RICHARD SYKORA
PO Box 622
Foresthill, CA. 95631
Telephone: (530) 367-4067

hand-delivered @ 12 noon PAW

STATE WATER RESOURCE CONTROL BOARD

STATE OF CALIFORNIA

PETITION FOR REVIEW AND REQUEST FOR EVIDENTIARY HEARING

REQUEST FOR STAY AS TO PETITIONER

REQUEST TO HOLD PETITION IN ABEYANCE

Pursuant to California Water Code section 13320 and Title 23 of the California Code of Regulations section 2020, Petitioner, Richard Sykora, hereby petitions the State Water Resources Control Board ("State Board") for review of the Administrative Civil Liability Order R5-2012-0093 and Cease and Desist Order R5-2012-0094, adopted by the California Regional Water Quality Control Board, Central Valley Region ("Regional Board"), on October 5, 2012. The Order requires the payment of a penalty in the amount of $368,624.00 for *alleged* violations of Waste Discharge Requirement Oder R5-2007-0181 and compliance with the Cease and Desist Order. This order improperly names Petitioner's as sole discharger and completely omits the co-discharger, the United States Department of Agriculture, U.S. Forest Service. The order also failed to take into account the culpability of the U.S. Forest Service and failed to correctly take into account the "Ability to pay and stay in business", of the Petitioner.

I. PETITIONER

Richard Sykora
PO Box 622
Foresthill, CA. 95631
Telephone: (530) 367-4067

II. ACTION, OR INACTION, OF THE REGIONAL BOARD TO BE REVIEWED

Petitioner requests that the State Board review the order which improperly identifies the petitioner as sole, "Discharger". The order fails to acknowledge the direct orders from the U.S. Forest Service, in addition to the U.S. Forest Service acknowledging final responsibility for dumps #1-4. Also, the order fails to accept the, "Management Agency Agreement", giving the U.S. Forest Service responsibility for monitoring the waste dumps. A copy of the Order is attached as **Exhibit "A"**. The Regional Board failed to dismiss the ACLC due to its failure to hold a hearing, on the matter, within the 90 day time frame, as stated in Water Code section 13323 (b), **Exhibit "B"**.

The Regional Board failed to take into consideration the ability to pay, or more accurately, "the lack of ability", by the petitioner. Their staff's source of information was inaccurate and unreliable regarding the 'supposed' assets owned by the Petitioner. The Pasadena house, once owned in partnership, was sold, **Exhibit "C"**, and escrow closed in the year 2000 and the proceeds were put into the mine's development. Additionally, I took out an equity loan on my house in 2005 to continue working on the mine, which now, due to the down turn of the economy is in, "Negative Equity". The other two small parcels mentioned were sold and transferred between 1989 and 2011due to financial hardships and monetary necessity. If the Board takes action to impose the subject fine, then my family will lose everything I have worked for my entire life, including the mine. **Exhibit "D"**.

III. DATE OF THE REGIONAL BOARD ACTION

The Regional Board issued the Order on October 5, 2012.

IV. STATEMENT OF REASONS WHY THE REGIONAL BOARD'S ACTIONS WERE INAPPROPRIATE OR IMPROPER

As set forth more fully below, the Sate Board should review and rescind the order for the following reasons;

(1) The complaint is barred by the Water Code section 13323 (b) in stating, "A hearing before the Regional Board shall be conducted within 90 days after the party has been served", **Exhibit "B"**; (2) The complaint did not include the U.S. Forest Service, as the U.S. Forest Service is also named as, "Discharger", in the Waste Discharge Report, **Exhibit "D" Pg. 1- #3**; (3) The Regional board did not recognize the approved and signed Management Agency Agreement, (M.A.A.), requiring the U.S. Forest Service to be the Manager of Water Resources on Forest Service land, including monitoring and reporting requirements, **Exhibit "E" Pg.3 - #3 (e)**; (4) The Board did not recognize, "No proven waste discharge or turbidity to the waters of the State", only speculation and supposition [Requested Transcript]; (5) The Board did not consider the culpability of the U.S. Forest Service, as to dictating *their* design and placement of waste rock for potential discharge, **Exhibit "G" Pg.2 -#1 & 3**, and as to direct proper obligation of the Fine to the U.S. Forest Service (Water Code section 13327), **Exhibit "H"**. From 1987 to 2006 the U.S. Forest Service was the Lead Agency for all regulatory purposes, including water quality; (6) The Board did not consider or establish the U.S. Forest Service's culpability in monitoring and reporting as dictated by the M.A.A., **Exhibit "E"**;

(7) The Regional Board did not acknowledge the Federal Dept. of Mine Safety and Health Administration's, "Pink Slip", relating to, "No safe access to the perimeter of waste dumps #1 & 2", therefore encouraging Wildcat Mining employees to engage in a dangerous and harmful environment, threatening life and limb. **Exhibit "F"**; (8) The Regional Board did not take into consideration the circumstances, extent, gravity of violations and the affect on the financial ability and to continue to do business. **Exhibit "H".** (9) The Regional Board based the excessive fine on inaccurate information on the Petitioner's assets, **Exhibit "C"**, and disregarded the U.S. Forest Service as designated co-discharger. **Exhibit "D"**

V. THE MANNER IN WHICH PETITIONER HAS BEEN AGGRIEVED

Petitioner has been aggrieved by the Regional Board's actions because he will be subjected to the provisions of an arbitrary and capricious Order containing non-factual evidence (speculation) in the record and false exhibits. As a result of being named as sole discharger of the site, Petitioner will be forced to incur costs of compliance with the Cease & Desist Order, **Exhibit "M"**,which will devastate a family business by bearing the heavier burden of regulatory oversight and to suffer other serious economic consequences. Because of past and continuing regulatory disputes between agencies, Denial of Responsibility from other agencies and the added lack of practical, factual evidence, including speculation and hypothesis which has led to repercussions upon the Petitioner, which will be financial disaster, total hardship and the end of a family legacy. The existing mine site has been shut down for well over 2 years, since March of 2010, resulting in a loss of revenue for almost 3 years, affecting my family and my son's families. Further, by naming Petitioner as the primary discharger and excluding the U.S. Forest Service entity, Resource Officer, Mr. Harland Hamburger, who actually dictated placement, engineered

the design of waste dumps #1-4, on how much waste rock and where to put the dump, along with flagging the perimeter of each of the dumps, has brought the end result as it now sits, and which has the financial culpability, has been excluded by the Regional Office from participating, nor having any burden of responsibility. The Petitioner has been further aggrieved, financially, by the amount of the Fine and the inaccurate information provided by the prosecution's staff in their procedurally named 'asset search' and ability to pay. The Petitioner was denied additional time to present his case, even after the proper request was submitted during the investigation. The Petitioner was also aggrieved by the failure of the prosecution team to schedule the hearing within the 90 day time frame, Water Code section 13323 (b). The Petitioner was also aggrieved by the Regional Board and staff, because they did not address or acknowledge the Federal Mine Safety And Health Administration's Pink Slip stating, "No safe access to the perimeters to dumps #1 & 2", and to continue to demand reclamation of dumps #1 & 2 in the Cease & Desist Order. Petitioner has been further aggrieved by all the statements and reasons set forth in paragraphs III and IV above. 1) By implementation of the ACLC Order and the Cease & Desist Order will be financially impossible, as the mine has been closed since April, 2010 with a lack of income for 2 ½ years. 2) By not recognizing the U.S. Forest Service for culpability and putting that burden on me is crippling and devastating. 3) By not recognizing the Federal, "Pink Slip", Order puts me in direct violation of a Federal Order. 4) By not recognizing the Management Agency Agreement, we incurred enormous costs in doing reports the Board staff required, when the U.S. Forest Service should have been doing them, as they have done always in the past. **Exhibit "L", Pg, 2.**

Petitioner also believes that his health has been seriously affected by being subject to continuous stress of defending himself against inaccurate information, false accusations, serious misrepresentations and unjustified delays, is a valid grievance in this complaint.

VI. THE SPECIFIC ACTION BY THE STATE BOARD WHICH THE PETITIONER REQUESTS.

Petitioner respectfully requests that the Sate Board provide an evidentiary hearing on the Order pursuant to Water Code section 13320, 13323. Petitioner also requests, according to Water Code section 13321, a stay to effect the Regional Board's decisions on the Fine and Cease & Desist Order. Pursuant to Title 23, CCR section 2053, when Petitioner's alleges facts and produces proof of:

1) Substantial harm to Petitioner or to the public interest if a stay is not granted.
2) A lack of substantial harm to other interested persons and to the public if a stay is granted.
3) Substantial question of fact or law regarding the disputed action.

The Regional Board's adoption of the Order was an erroneous action that poses substantial harm to the Petitioner for the following reasons. First, the penalty was based on inaccurate information from an asset search stating the ability to pay. Second, the Order incorrectly assumes, and states, the Petitioner, "Discharges" waste into the waters of the State without factual proof, only, "speculation" and supposed assumption. The Regional Board staff never did hike down to the creek and visually inspect to verify if any waste rock had entered the creek or take water samples for turbidity tests. If they chose to do so, they would have noticed many decades of dumping waste rock into the creek by the U.S. Forest Service 200 yds. above (North) of our waste dump #4. Their hundreds of yards of waste rock completely covers a 200++ ft. section of the creek. It forces the creek water to flow under and through that waste rock. This has been a re-occurring event, yet staff chose to focus on our small operation, based on speculation. There is no basis in any significant or imposing evidence. Third, the waste discharge permit application form states, "A W.D.R. and permit is required if a discharge could affect the quality of water to the State".

Exhibit "I" & "K". Seeing as the Petitioner's waste rock could not affect the quality of the water of the State, the Petitioner should not have been required to have a Waste Discharge Permit, thus no reports required. Fourth, the Cease & Desist Order is requiring the discharger to violate a federal order to penetrate the perimeter of dumps #1 & 2, even though the Lead Agency, Placer County declared dumps #1-4, "Reclaimed", **Exhibit "J"**.

The Petitioner will be substantially harmed by being required to implement the Order. Furthermore, a stay is proper because there is a lack of substantial harm to other persons and/or the public.

It is the Petitioner's belief that the U.S. Forest Service is a responsible party, as land owner, as named in the W.D.R., also having legal responsibility for ,"Potential", discharge that may have or may not have developed in the specific areas of concern, specifically on U.S. Forest Service land. Above our dump #4, as the U.S. Forest Service has been side cast dumping into the creek for decades and then they instructed me where to side cast dump and how much volume, and when to stop dumping.

VII STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL ISSUES RAISED IN THE PETITION

For purposes of this filing, the Statement of Points and Authorities is subsumed in section IV of the Petition. The petitioner reserves the right to file a Supplemental Statement of Points and Authorities, including references to the complete administrative record, which is not yet available. Petitioner also reserves the right to supplement his request for a hearing to consider testimony, other evidence and argument.

VIII STATEMENT REGARDING SERVICE OF THE PETITION ON THE REGIONAL BOARD

A copy of the Petition is being sent to the Executive Officer, Pamela C. Creedon, of the Regional Board. By copy of this Petition, Petitioner also notifies the Regional Board of Petitioner's request that the State Board hold the Petition in abeyance and presents these substantive issues and objectives to the Regional Board.

IX STATEMENT REGARDING ISSUE PRESENTED TO THE REGIONAL BOARD

The substantive issues and objections raised in this Petition, as stated above, were raised before the Regional Board except the 13323 (b) issue. This issue was not raised because, as stated before, the Petitioner formally requested additional time at the hearing. When Petitioner reminded the Chairman of this fact, the additional time was denied.

