

Central Valley Regional Water Quality Control Board
4/5 June 2015 Board Meeting

Response to Written Comments on
Tentative Waste Discharge Requirements
Seneca Gold LLC, Lorrie Preim and David Preim
Seneca Mine, Placer County

At a public hearing scheduled for 4/5 June 2015, the Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) will consider the issuance of Waste Discharge Requirements (WDRs) to Seneca Gold LLC, Lorrie Preim and David Preim for the Seneca Mine.

The tentative WDRs were circulated for public comment from 29 July 2013 to 30 August 2013. The period for public comment ended 30 August 2013, and no comments were received at that time. However, the Board postponed consideration of the tentative WDRs while the owners of the Seneca Mine attempted to resolve certain outstanding controversies. Since it now appears that it will be impossible to fully resolve all of these outstanding controversies, the owners requested that the Board move forward with the consideration of the tentative WDRs.

On 30 March 2015, the Board issued a subsequent Notice of Public Hearing to inform designated parties and interested persons that the Board would consider issuance of the tentative WDRs at the Board's June Meeting. Though the recently-issued Notice of Public Hearing did not reopen the comment period, Mr. Larry Redding and Mr. Jon Shield, former tenants at the Site, submitted comments regarding a contract dispute over who has the right to conduct mining operations at the Seneca Mine. Representatives of Seneca Gold, LLC and the property owners responded by submitting their own comments. The Board Chair has admitted these documents into the record in order to better inform the Board's adjudication of the tentative WDRs.

This document contains the Board's response to the written comments received to date. Comments were received from the following persons:

1. Larry Redding (received 7 April 2015)
2. Jon Shield (received 9 April 2015)
3. Den Deniz, Seneca Gold LLC (received 30 April 2015) (forwarding comments from Grailov Law Corp.)
4. Dave Preim, Property Owner (received 11 May 2015)

Written comments are summarized below, followed by the response of Central Valley Water Board staff.

COMMENTS

COMMENTS: Lease Agreement Dispute

Central Valley Water Board Staff received comments from Larry Redding and Jon Shields that contend that they, as well as Dane Shields, have a valid lease to operate and mine the Seneca Mine property. They have submitted a prior lease agreement and argue that the subsequent agreement between Seneca Gold, LLC and the Preims is invalid, and indicated that there is an ongoing lawsuit associated with the lease dispute.

In response to Mr. Redding and Mr. Shields comments, Dean Deniz (Seneca Gold, LLC), Mike Coleman (Attorney for Seneca Gold, LLC), and David Preim (Property owner) have provided comments and a statement disputing their claims to a valid lease to operate the mine, and have stated that the lawsuit has concluded in their favor.

RESPONSE: None of the comments pertain to the technical findings in the tentative WDRs. Instead, the comments object to the Board's issuance of WDRs to Seneca Gold, LLC. Board Staff note that it was Seneca Gold, LLC and David Preim that submitted the Report of Waste Discharge (ROWD) to obtain regulatory coverage for the operation of the Seneca Mine.

Adjudicating what is essentially a property dispute between former and current lessees is beyond the scope of the Board's authority, particularly when the owner asserts that the argument raised by the former lessee is without merit and has been adjudicated.

The Central Valley Water Board, in issuing WDRs, prescribes requirements for proposed discharge to ensure compliance with the relevant water quality control plan after taking into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and other factors that include: the environmental characteristics of the hydrographic unit, the need to develop and use recycled water, and the water quality that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area. (Wat. Code, §13260 and 13241.) Compliance with the tentative WDRs will ensure compliance with all applicable water quality regulations, including the relevant water quality control plan, and will protect the beneficial uses of the waterbodies potentially affected by the discharge.

The Board's issuance of WDRs does not create a vested right to commence or continue the discharge; all discharges of waste into waters of the state are privileges, not rights. (Wat. Code, §13260.) The tentative WDRs simply delineate the practices that Seneca Gold, LLC and the Preims must comply with in order to protect water quality. If other parties seek to discharge wastes, the WDRs must be changed to reflect the changes in ownership or operation of the Site.

The Board is sympathetic to parties that contend that they have been wronged by someone that they have entered into a contract with. However, the remedies that are available to rectify that type of wrong, whether legal or equitable, lie in a court of law, not in the Board's permitting process.