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MERIDIAN BEARTRACK COMPANY
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8 STATE OF CALIFORNIA

9 STATE WATER RESOURCES CONTROL BOARD
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11 In re:

Case No. _____

12 REGIONAL WATER QUALITY CONTROL
BOARD, CENTRAL VALLEY REGION'S DENIAL
13 OF PETITIONER'S APPEAL OF FACILITY
CLASSIFICATION AND ASSOCIATED WDRs
14 ANNUAL FEE ASSESSMENTS FOR ROYAL
MOUNTAIN KING MINE, CALAVERAS COUNTY
15 (DECEMBER 2, 2010)

PETITION FOR REVIEW

16
17 Meridian Beartrack Company ("Petitioner") submits this Petition for Review to appeal
18 the December 2, 2010 decision by the California Regional Water Quality Control Board, Central
19 Valley Region ("RWQCB") in which it: (1) denied Petitioner's appeal of the RWQCB's 1A
20 facility classification for Petitioner's inactive Royal Mountain King Mine, and (2) denied
21 Petitioner's appeal and request for reconsideration of the RWQCB's assessment of 2008-09 and
22 2009-10 annual WDRs fees based on that classification (collectively "RWQCB Denial Decision,"
23 attached hereto as Exhibit A). This Petition for Review is filed in accordance with Section 13320
24 of the California Water Code and Section 2050 of Title 23 of the California Code of Regulations
25 ("C.C.R.").

26 Petitioner provides the following information in support of its Petition as required by 23
27 C.C.R. § 2050:
28

1 1. Petitioner is Meridian Beartrack Company. Petitioner's address is 4635 Longley
2 Lane Unit 110, Suite 4A, Reno, NV 89502, and its telephone number is (775) 200-4959.

3 Petitioner requests that all communications be directed through its counsel, as identified in the
4 caption of this Petition.

5 2. Petitioner requests that the State Water Resources Control Board ("State Board")
6 review the RWQCB's determinations in the RWQCB Denial Decision that the Royal Mountain
7 King Mine site ("RMKM") should be classified as a Category 1 Threat to Water Quality
8 ("TTWQ") and a Category A Complexity ("CPLX") facility for purposes of determining annual
9 fees for Petitioner's Waste Discharge Requirements Order No. R5-2008-0021 ("WDRs"), and
10 that denied Petitioner's appeal of the RWQCB's assessment of these WDRs fees for Fiscal Years
11 2008-09 and 2009-10. Petitioner requests that the State Board hold this Petition in abeyance
12 pursuant to 23 C.C.R. § 2050.5(d) and State Board practice.

13 3. The RWQCB, through Senior Engineering Geologist Victor Izzo, issued the
14 RWQCB Denial Decision on December 2, 2010.

15 4. RMKM is an inactive gold mine site located in Calaveras County, California that
16 is completing the closure process. It currently is governed by both the WDRs identified above
17 and by NPDES Permit No. CA0085243 (WDRs Order No. R5-2007-0162) ("NPDES Permit").
18 Since Petitioner is still awaiting a decision from the RWQCB on its appeal of the facility
19 classification and annual fee assessments associated with the NPDES Permit, this Petition does
20 not include any claims relating to that upcoming RWQCB decision.

21 5. By letter dated November 18, 2010, Meridian requested that the RWQCB revise
22 its TTWQ/CPLX classification of RMKM for WDRs fee purposes as a 1A facility, and also
23 appealed and asked for reconsideration of the associated fee assessments for Fiscal Years 2008-09
24 and 2009-10 based on this classification (Exhibit B). In the RWQCB Denial Decision, the
25 RWQCB denied this appeal and request for reconsideration in all respects.

26 6. In the event this Petition is made active, Petitioner will submit as an amendment to
27 this Petition a full and complete statement of reasons that the RWQCB Denial Decision is
28

1 inappropriate and improper. Among other things, without limitation, the RWQCB Denial
2 Decision is inappropriate and improper because:

3 (a) In Petitioner's existing NPDES Permit for RMKM, the RWQCB explicitly
4 determined that RMKM was properly classified as a 2C facility (Staff Report, Attachment F at F-
5 3, explicitly incorporated into NPDES Permit). However, despite this Board finding, RWQCB
6 staff is attempting to classify the Site as a 1A facility for fee assessment purposes. While
7 Petitioner believes a TTWQ/CPLX classification of 3C is most appropriate for the Site, at a
8 minimum the RWQCB's classification of RMKM as 1A for purposes of its WDRs permit is
9 improper and conflicts with the RWQCB's 2C classification in the NPDES Permit.

