responsible party for Mt. Diablo Mine site in the Unilateral Administrative Order for the Performance of a Removal Action, USEPA Docket No. 9-2009-02. Sunoco, Inc. is considered a discharger at this site.

Pursuant to California Water Code (CWC) section 13267, Sunoco, Inc. is hereby required to submit the following reports:

1. **By 1 June 2009**, a report identifying prior site owners and operators, and their current corporate status;
2. **By 1 July 2009**, a site investigation work plan to identify at the mine site the sources of mercury contamination to surface water and groundwater, and to assess the lateral and vertical extent of pollution; and
3. **By 1 November 2009**, a site investigation report evaluating the data collected and proposing interim remedial actions to inhibit on-going and future discharges to surface and groundwater.

Information in these reports may be used to set time schedules and/or identify additional responsible parties who may be added to this or future orders. Also, please submit a copy of all reports to Ms. Jerelean Johnson at USEPA, Region 9 in San Francisco.

CWC section 13267 states, in part:

(b)(1) In conducting an investigation . . . , the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or, discharging, or who proposes to discharge waste within its region . . . shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

A discharger has a legal obligation to investigate and remediate contamination. As described above, Sunoco Inc. is subject to this Order because of its ownership interest in the Cordero Mining Company, which operated Mount Diablo Mercury Mine and discharged waste to waters of the state. Therefore, it is a "person[s] who [have] discharged ... waste" within the meaning of CWC section 13267.

The reports are necessary for the reasons described in this Order, to assure protection of waters of the state, and to protect public health and the environment. Failure to submit the required reports by their due dates may result in additional enforcement action, which may include the imposition of administrative civil liability pursuant to CWC section 13268. CWC section 13268 states, in part:

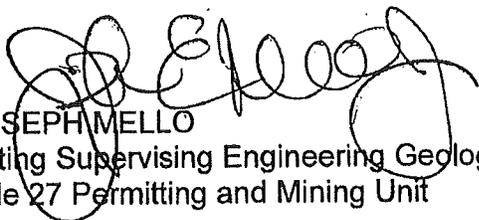
(a)(1) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267 . . . or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision

(a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

Any person aggrieved by this action of the Central Valley Regional Water Board may petition the State Board to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, section 2050. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

Reimbursement of the Central Valley Water Board for reasonable costs associated with oversight of the investigation and remediation of the site will be required. Information will be provided in the next several weeks on the cost recovery program.

If you have any questions, please contact Ross Atkinson at (916) 464-4614 or via e-mail at ratkinson@waterboards.ca.gov.



JOSEPH MELLO
Acting Supervising Engineering Geologist
Title 27 Permitting and Mining Unit

cc: Patrick Palupa, Office of the Chief Counsel, SWRCB, Sacramento
California Dept of Parks and Recreation, Bay Area Dist., San Francisco
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Janet Yocum, On-Scene Coordinator, USEPA Region 9, San Francisco
R. Mitch Avalon, Contra Costa County Flood Control, Martinez
William R. Morse, Sunoco, Inc. Philadelphia, PA