X REQUEST TO THE REGIONAL BOARD FOR PREPARATION OF THE ADMINISTRATIVE RECORD

By copy of this Petition to the Executive Officer of the Regional Board, Petitioner hereby requests the preparation of the Administrative Record herein.

XI CONCLUSION

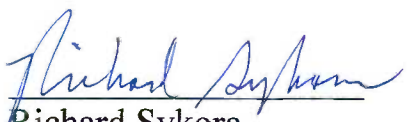
Since 1910 the mine has diligently engaged and cooperated with all lead agencies, until recently, when this historic site, with only 3 workers and a total of about 0.45 disturbed acres was put under layers of duplicate regulation.

Because of the design and mandate by the U.S. Forest Service, for waste disposal, it has made access impossible to perform any additional reclamation on dumps #1 & 2. In doing so would put a person in harms way and will endanger both life and limb.

Petitioner requests that the State Board set aside and reverse the Regional Board's October 5, 2012, Administrative Civil Liability Complaint #R5-2012-0093 and Cease & Desist Order #R5-2012-0094, or direct the Regional Board to set aside and reverse the October 5, 2012 ACLC and Cease & Desist Order and provide such other relief as the State Board may deem just and proper

Dated: November 1, 2012

Respectfully Submitted,



Richard Sykora

EXHIBITS:	DESCRIPTION:
A	Copy of the Order
B	Water Code Section 13323 (b)
C	Pasadena Ownership
D	Waste Discharge Report
E	Management Agency Agreement & 208 Report
F	Mine Safety & Health Administrative's, "Pink Slip"
G	1993 Plan of Operation
H	Water Code Section 13327
I	Waste Discharge Application Cover Sheet
J	Lead Agency Reports on Dumps #1-4 Reclaimed
K	Jeff Huggin's Letter, stating waste rock non-acid forming
L	2004 Forest Service Letter, saying U.S. Forest Service will monitor
M	Cease & Desist Order

EXHIBIT A

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2012-0093

ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF

RICHARD SYKORA
RED INK MAID AND BIG SEAM MINE
PLACER COUNTY

This Order is issued to Richard Sykora (hereafter "Discharger") pursuant to California Water Code ("Water Code") section 13268, 13261, and 13385 which authorize the imposition of Administrative Civil Liability ("ACL"). This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements ("WDRs") Order R5-2007-0181 and Industrial Storm Water General Permit Order 97-03-DWQ (ISW Permit).

The California Regional Water Quality Control Board, Central Valley Region, ("Central Valley Water Board" or "Board") finds the following:

1. On 27 June 2006, the Discharger submitted a Report of Waste Discharge for WDRs for mining activities at Red Ink Maid and Big Seam Mine ("Site"). The land where the mining claims are located is owned by the United States government and administered by the United States Department of Agriculture, Forest Service ("Forest Service"). The Discharger is the mine claimant and operator and therefore has primary responsibility for compliance with WDRs. The Site is located on two contiguous 20-acre parcels of land within the Tahoe National Forest near the 6-mile mark of Mosquito Ridge Road in the Foresthill area in Placer County.

2. The mine is an underground lode gold mine accessed by one portal on the Big Seam mining claim. Waste rock created by drilling and blasting inside the mine is hauled and disposed of in waste dumps on the Site. The waste rock created at the Site consists of natural geologic materials that have been removed or relocated but have not been processed. Analysis of the mining waste indicates that the waste is characterized as a Group C mining waste defined by Title 27 of the California Code of Regulations as waste discharge that should not pose a significant threat to water quality other than turbidity as the waste rock did not exceed hazardous waste total threshold limit concentrations or soluble threshold limit concentrations.

3. The Site slopes to the south and sits approximately 2000 feet above the Middle Fork of the American River. The Middle Fork of the American River is located approximately 0.4 miles south of the Site. Surface water drainage from the Site is to Mad Canyon, a seasonal drainage, and tributary to the Middle Fork of the American River, which is a water of the United States. Beneficial uses of the Middle Fork of the American River are municipal and domestic supply, agricultural supply, hydropower generation, water contact recreation, non-contact water recreation, warm freshwater habitat, cold freshwater habitat, spawning, reproduction, and/or early development, and wildlife habitat.

4. There are five waste dumps located on the Site. Waste dumps 1 through 4 are located directly in front and to the east of the mine portal and cover about two acres. Waste dumps 1 through 4 have slopes ranging from 55-75 percent. Lack of capacity and slope stability issues restrict further placement of waste rock on these waste dumps. Waste dump 5 is the newest waste dump located to the west of the portal on a slope ranging from 20-55 percent.

5. The Site is regulated by WDRs Order No. R5-2007-0181, adopted by the Central Valley Water Board on 6 December 2007. Monitoring and Reporting Program No. R5-2007-0181 (hereinafter MRP) accompanies Order No. R5-2007-0181.

6. Pursuant to title 27 of the California Code of Regulations section 22510 subdivision (c) and WDRs Order No. R5-2007-0181, the WDRs incorporate the relevant provisions of the mining and reclamation plan, approved by Placer County as lead agency in the administration of the Surface Mining and Reclamation Act (SMARA), and prescribes additional conditions necessary to prevent water quality degradation. Closure and reclamation requirements ensure that mining units no longer pose a threat to water quality.

7. Specifically, WDRs Order No. R5-2007-0181 Discharge Specifications B.6 and B.7 require the Discharger to fully reclaim waste dumps #1 through #4 by 30 October 2009 and submit to the Central Valley Water Board a report describing reclamation completion and closure of waste dumps #1 though #4 by 30 November 2009. During a site inspection on 10 March 2010, staff of the Central Valley Water Board observed that waste dumps #1 through #4 had not been fully reclaimed as required by the WDRs. No apparent reclamation measures such as hydroseeding or hydromulching establishing self-sustaining plant cover to control erosion, reduce infiltration, and provide for increased slope stability were evident. To date, the Discharger has not fully reclaimed waste dumps #1 through #4 and has not submitted the required report detailing the reclamation and closure of those mining units and is in violation of WDRs Order No. R5-2007-0181. The failure to comply with Discharge Specifications B.6 and B.7 has caused unauthorized discharges of waste rock and mining overburden from the waste dumps to Mad Canyon, a tributary to the Middle Fork of the American River.

8. WDR Order No. R5-2007-0181 prohibits the discharge of solid waste or liquid waste to surface waters, surface water drainage courses (other than waste dump #5), or groundwater.

9. WDR Order No. R5-2007-0181 and the MRP require the submission of Annual Monitoring Summary Reports by 1 July each year. Section C.1. of the MRP specifies the required components for the Annual Monitoring Summary Report. Submission of the Annual Monitoring Summary Report is required pursuant to Water Code section 13267 as referenced in Finding 54 of WDR Order No. R5-2007-0181.

10. Additionally, WDR Order No. R5-2007-0181 and the MRP require the submission of an Annual Facility Inspection Report by 15 November of each year. Section A.3.a. of the MRP specifies the required components for the Annual Facility Inspection Report.

Submission of the Annual Facility Inspection Report is required pursuant to Water Code section 13267 as referenced in Finding 54 of WDR Order No. R5-2007-0181.

11. In addition to being regulated by WDRs Order No. R5-2007-0181, the Site is also regulated by the Industrial Storm Water General Permit Order 97-03-DWQ (ISW Permit). On 17 July 2006, the Discharger submitted its Notice of Intent (NOI) and its activities became covered by the ISW Permit on 7 August 2006. The Discharger is required to comply with the ISW Permit including provisions regarding waste handling, erosion control and site stabilization, and precipitation and drainage controls throughout the active life of the mine and the post-closure maintenance period. Erosion control measures, mitigation measures, and best management practices (BMPs) for the site are incorporated into the Forest Service Conditions of Approval for the Plan of Operations, the Reclamation Plan, and Storm Water Pollution Prevention Plan (SWPPP).

12. The ISW Permit requires the Discharger to conduct monitoring and submit an Annual Report (ISW Annual Report) documenting, among other things, its sampling and analyses, visual observations, and an annual comprehensive site compliance evaluation by 1 July each year. Section B.14 of the ISW Permit specifies the required components for the ISW Annual Report.

The Central Valley Water Board finds the following:

13. **Violation Category 1**: Discharger violated Prohibition A.6 of WDR Order No. R5-2007-0181 and CWC section 13376 by discharging waste to Mad Canyon, a tributary to the Middle Fork of the American River and water of the United States.
    a. 19 April 2011 unauthorized discharge of waste to waters of the United States.
    b. 21 February 2012 unauthorized discharge of waste to waters of the United States.

    These violations are subject to administrative civil liability pursuant to Water Code section 13385 subdivision (c)(1).

14. **Violation Category 2**: The Discharger violated WDR Order No. R5-2007-0181 and Section C.1. of the MRP by failing to submit the following Annual Summary Monitoring Reports by the specified deadline pursuant to CWC section 13267:
    a. 2007-2008 Annual Summary Monitoring Report, due 1 July 2008
    b. 2008-2009 Annual Summary Monitoring Report, due 1 July 2009
    c. 2009-2010 Annual Summary Monitoring Report, due 1 July 2010
    d. 2010-2011 Annual Summary Monitoring Report, due 1 July 2011

    These violations are subject to administrative civil liability pursuant to Water Code section 13268 subdivision (b)(1).

15. **Violation Category 3**: The Discharger violated WDR Order No. R5-2007-0181 and Section A.3.a. of the MRP by failing to submit the following Annual Facility Inspection Reports by the specified deadline pursuant to CWC section 13267:
    a. 2009 Annual Facility Inspection Report, due 15 November 2009
    b. 2010 Annual Facility Inspection Report, due 15 November 2010.

c. 2011 Annual Facility Inspection Report, due 15 November 2011

These violations are subject to administrative civil liability pursuant to Water Code section 13268 subdivision (b)(1).

16. **Violation Category 4**: The Discharger violated the Industrial Storm Water General Permit Order 97-03-DWQ by failing to submit the following ISW Annual Reports by the specified deadline:
    a. 2008-2009 ISW Annual Report, due 1 July 2009
    b. 2009-2010 ISW Annual Report, due 1 July 2010
    c. 2010-2011 ISW Annual Report, due 1 July 2011

    These violations are subject to administrative civil liability pursuant to Water Code section 13385 subdivision (c)(1).

17. **Violation Category 5**: The Discharger failed to pay annual waste discharge requirement fees for the following periods:
    a. Annual WDR fee for Fiscal Year 2008, due 28 December 2008
    b. Annual WDR fee for Fiscal Year 2010, due 9 January 2010
    c. Annual WDR fee for Fiscal Year 2011, due 7 December 2011

    These violations are subject to administrative civil liability pursuant to Water Code section 13261 subdivision (a).

18. **Violation Category 6**: The Discharger failed to pay annual Industrial Storm Water General Permit fees for the following period:
    a. Annual ISW Permit fee for Fiscal Year 2010, due 26 November 2010
    b. Annual ISW Permit fee for Fiscal Year 2011, due 23 November 2011

    These violations are subject to administrative civil liability pursuant to Water Code section 13261 subdivision (a).