10 (b) The RWQCB improperly failed to acknowledge the significant closure work
11 completed at RMKM and the implementation of multiple protective measures for the waste
12 management units regulated under the WDRs which support a classification of 2C or 3C, but not
13 1A; and

14 (c) The RWQCB supports its TTWQ Category 1 classification of RMKM by
15 stating that "an uncontrolled discharge to surface or groundwater from any of the waste
16 containment units ... could potentially cause long-term loss of one or more designated beneficial
17 uses." However, this rationale is inappropriate and improper because these are not the standards
18 in the regulations for a Category 1 classification (see 23 C.C.R. § 2200(a)).

19 7. Petitioner is aggrieved in at least two important respects. First, the improper
20 facility classification for RMKM has and will into the future cause the RWQCB to assess
21 Petitioner annual WDRs fees for RMKM that it does not owe. Second, Petitioner has made total
22 fee payments of \$77,438 for FY08-09 and FY09-10 based on the RWQCB's 1A assessment,
23 when the law and facts support a 3C assessed payment of \$4,468 (almost a \$73,000 differential).
24 In the event this Petition is made active, Petitioner will submit as an amendment to this Petition a
25 full and complete statement of the manner in which Petitioner is aggrieved.

26 8. Petitioner requests that the State Board set aside the RWQCB Denial Decision and
27 that the State Board direct the RWQCB to designate the Site with a TTWQ/Complexity
28 classification of 2C or 3C, and to refund to Petitioner its overpayments of the Fiscal Year 2008-09

1 and 2009-10 fee assessments.

2 9. In the event this Petition is made active, Petitioner will submit as an amendment to
3 this Petition a complete statement of points and authorities in support of the legal issues raised by
4 this Petition.

5 10. A copy of this Petition for Review and the attached Exhibits A and B have been
6 sent to the Regional Board (see Exhibit C).

7 11. Petitioner raised these substantive issues and objections with the RWQCB by
8 letters dated February 3, 2010 and November 18, 2010. The RWQCB denied the appeal and
9 request for reconsideration in the RWQCB Denial Decision without providing specific legal
10 and/or factual justification for its position. Petitioner anticipates discussing these issues with
11 RWQCB staff further, but is filing this protective petition and requesting that this Petition be held
12 in abeyance to ensure compliance with statutory and regulatory requirements.

13 12. In the event this Petition is made active, Petitioner will submit as an amendment to
14 this Petition a copy of its request to the RWQCB for preparation of the RWQCB's administrative
15 record concerning this matter.

16 13. Petitioner requests that the State Board hold a hearing at which Petitioner can
17 present additional evidence to the State Board. In the event this Petition is made active, Petitioner
18 will submit as an amendment to this Petition a statement regarding that additional evidence and a
19 summary of contentions to be addressed or evidence to be introduced and a showing of why the
20 contentions or evidence have not been previously or adequately presented, as required under 23
21 C.C.R. § 2050.6(a), (b).

22 For all the reasons stated herein, Petitioner requests that the State Board set aside the
23 RWQCB Denial Decision; direct the Regional Board to utilize a TTWQ/CPLX classification of
24 2C or 3C as appropriate for purposes of fee assessments for Petitioner's WDRs permit;
25 recalculate and reissue Petitioner revised annual fee invoices for Fiscal Years 2008-09, 2009-
26 2010 and future year 2010-2011; and refund any overpayment of fees for the FY2008-09 and
27 2009-10 invoices.

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DATED: December 29, 2010

Respectfully submitted,

FARELLA BRAUN & MARTEL LLP

By: 
Deborah K. Tellier

Attorneys for Petitioner
MERIDIAN BEARTRACK COMPANY

Exhibit A



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Valley Region

Katherine Hart, Chair

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
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Arnold
Schwarzenegger
Governor

2 December 2010

Adam Whitman, President
Meridian Beartrack Company
4635 Longley Lane Unit 110 Suite 4A
Reno, NV 89502

RESPONSE TO REQUEST FOR RECONSIDERATION OF ANNUAL FEE ASSESSMENT FOR WASTE DISCHARGE REQUIREMENTS, ROYAL MOUNTAIN KING MINE, AMADOR COUNTY