19. On 17 November 2008 the State Water Resources Control Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy establishes a methodology for assessing discretionary administrative civil liability. Use of the methodology addresses the factors used to assess a penalty under Water sections 13327 and 13385 subdivision (e) including the Discharger's culpability, history of violations, ability to pay and continue in business, economic benefit, and other factors as justice may require. The required factors under Water Code sections 13327 and 13385 subdivision (e) have been considered using the methodology in the Enforcement Policy as explained in detail in Attachment A to this Order and shown in the Penalty Calculation for Civil Liability spreadsheets in Attachment B of this Order. Attachments A and B are attached hereto and incorporated herein by reference.

20. Issuance of this Administrative Civil Liability Order to enforce Water Code Division 7, Chapters 4 and 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, sections 15307, 15308 and 15321(a)(2).

21. This Order is effective and final upon issuance by the Central Valley Water Board. Payment must be received by the Central Valley Water Board no later than thirty (30) days from the date on which this Order is issued.

22. In the event that the Discharger fails to comply with the requirements of this Order, the Executive Officer or her delegee is authorized to refer this matter to the Attorney General's Office for enforcement.

23. Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final 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.

IT IS HEREBY ORDERED that pursuant to section 13323 of the Water Code, the Discharger shall make a cash payment of $368,624 (check payable to the State Water Pollution Cleanup and Abatement Account) no later than thirty days from the date of issuance of this Order. I, Kenneth D. Landau, Assistant Executive Officer, do hereby certify that the foregoing is a full, true, correct copy of an Order issued by the California Regional Water Quality Control Board, Central Valley Region, and that such action occurred on 5 October 2012.

KENNETH D. LANDAU, Assistant Executive Officer

5 October 2012

Attachment A: Narrative Summary of Administrative Civil Liability Penalty Methodology
Attachment B: Administrative Civil Liability Penalty Methodology Matrix

EXHIBIT B

WATER CODE
SECTION 13323-13328

13323. (a) Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision of law authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

(b) The complaint shall be served by certified mail or in accordance with Article 3 (commencing with Section 415.10) of, and Article 4 (commencing with Section 416.10) of, Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure, and shall inform the party so served that a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing.

(c) In proceedings under this article for imposition of administrative civil liability by the state board, the executive director of the state board shall issue the complaint and any hearing shall be before the state board, or before a member of the state board in accordance with Section 183, and shall be conducted not later than 90 days after the party has been served.

(d) Orders imposing administrative civil liability shall become effective and final upon issuance thereof, and are not subject to review by any court or agency except as provided by Sections 13320 and 13330. Payment shall be made not later than 30 days from the date on which the order is issued. The time for payment is extended during the period in which a person who is subject to an order seeks review under Section 13320 or 13330. Copies of these orders shall be served by certified mail or in accordance with Article 3 (commencing with Section 415.10) of, and Article 4 (commencing with Section 416.10) of, Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure upon the party served with the complaint and shall be provided to other persons who appeared at the hearing and requested a copy.

(e) Information relating to hearing waivers and the imposition of administrative civil liability, as proposed to be imposed and as finally imposed, under this section shall be made available to the public by means of the Internet.

13326. No person shall be subject to both civil liability imposed under this article and civil liability imposed by the superior court under Articles 5 (commencing with Section 13350) and 6 (commencing with Section 13360) for the same act or failure to act.

13327. In determining the amount of civil liability, the regional board, and the state board upon review of any order pursuant to Section 13320, shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in

business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.

13328. After the time for judicial review under Section 13330 has expired, the state board may apply to the clerk of the appropriate court in the county in which the civil liability or penalty was imposed, for a judgment to collect the civil liability or penalty. The application, which shall include a certified copy of the state board or regional board action, constitutes a sufficient showing to warrant issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

EXHIBIT C

```
 TRPPK730(      )              T A X   C O L L E C T O R                    10/01/12
 A129                    SUBSTITUTE BILL INQUIRY/PRINT                     15:05:40
PARCEL: 5707 002 007 YR-SEQ:          (LEAVE BLANK FOR ALL) WAIVE PENALTY(Y/N):
500-ACT:      TX ST: 0 4PAY:     XREF PCL:                                SR.CIT:
NAME: FRANKEL,KENNETH AND JOAN TRS       1ST OVR:   KENNETH AND JOAN FRANKEL TRU
STREET: 1350 FAIRLAWN WAY                  SPEC NME:
CITY/STATE/ZIP: PASADENA CA 91105-1003
              TAX     PEN/COSTS        TOTAL          PAID            DUE  DELQ DTE
YR-SEQ: 12-000  BILLED: 10/15/12
1ST:      7211.34          0.00      7211.34          0.00       7211.34  12/10/12
2ND:      7211.33          0.00      7211.33          0.00       7211.33  04/10/13

YR-SEQ:          BILLED:
1ST:
2ND:

YR-SEQ:          BILLED:
1ST:
2ND:


NO MORE CURRENT BILLS FOR THIS PARCEL
PF1=PRINT, 2=NAME SEARCH, 3=SITUS SEARCH, 5=PMNTS, 8=PATTERN, 10=MENU, 11=EXIT
```

EXHIBIT D

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2007-0181

CARRIGAN

WASTE DISCHARGE REQUIREMENTS
FOR

RICHARD SYKORA
AND
THE UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE
RED INK MAID AND BIG SEAM MINE
PLACER COUNTY

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Regional Water Board) finds that:

1. On 27 June 2006 Richard Sykora submitted a Report of Waste Discharge for waste discharge requirements (WDRs) for the Red Ink Maid and Big Seam Mine (site). Additional information to support the Report of Waste Discharge (RWD) was submitted periodically between June 2006 and August 2007.

2. The land where the Red Ink Maid and Big Seam Mine claims are located is owned by the United States Government and administered by the United States Department of Agriculture, Forest Service (Forest Service).

3. Richard Sykora is the mine claimant and operator and therefore has primary responsibility for compliance with these WDRs, including day-to-day operations, monitoring, and reclamation. The Forest Service is the administrator of the federal land where the discharge occurs, and is ultimately responsible for ensuring compliance with these WDRs and therefore is also named as a Discharger. For the purposes of these WDRs, unless otherwise noted, the term "Discharger" refers to Richard Sykora.

4. Authorization to enter National Forests for mineral development is provided by 16 U.S.C. 478. Mining at the site has been authorized under the Mining Laws governing locatable minerals on the Foresthill Ranger District, Tahoe National Forest, under 36CFR228A. No prior WDRs have been issued for the site.

SITE DESCRIPTION

5. The site is located on two contiguous 20-acre parcels of land within the Tahoe National Forest. The site is located near the 6-mile mark of Mosquito Ridge Road in the Foresthill area. The site is part of APN # 254-210-001 in Placer County.

6. The mine is an underground lode gold mine, accessed by one portal on the Big Seam mining claim. Information provided by the Discharger states that the mine does not have a portal discharge to surface waters. Waste rock created by drilling and blasting inside

the mine is loaded and transported out of the underground workings with an underground load-haul-dump vehicle and side cast onto the waste dumps.

7. The property slopes to the south and overlooks the Middle Fork of the American River. The mining claims are located on slopes varying between 30-75%. Access to the mine site is through a steep dirt/gravel road that is unsuitable for regular traffic. The road was built to enable the development and production of mining in 1987.

8. There are four existing waste dumps on the site, and a fifth proposed waste dump area. The four existing waste dumps are located directly in front and to the east of the mine portal and cover about two acres. Waste dump #1 has resulted in a fairly level area, which serves as the base of the portal area. Waste dumps #1-4 have slopes ranging from 55-75%. Lack of capacity and stability issues restrict further placement of waste on waste dumps #1-4. The proposed waste dump #5 is to the west of the portal and will be on land that slopes between 20-55%.

9. Local relief for the site area is about 300 feet, measured from Mosquito Ridge Road above the mine to the toe of the existing waste dumps. The steeply sloping Mad Canyon drainage is the nearest downgradient water course, approximately 1,000 feet south and 600 feet below the site.

10. The Discharger works year round, three to four days per week at the site, but could possibly work five to six days per week and proposes to mine up to 700 cubic yards per year. The Discharger states that the mine consists of approximately 1.75-miles of underground mine workings.

11. Gold mineralization occurs within veins in the host rock. Ore-bearing material is hand sorted and transported off site. No milling or processing takes place on these claims.

BACKGROUND INFORMATION

12. The mining claims have been in operation since 1975, with the initial Forest Service Plan of Operations dating to 1987. The most recent conditions of approval of the Plan of Operations is dated 8 September 2004. It requires compliance with all applicable Federal, State, and local laws, regulations, and standards. These include, but are not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., the Comprehensive Environmental Response, Control, and Liability Act 42 U.S.C. 9601 et seq., and other relevant environmental laws, as well as public health and safety laws and other laws related to the siting, construction, operation, and maintenance of any facility, improvement, or equipment on the property.

13. A slope failure occurred near the toe of waste dump #2 during the heavy rains of late 1996 and early 1997. This caused movement of the waste dump and discharge of the underlying colluvium into the drainage below.

14. In late March of 2006, a slope failure of waste dump #4 occurred following a month of unusually heavy precipitation. The failure involved a small access road in the uppermost portion of the waste dump #4. The failure resulted in vertical and slight lateral displacement of waste dump #4. Slide debris was substantially contained in a more gently sloping area within the lower portions of waste dump #4.

15. On 23 March 2006, Regional Water Board staff inspected the site and observed waste rock from mining activities that had been previously discharged to waste dumps #1-4 and that a new access road to the proposed waste dump #5 had recently been constructed. The toe area of waste dump #2 was deeply eroded and evidence of soil material being discharged to Mad Canyon was observed. Waste dump #4 showed signs of a recent failure resulting in vertical and lateral movement of the waste dump. Limited vegetative cover to control erosion and reduce surface water infiltration of the dumps was observed as shown in Attachment B, which is incorporated herein and made part of this Order by reference.

16. In a 3 May 2006 letter, Regional Water Board staff requested that the Discharger file a RWD for the mining operation. Staff requested that waste characterization and slope stability analysis of the existing waste dumps and the proposed waste dump be completed first in order that proper waste classification and waste containment unit design be determined at the outset. The Discharger submitted technical information addressing these issues.

17. The Discharger's consultant, the Department of Conservation, and Regional Water Board staff have all identified that reclamation of waste dumps #1-4 is necessary to control erosion, reduce infiltration, and provide for increased slope stability. Although the Discharger's reclamation plan extends final reclamation of these waste dumps to 2015, this Order requires completion of reclamation activities by 2009 to reduce the threat to water quality caused by slope failure of the waste dumps.

18. The Discharger's mining and reclamation plan and related financial assurance have been previously approved by Placer County, the lead agency for the project. Therefore, this Order does not require the Discharger to provide separate financial assurances as specified in Title 27.

WASTE CHARACTERIZATION

19. Title 27 defines mining wastes and classifies mining wastes into three groups. Mining waste includes: overburden, natural geologic materials that have been removed or relocated but have not been processed (i.e., waste rock), and the solid residues, sludges, and liquids from the processing of ores and mineral commodities. Mining waste produced at this site are natural geologic materials that have been removed or relocated but have not been processed and are therefore termed "waste rock."

20. Title 27 classifies mining waste based on an assessment of the potential risk of water quality degradation posed by each waste. "Group A mining wastes" are wastes that must be managed as hazardous waste pursuant to Chapter 11 of Division 4.5, of Title 22, provided that the Regional Water Board finds that such mining wastes pose a significant threat to water quality. "Group B mining waste" is defined in Title 27 as a mining waste that consist of, or contains, nonhazardous soluble pollutants at concentrations which exceed water quality objectives for, or could cause degradation of, waters of the state. "Group C mining wastes" are wastes from which any discharge would be in compliance with the applicable water quality control plan, including water quality objectives, other than turbidity.