Central Valley Regional Water Quality Control Board (Central Valley Water Board) staff has reviewed the "Request for Reconsideration of Annual Fee Assessment for Waste Discharge Requirements for Royal Mountain King Mine" (Request) submitted on 22 November 2010. The Request asks that staff reconsider the Threat and Complexity classifications for the Royal Mountain King Mine. Threat and Complexity classifications are used by the State Water Board to determine the annual fee amounts for facilities with Waste Discharge Requirements (WDRs) as defined in California Code of Regulations Title 23 Division 3 Chapter 9 Article 1. The current Threat and Complexity classification is 1A, the Request makes the case that a classification of 3C would be the appropriate regulatory determination under the current conditions. The following threat and complexity discussion pertains only to WDR Order No. R5-2008-0021 and no other Central Valley Water Board order.

The Royal Mountain King Mine site includes several closed waste management units that contain Group B and C mining wastes. Leachate (classified as a Group B Mining Waste) from the Flotation Tailings Reservoir (FTR) and the Overburden Disposal Sites (ODSs) is actively transferred to Sky Rocket Pit. Transfers from the FTR are an emergency measure and are not approved in WDRs. Skyrocket Pit conditionally discharges Pit Water (classified Group C Waste) to surface water in compliance with an NPDES permit.

Title 23, Division 3, Chapter 9, Article 1, defines the Threat to Water Quality (TTWQ) Categories as follows:

Category 1 "Those discharges of waste that could cause the long-term loss of a designated beneficial use of the receiving water..."

Category 2 "Those discharges of waste that could impair the designated beneficial uses of the receiving water, cause short-term violations of water quality objectives, cause secondary drinking water standards to be violated, or cause a nuisance."

Category 3 "Those discharges of waste that could degrade water quality without violating water quality objectives, or could cause a minor impairment of designated beneficial uses as compared with Category 1 and Category 2."

WDR Order No. R5-2008-0021 Finding 22 lists the beneficial uses as Municipal and Domestic Supply; Industrial Process Supply; Hydropower Generation; Agricultural Supply; Water Contact Recreation; Non-contact Water Recreation; Warm Freshwater Habitat, Cold

California Environmental Protection Agency

Freshwater Habitat, Spawning, Reproduction and/or Early Development; and Wildlife Habitat. Finding 23 lists groundwater beneficial uses as: Municipal and Domestic Water Supply, Agricultural Supply, Industrial Service Supply, and Industrial Process Supply. It has been identified that specific groundwater and surface water areas (mainly west of the known major faults) did not meet beneficial use criteria before mining began, nor does it currently meet all beneficial use criteria. The Basin Plan states the following: *"In some cases a beneficial use may not be applicable to the entire body of water. In these cases the Regional Water Board's judgment will be applied."* Therefore, staff concludes that at specific locations identified in the WDRs, some groundwater and/or surface water beneficial uses may not apply, however at locations not specifically identified as not meeting beneficial use criteria before mining began, beneficial uses do apply. An uncontrolled discharge to surface water or groundwater from any of the waste management units or from the systems transferring waste water to Skyrocket Pit has the potential to impact beneficial uses and in the case of groundwater impacts the potential impairment may be long term. WDR Order No. R5-2008-0021 describes the impacts that have occurred and the threat from the current discharge. Therefore, staff concludes that the Threat to Water Quality Category "1" is correct.

Title 23, Division 3. Chapter 9. Article 1. defines the Complexity Categories as follows:

Category A *"Any discharge of toxic waters, any small volume discharge containing toxic waste or having numerous discharge points or ground water monitoring, or any Class 1 waste management unit."*

Category B *"Any discharger not included in Category A that has physical, chemical, or biological treatment systems (except for septic systems with subsurface disposal), or any Class 2 or Class 3 waste management units."*

Category C *"Any discharger for which waste discharge requirements have been prescribed ...not included in Category "A" or Category "B" as described above..."*

The Royal Mountain King Mine site has multiple waste management units with many potential discharge points and an extensive system of ground water monitoring wells and surface water monitoring locations. Therefore, staff concludes based on multiple discharge points and the complex ground water monitoring system that Complexity Category "A" is correct.

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



VICTOR J. IZZO
Senior Engineer Geologist
Title 27 Permitting and Mines Unit

Exhibit B

Meridian Beartrack Company

A wholly owned subsidiary of Meridian Gold Company

4635 Longley Lane Unit 110 Suite 4A

Reno, NV 89502

(775) 200-4959



November 18, 2010

Mr. Victor Izzo
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

Re: Request for Reconsideration of Annual Fee Assessment for Waste Discharge Requirements for Royal Mountain King Mine. WDR Order No. R5-2008-0021

Dear Mr. Izzo:

I am writing on behalf of Meridian Beartrack Company ("Meridian") in response to your February 11, 2010 letter concerning the assessment of the annual Waste Discharge Requirements ("WDRs") fees for the Royal Mountain King Mine ("RMKM" or "Site"). Your letter provides some explanation for the Regional Water Quality Control Board ("Regional Board") classification of RMKM as a Category 1 Threat to Water Quality ("TTWQ" or "Threat") and a Category A "Complexity" level.

However, given the significant closure work at the Site and the implementation of multiple protective measures for the waste management units regulated under the WDRs, a Category 1A assessment is inconsistent with the regulations and out of alignment with current Site conditions. Moreover, this rating contravenes the Regional Board's specific finding, in connection with the Site's NPDES permit, that this facility has a Threat/Complexity designation of 2C. Thus, for the reasons set forth in greater detail below, we believe the Regional Board must change its position for both the past disputed fees in Fiscal Year ("FY") 2008-09 and FY 2009-10 and the upcoming FY 2010-11 fee assessment.

Background

Meridian operated RMKM from 1989 to 1994. Closure activities commenced in mid-1990 under several prior sets of WDRs. In 2007, the Board issued an NPDES permit

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for the Site (and TSO No. R5-2006-0900) to allow the transfer of wastewater from overburden disposal sites ("ODSs") to Skyrocket Pit Lake ("Skyrocket Lake"), and to permit the discharge of water from Skyrocket Lake to Littlejohns Creek during periods of high flow. Such periodic NPDES-regulated discharges are necessary to prevent seepage from Skyrocket Lake into the Littlejohns Creek Diversion.

The Regional Board has assessed Meridian \$38,719 in fees associated with these WDRs in each of FY 2008-09 and 2009-10. The fees are composed of \$35,360 for a 1A Threat/Complexity rating for WDRs associated with land disposal, plus the 9.5% ambient water monitoring surcharge of \$3,359. As you know, Meridian has continued to dispute the calculation methodology for these fees, although it paid the fees in a timely manner.

1. Assessing "Threat to Water Quality" for WDR Fees

California regulations require that annual WDR fees be calculated based on a discharger's "threat and complexity rating" plus any applicable surcharges. 23 C.C.R. § 2200(a). "Threat to water quality" ("TTWQ") is classified into three categories: Category 1, 2 and 3. Your letter indicates that the Regional Board views this Site as a Category 1 site. We strongly disagree with this Category assessment.

At the outset, it is important to note that in December 2007 the Regional Board assessed the threat and complexity designation of this facility and determined that it is 2C. This determination is contained in the Staff Report for the current NPDES Permit, which is incorporated into the Permit itself (NPDES Permit No. CA0085243, Attachment F, at F-3.) This official determination in a permit voted upon and approved by the full Regional Board should be completely dispositive of this issue. As explained below, Meridian believes that this should be a Category 3 threat rather than a Category 2; and the Regional Board is not allowed to unilaterally increase a determined threat level simply for purposes of annual fees. This classification applies equally to all permits for the site because the NPDES and WDR TTWQ calculations are based on the exact same subsection of the regulations.

A Category 1 TTWQ is defined as "[t]hose discharges of waste that could cause the long-term loss of a designated beneficial use of the receiving water." The regulations provide examples of what could constitute a long-term loss, including loss of a drinking water supply, closure of an area used for water contact recreation, or posting of an area for spawning or growth of aquatic resources. As you can see, these examples contemplate extreme losses, ones that result in a permanent and lasting impact to the receiving waters, not intermittent discharges that are already subject to regulation.

The reason articulated in your letter for the Category 1 classification is that "an *uncontrolled discharge* to surface or groundwater from any of the waste containment units ("WMUs"), or from either Skyrocket Pit or the FTR transfer systems could *potentially cause* a long-term loss of one or more designated beneficial uses." (February 11, 2010 Letter, p. 1, emphasis added.) This determination is flawed for several reasons.

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First, given current Site conditions, the potential for an uncontrolled discharge (or any discharge that would rise to the level of a Category 1 or 2 type discharge) from any unit at the Site to either surface water or groundwater is virtually nonexistent because there is only a very limited volume of liquids now generated from the Site that would potentially qualify as a "discharge." What is generated from the Site is collected at Skyrocket Lake, and when necessary discharged under the NPDES permit. Furthermore, Meridian has implemented multiple measures at each of the WMUs to ensure that not only "uncontrolled discharges," but any Category 1 or 2 type discharges, will not occur. The protective measures at each of the WMUs are briefly described below.