21. Three samples of waste rock from existing waste dumps #1-4 were collected and analyzed for Title 22 Metals. The metals analyzed included antimony, arsenic, barium, cadmium, cobalt, copper lead, mercury, nickel, vanadium, and zinc. Based on results of the Title 22 metals analyses, one sample was analyzed for acid-base accounting, including acid neutralization potential, acid generation potential, and pH. Laboratory testing of the sample resulted in a ratio of acid neutralizing potential to acid generating potential of 17 to 1, indicating that the waste material is likely not acid generating. These results, and the Discharger's evaluation, show that the waste rock from the site should not be acid generating.

22. Review of the Title 22 analytical testing confirms that none of the analytic results exceeded either hazardous waste total threshold limits concentrations or soluble threshold limit concentrations. Soluble arsenic in one sample was detected at a concentration of 8.1 micrograms per liter as determined by the California Waste Extraction Test using deionized water extractant solution. The elevated values reported for total arsenic and soluble arsenic in the one elevated sample likely represent a high concentration bias because samples submitted for analysis do not include the coarse fraction of the stockpiles. The sand and finer grain-sized samples are expected to exhibit higher concentrations of soluble constituents than the waste rock as a whole, which is composed predominantly of gravel and cobble-sized rock fragments.

23. Analysis of mining waste from the site indicates that the waste is classified as a Group C mining waste. Based on waste characterization described in the above Findings, the discharge of waste rock from the site should not pose a significant threat to water quality, other than turbidity.

24. Erosion control measures, mitigation measures, and best management practices (BMPs) for the site are incorporated in the Forest Service Conditions of Approval for the Plan of Operations, Reclamation Plan, and SWPPP.

CONTAINMENT OF MINING WASTE

Waste Dump #5

25. Waste rock is to be placed into waste dump #5 as described in the Discharger's consultant's report dated 12 March 2007 and is to incorporate all Forest Service Mitigating Measures dated 20 September 2004 and related BMPs. Proper placement of the waste rock is necessary to ensure the stability of waste dump #5, including its foundation and final slopes under both static and dynamic conditions throughout the operating period, closure period, and post-closure maintenance period.

26. Mining activities at the underground gold mine will generate mine waste rock. Mine waste rock is to be deposited in waste dump #5 only. Storm water runoff from waste rock placed in waste dump #5 could pose a threat to water quality if not managed properly.

27. This Order includes the design and method of disposal of waste rock for waste dump #5. The design and method of disposal of waste rock to waste dump #5 is based on the Discharger's report dated 12 March 2007.

28. Initially, waste rock is to be dumped from the end of the existing access road into the waste dump #5. When sufficient material is present, a ramp is to be constructed into the bottom of the waste area and the waste material shaped and compacted. From that point forward, waste material is to be placed from the toe in an upgradient direction to promote stability. The final slope of waste dump #5 is not to exceed 33 degrees.

29. The face of the waste dump #5 is to be armored with coarse rock to control erosion during periods of inactivity and when the dump is complete. The Discharger is to prevent movement of fine material (soil and sediment) down gradient in the waste dump area by installing an approved erosion barrier as described in the Forest Service Mitigating Measures dated 20 September 2004.

CLOSURE AND POST-CLOSURE MAINTENANCE

30. The Discharger has a mining and reclamation plan and related financial assurance approved by Placer County, the lead agency for the project, (see California Surface Mining Reclamation Act (SMARA), Section 2770, et seq.) to pay for the costs of closure and post closure maintenance as required by 27 CCR 22510 (c) and (f).

31. These WDRs incorporate by reference the Discharger's mining and reclamation plan and approved financial assurance in place of Title 27 Closure and Post-Closure Maintenance Plan and Closure and Post-Closure Financial Assurances.

32. The Discharger has requested that the Regional Water Board waive the requirement that adds the Regional Water Board as an alternate payee to the existing financial assurance. These WDRs waive 27 CCR 22510 (g)(1) and (g)(2) as explained in Information Sheet.

CLIMATOLOGY

33. The weather station at the Foresthill Ranger Station is the closest public weather station to the site. The Foresthill area receives an average of 51.0 inches of precipitation per year, as measured at the station. The elevation of the station is approximately 3,011 feet above mean sea level, while the site elevation is approximately 2,000 feet above mean sea level. It is anticipated that the station data may represent wetter conditions than present at the site.

34. The 10-year, 24-hour precipitation event for the site is estimated to be 7.0 inches based on data from the National Oceanic and Atmospheric Administration, Atlas 14, Figure 28.

35. Based on information contained in the RWD, the site is not located within a 100-year flood plain.

GEOLOGY

36. The site is within the Complex Foothills Metamorphic Belt at a position approximately nine miles north of the generally accepted terminus of the Mother Lode Gold Belt. The Foothills Metamorphic Belt is composed of a series of multiple deformed, accreted blocks. In the mine area, the rocks comprising the block are moderately metamorphosed upper Paleozoic sedimentary and intercalated volcanic rocks of the Calaveras group that are locally cut by dikes and multigenerational quartz veins. A complex mass of Upper Jurassic serpentinite lies north and west of the metasedimentary – metavolcanic mine area sequence and is separated from it by the Volcano Canyon thrust fault. Rock units within the immediate mine area most likely correlate with the Blue Canyon formation and consists of variable graphic slate, metaconglomerate, gritty quartzite and metagraywacke. The thickness of individual quartz veins is quite variable and progressive changes in unit thickness within the mine suggest the presence of one or more isoclinal folds.

SEISMIC CONDITIONS

37. The site is located near the eastern edge of the Foothills Fault System, a seismic zone composed of pre-Quaternary to Quaternary faults. The Foothills Fault System is designated as an areal, Type C seismic source with low seismicity and a low rate of recurrence. Type C faults are not capable of producing large magnitude earthquakes, and have a relatively low slip rate. Type C fault zones within 100 kilometers of the site are categorized as areal source zones with the hazard distributed over a large area instead of along a single fault trace, and include the Foothills Fault System, the Mohawk-Honey Lake Fault Zone, and the Western Nevada Zone. The Volcano Canyon fault, mapped approximately 1.5 miles west and north of the site, and the Foresthill fault, mapped approximately 4 miles west of the site, is included within the Foothills Fault System.

38. A search was performed by the Discharger's consultant of multiple earthquake data records for information about historic earthquakes between 1850 and 2004. The records

search indicate that 66 earthquakes with estimated magnitudes greater than 5.0 have occurred within 100 kilometers of the site since 1850, and that 12 earthquakes exhibited magnitudes greater than 6.0. The search indicated that the nearest historic earthquake was approximately 20 miles northwest of the site, and had a magnitude 5.0. The largest earthquake had a magnitude of 6.4 and was located approximately 60 miles (99 km) east of the site. The largest acceleration recorded during these historic events was 0.053g.

LAND AND WATER USE

39. Land uses within one mile of the perimeter of the site are entirely within the Tahoe National Forest. An Environmental Assessment prepared by the Forest Service for the mining activities indicates that the mining claims are located within the Tahoe National Forest Land and Resource Management Plan Area 099-Mosquito. This area is identified as having management opportunities for wildlife habitat improvement and view enhancement. The mine claims are also located within a Riparian Conservation Area.

40. Based on site observations and recent aerial photographs, only one residence is within one mile of the site. The residence is located adjacent to the American River, 0.6 miles from the mine.

41. Crops and livestock are not present within one mile of the perimeter of the site based on review of aerial photographs and site observations.

42. There are no known domestic or agricultural groundwater supply wells within one mile of the site.

43. There are no known current or estimated future uses of groundwater within one mile of the site.

SURFACE AND GROUND WATER CONDITIONS

44. The *Water Quality Control Plan for the California Regional Water Quality Control Board, Central Valley Region, 4th Edition* (hereafter Basin Plan), designates beneficial uses, establishes water quality objectives, and contains implementation plans and policies for all waters of the Basin.

45. The Middle Fork of the American River is located approximately 0.4 miles south of the site. Oxbow Reservoir is located approximately 1.4 miles east-southeast and upstream of the site. Surface water drainage from the site is to Mad Canyon, a seasonal drainage, and tributary to the Middle Fork of the American River. The Middle Fork of the American River is tributary of the Sacramento River.

46. The beneficial uses of the Middle Fork of the American River (between its source and Folsom Lake), as specified in the Basin Plan, are municipal and domestic supply, agricultural supply, hydropower generation, water contact recreation, non-contact water

recreation, warm freshwater habitat, cold freshwater habitat, spawning, reproduction, and/or early development, and wildlife habitat.

47. When precipitation events occur, surface water runoff is diverted into existing channels. Site drainage is generally toward the south. Four small drainage basins ranging from 1.1 to 13 acres have been delineated at the site with peak flows ranging from 1.8 to 2.3 cubic feet per second per acre.

48. The beneficial uses of any underlying groundwater, as specified in the basin plan are: municipal and domestic water supply, agricultural supply, industrial service supply, and industrial process supply.

49. Groundwater beneath the site appears to be limited. There are no known perennial springs, creeks, or streams on the site. Fully saturated zones are not present in the soils or other geologic formations. No groundwater or significant seepage is encountered in the mine or discharged at the portal. Native slopes vary between 60-90 percent. For these reasons, groundwater monitoring is not feasible or practical.

WATER QUALITY PROTECTION STANDARD

50. A Water Quality Monitoring and Reporting Program as defined in 27 CCR 20380 is not required by these WDRs. Instead, Water Quality Protection Standards shall be implemented through State Water Resources Control Board (State Board) Water Quality Order No. 97-03-DWQ for Discharges of Storm Water Associated with Industrial Activities (General Industrial Permit). The analytical parameters, monitoring points, and implementation schedule are defined in the Discharger's Storm Water Pollution Prevention Plan (SWPPP). The General Industrial Permit shall apply during the active life of the site, the closure period, the post closure maintenance period, and during any compliance period as defined in Title 27.

CEQA AND OTHER CONSIDERATIONS

51. The Forest Service developed an Environmental Assessment (EA) and Finding of No Significant Impact under the implementing regulations of the National Environmental Policy Act. The Lead Agency (Placer County) certified the Negative Declaration for the facility on 7 December 2006. Placer County filed a Notice of Determination on 12 December 2007 in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) and CEQA Guidelines (14 CCR Section 15000 et seq.).

52. The Regional Water Board considered the EA and the Mitigated Negative Declaration and incorporated the mitigating measures into these WDRs. The following list identifies the three significant issues identified in the EA and the Mitigated Negative Declaration for the project and the proposed mitigating measures.

a. **Reclamation Plan.** Previously, a reclamation plan had not been prepared or approved for the project. The Discharger now has an approved SMARA reclamation plan and related financial assurance.

b. **Visual Quality.** The foreground view of the existing waste areas and the proposed new road can be seen from the 6.5 mile turn-out on the Mosquito Ridge Road. The Forest Service has determined that if no other disturbance takes place on areas visible from Mosquito Ridge Road, the Retention Visual Quality Objectives may be achieved in 5 to 10 years.

c. **Water Quality.** Stability of the new waste dump and its access road and effects to beneficial uses in the Middle Fork of the American River watershed from non-point source pollution were identified as water quality impacts. The Conditions of Approval for the Discharger's Plan of Operations, the Reclamation Plan, and these WDRs all implement reclamation and monitoring activities that would mitigate impacts and avoid the potential of adverse environmental impacts.