WMU #1 – Flotation Tailings Reservoir ("FTR"): While this unit was previously closed in 1997, additional requirements under the current WDRs have been completed or are underway. Naturally occurring and engineered liners are in place beneath the FTR. Currently, seepage from the FTR – which is *less* than what is permissible under a Title 27 liner system -- is collected and transferred to Skyrocket Lake. As noted above, any discharge from the Lake is regulated by the Site's NPDES Permit.

WMU #2 – Leached Concentrate Residues Disposal Area ("LCRF"): This unit has received a Title 27 closure and the unit is lined with a two-foot clay liner with a hydroconductivity of less than 1×10^{-6} cm/sec. The WDRs state that leachate generated from WMU #2 since 2007 is "negligible," and the limited leachate that is generated is collected and properly disposed of.

WMU#3 – Process Water Retention Pond ("PWP"): Interim closure measures for the PWP have been completed and include evaporation of wastewater; solidification of the remaining brine by placing flotation tailings into the PWP; covering solidified brine with an impervious liner; and construction of a small evaporation pond to collect and evaporate LCRF and PWP LCRS flows. The WDRs state that the PWP is not impacting surface water, and that the principal indicators for leachate are not present in groundwater.

WMU#4 – Skyrocket Lake: This Lake is the only unit that manages liquid wastes at the Site. Skyrocket Lake collects flows from the ODSs and the FTR. The WDRs have designated Skyrocket Lake as Group C waste. As noted above, in order to properly manage the level of Skyrocket Lake, RMKM has obtained an NPDES permit from the Board to allow limited seasonal discharges to Littlejohns Creek. These infrequent discharges are highly regulated by the NPDES Permit, and thus it would be inconsistent with the permit to classify the permitted discharge as "uncontrolled discharge" or a Category 1 or 2 threat to receiving waters.

WMUs #5 - #8 – Overburden Disposal Sites ("ODS"): The three ODSs at the Site have been reclaimed and restored. Slopes have been regraded, and the ODSs were covered with six inches of topsoil, fertilized and revegetated, and trees and shrubs were planted in irrigated trenches. Flows are controlled and collected at the toe of each ODS, and then transferred to Skyrocket Lake. Again, intermittent, seasonal discharges from the Lake

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are controlled by conditions in the NPDES Permit. These measures have minimized any threat to groundwater and surface water quality, so that no uncontrolled discharges are occurring from the ODS units.

Considering the totality of the closure activities and other protective measures that have been completed and are underway at the Site's WMUs, the chance that any "uncontrolled discharge" would "potentially cause a long-term loss" as described in the Regional Board's letter is extremely unlikely. If every discharger had to anticipate low probability scenarios such as those contemplated by the Board, every site would need to be classified as a Category 1 site. Surely this result is not what the regulations anticipated.

Even assuming that an uncontrolled discharge did occur, RMKM would respond immediately to abate the discharge, and as such, the discharge would not reach the level where it would cause a long-term loss of a designated beneficial use. For example, there is no realistic possibility that Site discharges could cause a long-term loss of a drinking water supply because the potential substances in such a discharge would at most temporarily degrade water quality. Thus, the extreme consequences contemplated by a Category 1 rating are simply not realistic for this facility in its current advanced stage of the closure process.

In addition, the Regional Board is currently working on a potential Basin Plan Amendment for the Site that may result in de-designation of certain beneficial uses of groundwater in the Hodson/Littlejohns Fault Zone area. The Board has recognized that poor and good quality groundwater exist within this area, and concluded that the distribution of good and poor quality groundwater from mining operations have "stabilized and have limited potential to further migrate and impact any additional waters." Thus, certain groundwater areas beneath the Site do not appear to be appropriate for a beneficial use determination, thereby making a TTWQ Category 1 classification moot.

TTWQ Category 2 includes "wastes that could impair the designated beneficial use of the receiving water, cause short term violations of water quality objectives, cause secondary drinking water standards to be violated, or cause a nuisance." Category 3 includes "those discharges of waste that could degrade water quality without violating water quality objectives, or could cause a minor impairment of designated beneficial uses as compared with Category 1 or 2."