53. This Order incorporates and implements:

a. Fourth Edition of the Water Quality Control Plan (Basin Plan) for the Sacramento River and San Joaquin River Basins;

b. The prescriptive standards and performance goals of Title 27 California Code of Regulations, effective 18 July 1997, and subsequent revisions;

c. State Board Resolution No. 68-16 – The Anti-Degradation Policy.

54. Section 13267(b) of California Water Code provides that: "In conducting an investigation specified in subdivision (a), the Regional Water Board may require that any person who has discharged, discharges, or is suspected of discharging, or who proposed to discharge within its region, or any citizen or domiciliary, or political agency or entity of this state who had discharged, discharges, or is suspected of discharging, or who proposed to discharge waste outside of its region that could affect the quality of the waters of the state within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the board requires. The burden, including costs of these reports, shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports."

55. The monitoring and reporting program required by this Order is necessary to assure compliance with these waste discharge requirements. Richard Sykora operates the facility and the Forest Service administers the facility that discharges the waste subject to this Order.

PROCEDURAL REQUIREMENTS

56. All local agencies with jurisdiction to regulate land use, solid waste disposal, air pollution, and to protect public health have approved the use of this site for the discharges of waste to land stated herein.

57. All the above and the supplemental information and details in the attached Information Sheet, which is incorporated by reference herein, were considered in establishing the following conditions of discharge.

58. The Regional Water Board notified the Discharger, including the Forest Service, and interested agencies and persons of its intent to prescribe waste discharge requirements for this discharge, and has provided them with an opportunity for a public hearing and an opportunity to submit their written views and recommendations.

59. The Regional Water Board, in a public meeting, heard and considered all comments pertaining to the discharge.

60. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board to review the action in accordance with Sections 2050 through 2068, Title 23, California Code of Regulations. The petition must be received by the State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812, within 30 days of the date of issuance of this Order. Copies of the laws and regulations applicable to the filing of a petition are available on the Internet at http://www.waterboards.ca.gov/water_laws/index.html and will be provided on request.

IT IS HEREBY ORDERED pursuant to Sections 13263 and 13267 of the California Water Code, that Richard Sykora and the United States Department of Agriculture Forest Service, their agents, successors and assigns, in order to meet the provisions of Division 7 of the California Water Code and the regulations adopted thereunder, shall comply with the following:

A. PROHIBITIONS

1. Milling or mineral processing of any type is prohibited at the site. Chemical methods to recover gold such as amalgamation, cyanide leach, or any other chemical method are prohibited at the site.

2. The discharge of any additional waste to waste dumps #1-4 is prohibited.

3. The discharge of wastes outside of waste dump #5 is prohibited.

4. The discharge of waste at the site from sources other than the Red Ink Maid and Big Seam Mine underground mining activities is prohibited.

5. The discharge of 'hazardous waste', 'designated waste', 'Group A' or 'Group B' mining waste at this facility is prohibited. For the purposes of this Order, the terms 'hazardous waste', 'designated waste', and 'Group A' and 'Group B' mining waste are as defined in Division 2 of Title 27.

6. The discharge of solid waste or liquid waste to surface waters, surface water drainage courses (other than waste dump #5), or groundwater is prohibited.

7. The discharge of groundwater or mine water from the underground mine workings to surface water or surface water drainage courses is prohibited.

8. The accumulation of water or ponding of water on waste dumps #1-5 is prohibited.

B. DISCHARGE SPECIFICATIONS

General Specifications

1. The mine does not currently have a portal discharge to surface waters. If during the course of underground mining activities, the Discharger encounters any conditions that produce groundwater flows resulting in a portal discharge, the Discharger shall notify the Regional Water Board in writing within **seven days.**

2. The Discharger shall promptly report slope changes such as movement caused by slumping or slipping, or unusual erosion.

3. Wastes shall only be discharged into, and shall be confined to, waste dump #5.

4. The Discharger shall divert runoff around waste dumps #1-5 in a non-erosive manner.

5. The disposal of wastes shall not cause pollution or a nuisance as defined in the California Water Code, Section 13050.

Waste Dumps #1-4 Closure

6. Waste dumps #1-4 shall be fully reclaimed by **30 October 2009**. Reclamation measures such as hydroseeding or hydromulching that establish self-sustaining plant cover to control erosion, reduce infiltration, and provide for increased slope stability must be implemented. Reclamation and closure of waste dumps #1-4 shall be conducted under the direct supervision of a California registered civil engineer or certified engineering geologist.

7. By **30 November 2009**, the Discharger shall submit a report describing completion of reclamation and closure of waste dumps #1-4. The report shall be prepared by a registered civil engineer or certified engineering geologist and certified by the Discharger, pursuant to Standard Provisions Item VIII. A. 5 of the Standard Provisions.

8. The post-closure maintenance period shall end when the Regional Water Board determines that the water quality aspects of reclamation are complete and waste no longer poses a threat to water quality.

Waste Dump #5

9. Waste dump #5 shall be designed, constructed and maintained to prevent scouring and/or erosion of the mine waste material, the surrounding area, and shall incorporate the provisions of Findings 27 through 29.

10. Leachate generation by waste dump #5 shall not cause degradation of waters of the state. If leachate generation causes degradation, then the Discharger shall immediately cease the discharge of waste and shall notify the Regional Water Board in writing within seven days. Notification shall include a timetable for remedial action. Discharge of wastes to waste dump #5 shall not resume until the Regional Water Board has determined that there is no further threat to water quality.

11. Reclamation of the roads, portal area, and waste dump #5 shall begin within 60 days after completion of underground mining. The closure of waste dump #5 shall be under the direct supervision of a California registered civil engineer or certified engineering geologist.

12. The post-closure maintenance period shall end when the Regional Water Board determines that the water quality aspects of reclamation are complete and waste no longer poses a threat to water quality.

Protection From Storm Events

13. All structural BMPs for the site shall be designed, constructed, and operated to prevent inundation or washout due to flooding events with a 10-year return period.

14. All site precipitation and drainage control systems shall be designed, constructed, and maintained to accommodate the anticipated volume of precipitation and peak flows from surface water runoff under 10-year, 24-hour precipitation conditions.

15. Annually, prior to the anticipated rainy season, any necessary erosion control measures shall be implemented, and any necessary construction, maintenance, or repairs of precipitation and drainage control facilities shall be completed to prevent

erosion or flooding of the site. Reports shall be submitted as described in the Monitoring and Reporting Program.

16. To comply with federal regulations for stormwater discharges promulgated by the U.S. EPA, the Discharger shall maintain coverage under the General Industrial Permit and shall conduct the monitoring and reporting as required therein.

C. RECEIVING WATER LIMITATIONS

1. The Discharger shall maintain a surface water monitoring program that complies with Water Quality Order No. 97-03-DWQ for Discharges of Storm Water Associated with Industrial Activities (General Industrial Permit) and the site specific SWPPP. The analytical parameters, monitoring points, and implementation schedule are defined in the SWPPP. The SWPPP, and any necessary amendments, shall apply during the active life of the site, the closure period, the post closure maintenance period, and during any compliance period.

2. For all monitoring points identified in the SWPPP, samples shall be collected and analyzed for the monitoring parameters in accordance with the methods and frequency specified in the General Industrial Permit.

D. GROUNDWATER LIMITATIONS

1. Neither the discharge of waste nor the act of underground mining shall cause groundwater to be degraded.

E. FINANCIAL ASSURANCE

1. The Discharger shall maintain his existing Irrevocable Standby Letter of Credit No. 4135883 (Placer Sierra Bank) to support the obligations of the Discharger as listed in the reclamation plan signed and dated by the Discharger on 5 May 2006. The Discharger shall adjust the cost annually as required under SMARA Section 3804(c) to determine what annual adjustments, if any, are appropriate to the financial assurance amount to account for inflation and any changes in facility design, construction, or operation.

F. PROVISIONS

1. The Discharger shall comply with Monitoring and Reporting Program No. R5-2007-0181, which is incorporated into and made part of this Order.

2. The Discharger shall comply with the Standard Provisions and Reporting Requirements, dated September 2003, which are hereby incorporated into this Order. The Standard Provisions and Reporting Requirements contain important provisions

and requirements with which the Discharger must comply. A violation of any of the Standard Provisions and Reporting Requirements is a violation of these waste discharge requirements.

3. The Discharger shall comply with General Industrial Permit No 97-03-DWQ. This compliance includes, but is not limited to, maintenance of waste containment facilities, precipitation and drainage controls, and surface waters throughout the active life of the waste dumps and the post-closure maintenance period. A violation of the General Industrial Permit is a violation of these waste discharge requirements.

4. The Discharger shall notify the Regional Water Board within **30 days** of any material change in its operations, including cessation of mining activities.

5. The Forest Service, as the administrator of the real property at which the discharge occurs, is ultimately responsible for ensuring compliance with these requirements. Richard Sykora, as the mine claimant and operator, retains primary responsibility for compliance with these requirements, including day-to-day operations and monitoring. Enforcement actions will be taken against the Forest Service only in the event that enforcement actions against Richard Sykora are ineffective or would be futile, or if enforcement against the Forest Service is necessary to protect public health or the environment. As the Forest Service is a public agency, enforcement actions will be taken against it only after it is given the opportunity to use its governmental powers to promptly remedy the violation(s).

6. In the event of any change in control or ownership of the facility, the Discharger must notify the Forest Service and succeeding operator of the existence of this Order by letter, a copy of which shall be immediately forwarded to this office. To assume operation as Discharger under this Order, the succeeding owner or operator must apply in writing to the Executive Officer requesting transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, the name and address and telephone number of the persons responsible for contact with the Regional Water Board, and a statement. The statement shall comply with the signatory paragraph of the Standard Provisions and state that the new owner or operator assumes full responsibility for compliance with this Order. Failure to submit the request shall be considered a discharge without requirements, a violation of the California Water Code. Transfer shall be approved or disapproved by the Executive Officer.

7. Any technical report required herein that involves planning, investigation, evaluation, engineering design, or other work requiring interpretation and proper application of engineering or geologic sciences shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. As required by these laws,

completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

8. For the purpose of resolving any disputes arising from or related to the California Water Code, any regulations promulgated thereunder, these WDRs, or any other orders governing this site, the Discharger, its parents and subsidiaries, and their respective past, present, and future officers, directors, employees, agents, shareholders, predecessors, successors, assigns, and affiliated entities, consent to jurisdiction of the Courts of the State of California.

9. The Regional Water Board will review this Order periodically and may revise requirements when necessary.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region on 6 December 2007.

PAMELA C. CREEDON, Executive Officer

JSH/SER: 6 December 2007

EXHIBIT E

14 MANAGEMENT AGENCY AGREEMENT BETWEEN THE STATE WATER RESOURCES CONTROL BOARD, STATE OF CALIFORNIA AND THE FOREST SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE.

This Management Agency Agreement is entered into by and between the State Water Resources Control Board, State of California (State Board), and the Forest Service, United States Department of Agriculture (Forest Service), acting through the Regional Forester of the Pacific Southwest Region, for the purpose of carrying out portions of the State's Water Quality Management Plan related to activities on National Forest System (NFS) lands.

WHEREAS:

1. The Forest Service and the State Board mutually desire:

   a. To achieve the goals in the Federal Water Pollution Control Act, as amended;

   b. To minimize duplication of effort and accomplish complementary pollution control programs;

   c. To implement Forest Service legislative mandates for multiple use and sustained yield to meet both long- and short-term local, state, regional, and national needs consistent with the requirement for environmental protection and/or enhancement; and

   d. To assure control of water pollution through implementation of Best Management Practices (BMPs).

2. The State Board and the Regional Water Quality Control Boards are responsible for promulgating a Water Quality Management Plan pursuant to the Federal Water Pollution Control Act, Section 208, and for approving water quality control plans promulgated by the regional Water Quality Control Boards pursuant to state law. Both types of plans provide for attainment of water quality objectives and for protection of beneficial uses.

3. The State Board and the regional Water Quality Control Boards are responsible for protecting water quality and for ensuring that land management activities do not adversely affect beneficial water uses.

4. Under Section 208 of the Federal Water Pollution Control Act, the State Board is required to designate management agencies to implement provisions of water quality management plans.

5. The Forest Service has the authority and responsibility to manage and protect the lands, which it administers, including protection of water quality thereon.

6. The Forest Service has prepared a document entitled "Water Quality Management for National Forest System Lands in California" (hereafter referred to as the Forest

Service 208 Report), which describes current Forest Service practices and procedures for protection of water quality.

7. On August 16, 1979, the State Board designated the Forest Service as the management agency for all activities on NFS lands effective upon execution of a management agency agreement.

NOW, THEREFORE, the parties hereto agree as follows:

1. The Forest Service agrees:

   a. To accept responsibility of the Water Quality Management Agency designation for NFS lands in the State of California.

   b. To implement on NFS lands statewide the practices and procedures in the Forest Service 208 Report.

   c. To facilitate early State involvement in the project planning process by developing a procedure which will provide the State with notification of and communications concerning scheduled, in-process, and completed project Environmental Assessments (EAs) for project that have potential to impact water quality.

   d. To provide periodic project site reviews to ascertain implementation of management practices and environmental constraints identified in the environmental document and/or contract and permit documents.

   e. To review annually and update the Forest Service documents as necessary to reflect changes in institutional direction, laws and implementation accomplishment as described in Section IV of the Forest Service 208 Report. A prioritization and schedule for this updating is provided in Attachment A to this agreement.

   f. That in cases where two, or more BMPs are conflicting, the responsible Forest Service official will assure that the practice selected meets water quality standards and protects beneficial uses.

   g. That those issues in Attachment B to this agreement have been identified by the State and/or regional Boards as needing further refinement before they are mutually acceptable to the Forest Service and the State Board as BMPs.

2. The State Board Agrees:

   a. The practices and procedures set forth in the Forest Service 208 Report constitute sound water quality protection and improvement on NFS lands, except with respect to those issues in Attachment B. The State and Regional Boards will work with the Forest Service to resolve those issues according to the time schedule in Attachment B.

b. That Section 313 of the Federal Water Pollution Control Act mandates federal agency compliance with the substantive and procedural requirements of state and local water pollution control law. It is contemplated by this agreement that Forest Service reasonable implementation of those practices and procedures and of this agreement will constitute compliance with Section 13260, subdivision (a) of Section 13263, and subdivision (b) of Section 13264, Water Code. It is further contemplated that these provisions requiring a report of proposed discharge and issuance of waste discharge requirements for nonpoint source discharges will be waived by the Regional Board pursuant to Section 13269, Water Code, provided that the Forest Service reasonably implements those practices and procedures and the provisions of this agreement. However, waste discharges from land management activities resulting in point source discharges, as defined by the Federal Water Pollution Act, will be subject to NPDES permit requirements, since neither the State Board nor the Regional Board has authority to waive such permits.

c. That implementation will constitute following the Implementation Statement, Section I of the Forest Service 208 Report.

3. It is mutually agreed:

a. To meet no less than annually to maintain coordination/communication, report on water quality management progress, review proceeding under this agreement, and to consider revisions as requested by either party.

b. To authorize the respective Regional Boards and National Forests to meet periodically, as necessary, to discuss water quality policy, goals, progress, and to resolve conflicts/concerns.

c. That the development and improvement of BMPs will be through a coordinated effort with federal and state agencies for adjacent lands and areas of comparable concern.

d. To meet periodically, as necessary, to resolve conflicts, or concerns that arise from and are not resolved at the Forest and Regional Board meetings. Meetings will be initiated at the request of either party, a National Forest, or a Regional Board.

e. To coordinate present and proposed water quality monitoring activities within, or adjacent to the National Forests and to routinely make available to the other party any unrestricted water quality data and information; and to coordinate and involve one another in subsequent/continuing water quality management planning and standard development where appropriate.

f. That nothing herein will be construed in any way as limiting the authority of the State Board, or the Regional Boards in carrying out their legal responsibilities for management, or regulation of water quality.

g. That nothing herein will be construed as limiting, or affecting in any way the legal authority of the Forest Service in connection with the proper administration and protection of NFS lands in accordance with federal laws and regulations.

h. That this Agreement will become effective as soon as it is signed by the parties hereto and will continue in force unless terminated by either party upon ninety (90) days notice in writing to the other of intention to terminate upon a date indicated.

IN WITNESS WHEREOF, the parties hereto, by their respective duly authorized officers, have executed this Agreement in duplicate on the respective dates indicated below.

FOREST SERVICE
U.S. DEPARTMENT OF AGRICULTURE

By: Zane G. Smith
Regional Forester
Pacific Southwest Region
Date: March 17, 1981

By: Jeff M. Sirmon
Regional Forester
Intermountain Region
Date: April 01, 1981

By: James F. Torrence
Regional Forester
Pacific Northwest Region
Date: May 26, 1981

STATE WATER RESOURCES CONTROL BOARD
STATE OF CALIFORNIA

By C. Whitney
Executive Director

Date February 26, 1981

208 Report

WATER QUALITY MANAGEMENT FOR NATIONAL FOREST SYSTEM LANDS IN CALIFORNIA BEST MANAGEMENT PRACTICES

September, 2000

WATER QUALITY MANAGEMENT
FOR NATIONAL FOREST SYSTEM LANDS IN CALIFORNIA
BEST MANAGEMENT PRACTICES
September 2000

Table of Contents

Table of Contents

This guidance documents the practices and procedures, which are the structure of the water quality management program for the Pacific Southwest Region. It describes each Best Management Practices (BMP) used for water quality management on National Forest System (NFS) lands within the State of California. It represents a portion of the State of California's Nonpoint Source Management Plan.

The practices, procedures and program are in conformance with, and comply with the provisions and requirements of Sections 208 and 319 of the Federal Clean Water Act (PL 92-500) and the United States Environmental Protection Agency (EPA) (g) guidance for the Coastal Zone Act Reauthorization Amendment. They are also within the guidelines of the Water Quality Control Board (Basin Plans) developed by the nine RWQCB in the State.

Pursuant to Section 208 of the Clean Water Act, all agencies responsible for carrying out any portion of a State Water Quality Management Plan must be designated as a Water Quality Management Agency (WQMA). Through the execution of a formal Management Agency Agreement (MAA) with the Forest Service in 1981, the SWRCB designated the Forest Service (USFS) as the WQMA for NFS lands in California (See Section 14).

The Pacific Southwest Region shall maintain its status as the designated WQMA for NFS lands in California. It is through the proper installation, operation and maintenance of these State certified and EPA approved practices and procedures that the Forest Service will meet its obligations for compliance with water quality standards and fulfill its obligation as a designated WQMA.

10.1 Authority

As a Federal agency, the Forest Service is bound by Federal Laws, Executive Orders, and Department of Agriculture directives, which are the basis for governing Forest Service programs and operations. Federal Laws and Executive Orders of direct and specific application include the following:

1. Organic Administration Act of June 4, 1987. This Act emphasized that the National Forests were created to improve and protect the forests; to secure favorable conditions of water flows; and to furnish a continuous supply of timber for the use and necessities of the citizens of the United States.

2. Multiple Use Sustained-Yield Act of June 12, 1960, and the Wilderness Act of September 3, 1964. These Acts stated that the National Forests are established and will be administered for outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness purposes. The multi-resource management responsibility of the Forest Service is amplified through these laws.

3. National Environmental Policy Act of January 1, 1969. The Act promotes efforts, which will prevent or eliminate damage to the environment and develop an understanding of the inter-relationships of all components of the natural environment and the management of the various natural resources.

4. Environmental Quality Improvement Act of April 13, 1970. This Act describes a National policy for the environment, which provides for the enhancement of environmental quality

5. Clean Water Act of 1972, as amended. This Act establishes goals, policies and procedures for the maintenance and improvement of the Nation's waters. It addresses both point and nonpoint sources of pollution and establishes or requires programs for the control of both sources of pollution. Section 208 required area-wide waste treatment management plans and water quality management plans for nonpoint sources of pollution. The Act established specific roles for Federal, state and local authorities in the regulation, enforcement, planning, control and management of water pollution. More directly, Section 319 addresses nonpoint source pollution and also requires development of water quality management plans.

6. The Forest and Rangeland Renewable Resources Planning Act of August 17, 1974. This Act provides for systematic, long-range planning in managing renewable resources. The plans are based on a National assessment conducted every ten years. The plans are updated every five years and submitted to Congress.

7. National Forest Management Act of October 22, 1976. This Act amended RPA, emphasizing interdisciplinary involvement in the preparation of land and resource management plans. The Act emphasized the concept of multiple use management and added requirements for resource protection.

8. Executive Order 12088 of October 13, 1978. This order requires Federal agency compliance with environmental laws to be consistent with requirements that apply to a private person. Compliance will be in line with authorities and responsibilities of other Federal agencies, State, interstate, and local authorities as specified and granted in each of the various environmental laws.

10.2 Objectives

The objectives of this handbook are:

1. To consolidate direction applicable to BMP application on NFS lands in California for the protection of water-related beneficial uses from nonpoint source contaminants.

2. To establish a uniform process of BMP implementation that will meet the intent of the Federal and State water quality Laws, Executive Orders, and the United States Department of Agriculture (USDA) directives.

3. To incorporate water quality protection and improvement considerations that will result in clean water into the site-specific project planning process.

10.3 Policy

The Forest Service will be responsive, in an ongoing manner, to the environmental intent, goals and objectives provided by the Clean Water Act, as amended.

Regional policy will comply with the objectives, policy and procedures of agency directives, handbooks and manuals to include, but not be limited to, those required in Forest Service Manual (FSM) 2532. It is also Regional policy to conduct water quality management actions in a manner that is consistent and compatible with the intent and provisions of the 1981 MAA between the USFS and the SWRCB, (See Section 14).

The following actions will be used to carry out water quality management:

1. **Correct Water Quality Problems on the National Forests**

   NFS lands exhibit conditions that are, or have the potential to be, a source of nonpoint pollution. These conditions exist as a result of past management actions by the Forest Service, or other landowners, and as the result of natural occurrences such as fires and floods.

   These existing and potential nonpoint sources will be evaluated to determine the need for and type of treatments necessary. Those lands found to be in need of watershed improvement work will be scheduled for treatment as part of the ongoing work planning and budgeting process. Watershed improvement funds will be used to restore deteriorated watershed land when no other funding sources e.g. roads, grazing, Knutsen-Vandenberh (KV) is available to correct the problem.

   Accomplishment is dependent on funding and personnel availability, and work priority relative to other management goals and objectives.

   Where a resource management action, due to design, administration, implementation, or other oversight, results in an impact to water quality, the impacting USFS resource function is responsible for providing the financing to mitigate the impact.