Meridian believes that a Category 3 classification is the most applicable and appropriate category. As noted above, the only liquid "wastewater" being managed at the Site is from seeps related to WMUs. Water quality data indicates that such seepage flow is low in metals. While the seepage flow indicates varying levels of TDS, it is unclear whether this is due to mining operations or naturally occurring conditions. A discharger should not be penalized for naturally-occurring conditions that are not a result of its operations.

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2. Assessing "Complexity" for WDR Fees

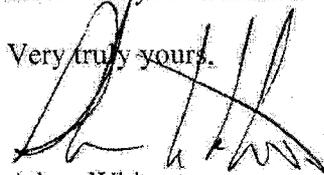
California regulations also provide three categories to identify the Complexity of the discharge. 23 C.C.R. § 2200(a)(1). In the fee assessment, the Board has assigned the Site a Category A level of Complexity. Category A is "any discharge of toxic wastes, and any small volume discharge containing toxic waste or having numerous discharge points or groundwater monitoring, or any Class 1 waste management unit." The Site is not discharging toxic waste and only has one discharge point that is already subject to regulation. The only potentially applicable condition is the groundwater monitoring network. However this network has been in place for some time, and the sampling and reporting requirements at this point are well-established and routine, diminishing any "complexity" that might be associated with monitoring activities.

Category B includes "[a]ny discharger [that is not Category A] that has physical, chemical, or biological treatment systems ... or any Class 2 or 3 waste management units." The collection of seepage and drainage to Skyrocket Lake, and subsequent blending of the collected liquid in the Lake constitutes physical treatment. The wastewater in the Lake has been designated as a conditional Class 3 WMU. Accordingly, Category B is a potentially applicable classification of the Site. However, since the Regional Board has already determined in the NPDES Permit that Category C is the best fit for this facility, this is the designation that should be used for annual fee purposes.

Conclusion

For the reasons stated above, the appropriate regulatory determination for the Site is Category 3C, which has an annual fee of \$2,040 plus the ambient water monitoring surcharge. These fees are in addition to the NPDES permit fees that RMKM pays annually and the costs being reimbursed by Meridian that are associated with the potential Basin Plan Amendment. We appreciate the financial constraints that the Board is operating under, but the assessed fees for a discharger must comport with regulatory criteria. Accordingly, we request that the Board change its Category 1A determination, and recategorize the Site for annual fee purposes as Category 3C in conformance with its existing determination. The Regional Board should also refund the excess annual fees paid by Meridian in the last two fiscal years. Meridian would welcome the opportunity to meet with you to discuss this matter further.

Very truly yours,



Adam Whitman

President, Meridian Beartrack Company

Exhibit C



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December 29, 2010

Via Federal Express and Email (vizzo@waterboards.ca.gov)

Mr. Victor Izzo
California Regional Water Quality
Control Board, Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

**Re: Petition For Review of RWQCB, Central Valley Region's December 2, 2010
Denial of Petitioner's Appeal of Facility Classification and Associated WDR
Annual Fee Assessments For Royal Mountain King Mine, Calaveras County**

Dear Mr. Izzo:

The enclosed Petition for Review has been submitted to the State Water Resources Control Board ("SWRCB") on behalf of Meridian Beartrack Company ("Petitioner"). The Petition seeks review of the Regional Board's December 2, 2010 denial of Petitioner's appeal of the TTWQ/Complexity Facility Classification and associated WDRs annual fee assessments for past FY08-09, FY09-10 and upcoming FY10-11. We have transmitted the original Petition and exhibits today to the SWRCB as a protective filing to satisfy statutory and regulatory requirements.

The Petitioner has a pending request for reconsideration before the Regional Board for its incorrect methodology of assessing Petitioner's annual NPDES fees for FY08-09, FY09-10 and upcoming FY10-11. Once Petitioner receives the Regional Board's response to the request for



Victor J. Izzo
December 29, 2010
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reconsideration of the NPDES permit fees, we would like to schedule a meeting with Regional Board staff to see if this matter can be resolved without further need to pursue this Petition.

Sincerely,

Deborah K. Tellier

DKT/s
enclosure
(*via email/pdf*)

cc: Mr. Patrick Pulupa, Counsel, RWQCB, Central Valley (ppulupa@waterboards.ca.gov)
Mr. Adam Whitman, President, Meridian Beartrack Company
(adam.whitman@Yamana.com)
Mr. Paul P. "Skip" Spaulding, III (sspaulding@fbm.com)