   Appropriate specialists will assess each specific impact and prescribe actions to correct the problem. These actions are integrated into the forest work planning and budgeting process for accomplishment.

2. **Perpetually Implement Best Management Practices**

   The perpetual implementation of BMPs involves three facets: training, keeping BMPs current, and BMP monitoring and evaluation.

   a. Training. Forest Supervisors will conduct water quality planning and BMP application training at the forest and district level as often as needed to orient new employees, to keep all employees updated and informed as to what is working and what needs work, and to maintain the most recent state-of-the-art knowledge and capability in water quality protection.

   b. Keeping BMPs Current. The text and references for each BMP will be updated as needed to reflect the most recent state-of-the-art methods and techniques of BMP

implementation and changes in Forest Service policy and direction. Revisions and amendments to Forest Service direction at the Regional and Forest levels will be reviewed to identify changes in the direction upon which a BMP is based.

c. BMP Monitoring and Evaluation. The control of nonpoint source pollution using BMPs is an iterative process of site-specific treatment and control needs identification, implementation, monitoring and evaluation, and feedback (See Figure 1).

Continued tracking of BMP implementation and effectiveness are key in initiating corrections and adjustments of BMP design and specification criteria and/or water quality standards. As warranted Research and/or administrative studies will be initiated to validate criteria and/or assumptions used in applying BMPs. Three types of monitoring are applicable to BMPs: implementation, effectiveness, and validation monitoring (See Figure 2).

Implementation and effectiveness monitoring will be accomplished using the Best Management Practice Effectiveness Evaluation Process (BMPEP), developed for the Region (See Section 15). Individual BMPs will be evaluated on-site where they are installed, the composite set of BMPs for a given project will be evaluated applying an in-channel assessment. Validation monitoring will be initiated where implemented practices are found to be non-effective, and revised criteria, or specifications are required to improve effectiveness. Field data will be collected, stored in computer systems and analyzed at the Regional and Forest level.

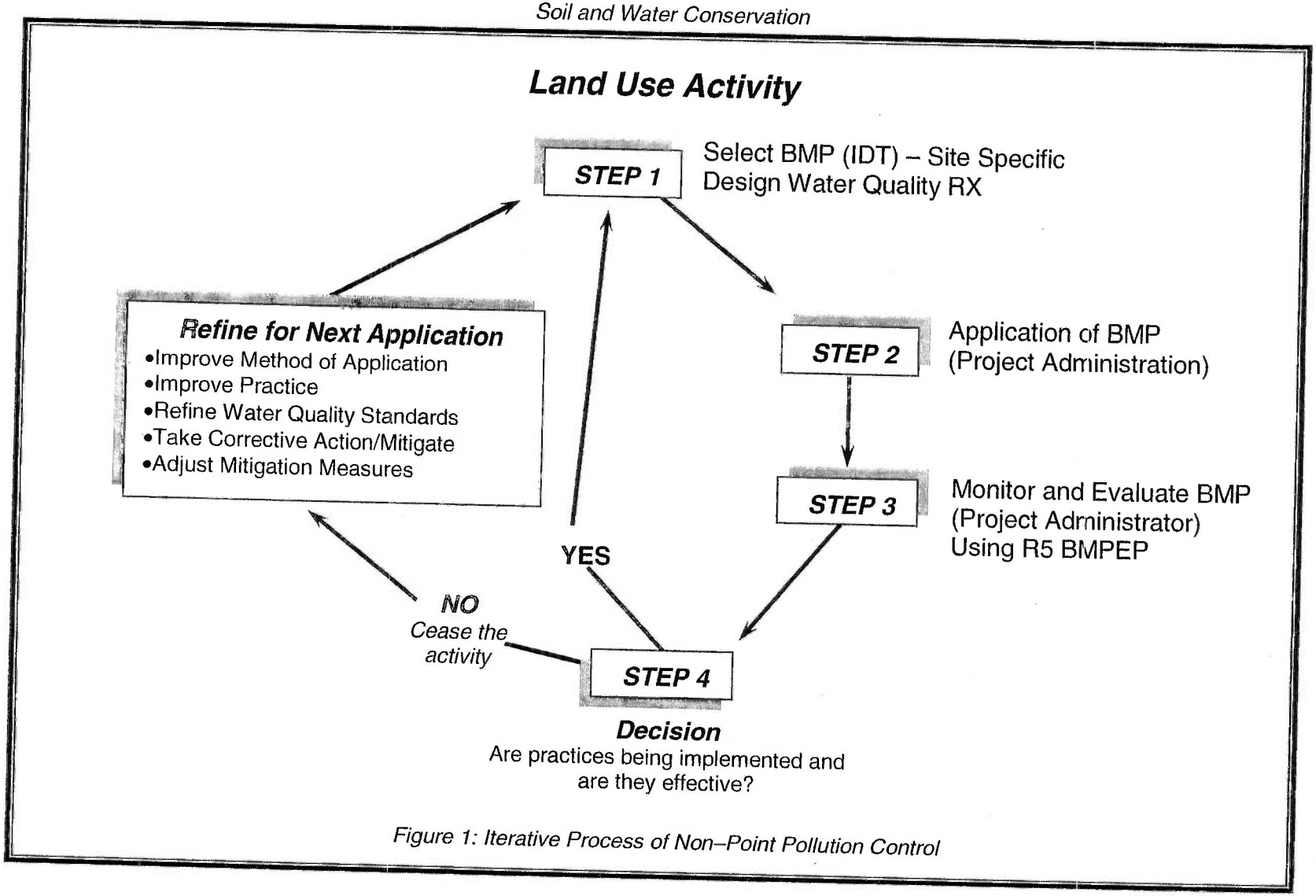


Figure 1: Iterative Process of Non–Point Pollution Control

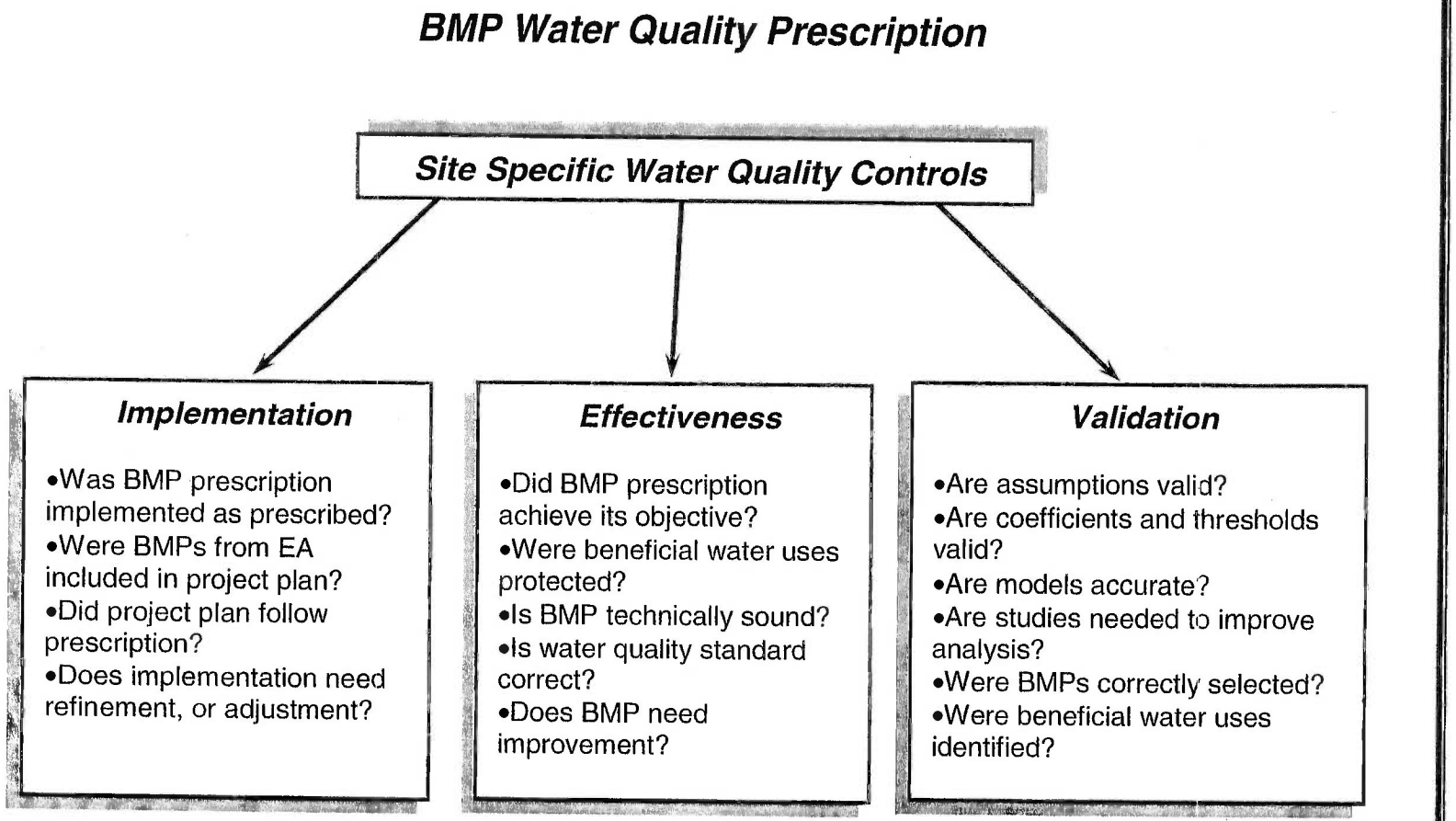


Figure 2: Essentials of BMP Monitoring

- Are they over-protecting the uses?
- Do the parameters for which standards are evaluated establish the correct indices to indicate protection of uses?
- Have the correct beneficial uses for the water body been identified?

Where the problem is determined to be an inappropriate standard or beneficial use designation, USFS personnel may contact the appropriate RWQCB, and through dialogue identify appropriate corrective or responsive actions.

Where it is determined that the reason for the problem is a deficiency in the BMP itself, USFS personnel will initiate action to improve the management practice by correcting the deficiency. Where this is the case, cease the activity until appropriate corrective action has been taken onsite.

Validation Monitoring will be used where needed to determine whether the assumptions, coefficients and specifications used to apply BMPs are valid.

USFS staff will initiate administrative and/or research studies as warranted to verify coefficients and assumptions used in the design and selection of the BMP. This monitoring, usually coordinated with research, is data-intensive, using techniques such as permanent plots. Data is commonly used to establish norms for water quality properties, beneficial uses, and economic efficiency in order to:

a) Detect and define changes over time and space.

b) Establish range of variation or coefficients for predictive and analytical models.

c) Define cause and effect relationships.

3. **Carry Out Identified Processes for Improving, or Developing Best Management Practices**

As a result of management practice monitoring and evaluation, practices will be identified as needing improvement, or development. The final major action is to refine those practices that need improvement and those that need development into BMPs.

The Regional Forester will assign responsibility for the development and improvement action, and will direct staffing needs to carry out the action. The Forest Service intends to test the results of development and improvement studies, and associated conclusions reached, before final adoption of the products as BMPs. Once adopted, implementation of the BMP shall follow the agency policy and direction cited as references for each BMP (See Section 13).

10.4 Responsibility

See FSM 2504 and 2530.4 for the water quality management responsibilities for the Regional Forester, Forest Supervisors and District Rangers.

1. Regional Forester

   The Regional Forester will:

   a. Conduct Forest Service activities in accordance with the MAA with the SWRCB signed March 17, 1981 (See Section 14).

2. Regional Staff Director

   The Regional Staff Director will:

   b. Review the reference section of the BMP handbooks needed to verify that the directives cited as references for BMPs are still valid source documents. In most cases this will involve the review of multiple BMP reference sets.
   c. Continue to refine and update existing BMPs to keep pace with state-of-the-art knowledge and to develop new practices where voids exist or as needs arise.

3. Forest Supervisor

   The Forest Supervisors shall:

   a. Apply BMPs for water quality protection and improvement in day-to-day management activities.
   b. Evaluate attainment of water quality management goals through formal and informal reviews of project planning, and through monitoring using BMPEP protocols.
   c. Conduct BMP training annually on an as needed basis, before each field season for new employees, new line officers, and new resource personnel. Training of a new resource person shall include practical instruction in the application of BMPs for planning and administration of various management activities.

10.5 Definitions

10.51 List of Acronyms

These acronyms are frequently used in the text, with a definition at the point of first use. This list is provided as a ready reference for the reader.

AASHTO	American Association of State Highway and Transportation Officials
ASTM	American Society for Testing and Materials
BMP(s)	Best Management Practice(s)
BMPEP	Best Management Practice Evaluation Program
CDFG	California Department of Fish and Game
CI	Construction Inspector
COR	Contracting Officer's Representative
CFR	Code of Federal Regulations
EHR	Erosion Hazard Rating
EPA	United States Environmental Protection Agency
ER	Engineering Representative
FERC	Federal Energy Regulatory Commission
FSH	Forest Service Handbook
FSM	Forest Service Manual
FSR	Forest Service Representative
IDT	Interdisciplinary Team
KV	Knutsen-Vandenberg
LRMP	Forest Land and Resource Management Plan
MAA	Management Agency Agreement
NEPA	National Environmental Policy Act
NFMA	National Forest Management Act
NFS	National Forest System

NOI	Notice of Intent to Operate
NPDES	National Pollutant Discharge Elimination Permit System
OSHA	Occupational Safety and Health Administration
PL	Public Law
R - 5	Region 5 (Pacific Southwest Region) of the U.S. Forest Service
RPA	Forest and Rangeland Renewable Resources Planning Act, August 17, 1974
RWQCB	Regional Water Quality Control Board
SA	Sale Administrator
SAI Plan	Sale Area Improvement Plan
SAM	Sale Area Map
SMZ	Streamside Management Zone
SPCC	Spill Prevention, Containment and Counter Measures
STORET	A storage and retrieval computer system administered by EPA.
SWRCB	State Water Resources Control Board
TSA Handbook	Timber Sale Administration Handbook
TSC	Timber Sale Contract
TSPP	Timber Sale Planning Process
USC	United States Code
USDA	United States Department of Agriculture
USFS	United States Forest Service
VIS	Visitor Information Service
WQIO	Environmental Quality Improvement Act of April 3, 1970.
WQMA	Water Quality Management Agency

10.52 Glossary of Terms

Amendment: Revised sections of the FSM and the Forest Service Handbook (FSH) system to keep the text updated.

Apron: A reinforcement mechanism that protects soil from erosional and gravitational displacement.

Armoring: Protective coverings, or structures used to dissipate the erosive energy of water. Aprons and rip-rap are types of armoring.

Beneficial Use: A use of the waters of the state to be protected against quality degradation, including but not necessarily limited to domestic, municipal, agricultural, industrial supply, power generation, recreation, esthetic enjoyment, navigation, conservation and enhancement of fish, wildlife, and aquatic resources.

Best Management Practice: A practice, or a combination of practices, that is determined by the State (or designated area-wide planning agency) after problem assessment, examination of alternative practices, and appropriate public participation to be the most effective, practicable (including technological, economic, and institutional considerations) means of preventing, or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Best Management Practice Evaluation Program: The field evaluation process developed and used by Region 5, to systematically evaluate the implementation and effectiveness of BMP.

Cross Drain: A ditch constructed to intercept surface water runoff and divert it before the runoff concentrates to erosive volumes and velocities.

Crowning: Forming a convex road surface, which allows runoff to drain from the running surface to either side of the road prism.

Designated Stream: A stream or portion of a stream identified as warranting special consideration in management decisions and project activities. See also Stream, or Streamcourse.

Designated Swimming Waters: Those waters in which swimming, wading, dabbling, diving, and other forms of primary water-contact recreation are specifically encouraged by signs, or public notice.

Earth Scientist: Air resource specialists, geologists, hydrologists, and soil scientists working for the Forest Service in the field of natural sciences. These personnel, with knowledge and skills in the fields of soil-precipitation-runoff relationships, are primarily concerned with on-site productivity and protection of water quality.

Erosion Hazard Rating (EHR): A relative rating of the potential for soil erosion on a given site. Commonly used to estimate the erosion response expected from a given land management activity. Ratings are the result of a composite analysis of the following factors: soil, topography, climate, soil cover.

Extremely Unstable Lands: Land areas exhibiting one, or more of the following characteristics:

1. Active landslides.
2. EHR is greater than a score of "29" on the R-5 rating scale.
3. Inner gorges.
4. Portions of shear zones and dormant landslides having slope gradients that are typically steeper than 60 to 65%.
5. Unconsolidated deposits with slope gradients at, or steeper than the stable angle of repose.
6. Lands with slope gradients at, or steeper than the mechanical strength of the underlying soil and rock materials.

Floodplain: The areas adjoining inland streams and standing bodies of water and coastal waters, including debris cones and flood-prone areas of offshore islands, including at a minimum, that area subject to a 1% chance of flooding in any given year.

Ground Cover: Material on the soil surface that impedes raindrop impact and overland flow of water. Material may include duff and organic matter such as needles, sticks, limbs, etc., and exposed roots, stumps, surface gravels and living vegetation

Hazardous Substances: Any of a wide variety of materials, solid liquid, or gas, which require specific cautionary handling and procedures to permit their safe use. (Health and Safety Code 6709.11, Chapter 9)

Horizontal Drains: Horizontal pipes installed in road cut slopes and fills to drain subsurface water and guard against landslides. Includes perforated metal, or plastic pipes in horizontal drill holes in water-bearing formation.

Inner Gorge: A geomorphic feature that consists of the area of channel side slope situated immediately adjacent to the stream channel, and below the first break in slope above the stream channel. Debris sliding and avalanching are the dominant mass wasting processes associated with the inner gorge.

Land and Resource Management Plan (LRMP): A forest-wide document that provides direction for managing NFS lands within the forest boundaries, with the goal to fully integrate a mix of management actions that provide for multiple use and protection of forest resources, satisfy guiding legislation, and address local regional and national issues for the plan period. Also frequently referred to as LMP.

National Pollutant Discharge Elimination Permit System: The system for issuing, conditioning, and denying permits for the discharge of pollutants from point sources, by State water quality regulatory authorities, or the EPA. The program is administered by the RWQCBs of California.

Nonpoint Source: Diffuse sources of water pollution that originate at indefinable sources, such as from silvicultural and recreational activities. Practically, nonpoint sources do not discharge at a specific, single location such a conveyance pipe.

Outsloping: Shaping a road prism without an inside drainage ditch to direct runoff to the outside shoulder, as opposed to insloping which directs runoff to an inside ditch. Emphasis is on maintaining flow at an angle across the road to avoid buildup of an erosive flow of water.

Permittee: Individual, or entity that uses NFS resources by permit from the Forest Service.

Pesticide: A general term applied to a variety of chemical pest controls, including insecticides for insects, herbicides for plants, fungicides for fungi, and rodenticides for rodents.

Pipe Underdrains: A perforated pipe, or fabric at the bottom of a narrow trench backfilled with filter material. This kind of installation is used where there is a need to lower the water table adjacent to the roadbed, or other structure.

Pitting. Making shallow pits, or basins of adequate capacity and distribution to retain water from snowmelt and rainfall to enhance infiltration, augment soil moisture, and retard runoff.

Point Source: Water pollution originating from a discrete identifiable source, or conveyance. – NO WATER ELIMINATING

Road Decommissioning: Activities that result in the stabilization and restoration of unneeded roads to a more natural state (36CFR212.1), (FSM 7703)

Sale Area Improvement Plan (SAI Plan): A plan of work for post sale enhancement and improvement of the sale project area. The plan addresses development, protection, and maintenance actions for the future production of renewable resources.

Sale Area Map (SAM): A map of suitable scale and detail to be legible which is part of a timber sale contract. The map identifies sale area boundaries and contract requirements specific to the sale.

Sale Plan: The document used to identify the approved locations for timber harvest and transportation improvements in a given sale, including a description of project results to be accomplished. The sale plan also includes required mitigation measures that were identified in the environmental documentation process.

Specified Road: A forest development transportation-system road identified (specified) in a timber sale contract.

Stabilization Trenches: These are wide trenches with sloping sides having a blanket of filter material approximately three feet thick on the bottom and sides. Perforated drainpipes are installed on the bottom of the trench to transmit the collected water. Stabilization trenches are placed in swales or ravines and under side hill fills, to stabilize fill foundation areas that are saturated.

Standard Specifications: Standards and design requirements, from the current version of "Engineering Management (EM) 7720-100", Forest Service Standard specifications for construction of roads and bridges, which direct Forest Service construction activities.

Stream Classification: The ordering of streams in a manner that reflects (1) flow characteristics, (2) present and foreseeable downstream values of the water, and (3) physical characteristics of the stream environment—as evaluation criteria. Class I is the highest value stream, Class IV is the lowest value stream.

Streamside Management Zone (SMZ): An administratively designated zone adjacent to ephemeral, intermittent and perennial channels and around standing bodies of water, wetlands, springs, seeps and other wet or marshland areas. SMZ is also ment to include other naming conventions for streamside buffering areas such as; stream protection zone, riparian reserves, riparian habitat conservation areas and so forth. SMZ are designed and delineated for the application of special management controls aimed at the maintenance and/or improvement of water quality. SMZ delineation may include floodplains and riparian areas when present. SMZ delineation can have synergistic benefits to other resources such as maintenance and improvement of riparian area dependent resources, visual and aesthetic quality, wildlife habitat and recreation opportunities.

Suitable Forest Land: Land that is subject to being managed for timber production on a sustained scheduled basis. Some of the determinants of land suitability for harvesting are reforestation potential, timber growth rate, economics, and land stability. Also included are forest lands where the land and resource management plan recognized an emphasis for achieving other key resource objectives, such as recreation, visual, wildlife, water and so forth in addition to timber management.

Timber Sale Contract (TSC) Provisions: Often referred to by the section of the TSC in which they occur.

- *B Provisions* - Standard provisions for Forest Service timber sale contracts, located in section "b" of the contract.

- *C Provisions* - Special provisions needed to tailor the timber sale contract to meet specific management objectives in R-5, located in section "c" of the contract.

Unsuitable Forest Land: Forest land that is not currently suitable for timber production. Some reasons for classifying land as unsuitable include: potential soil productivity loss and potential, irreversible damage to soil which cannot be prevented using current technology, mineral withdrawals, low volume growth rates, and inadequate assurance that the land can be restocked within 5 years after harvest.

Wetlands: Those areas that are inundated by surface, or groundwater with a frequency sufficient to support a prevalence of vegetation, or aquatic life that requires saturated, or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, springs, seeps, wet meadows, river overflows, mud flats and natural ponds.

11 Introduction

Water quality and associated beneficial uses are most effectively and efficiently protected from degradation due to nonpoint sources of pollution by the application of BMPs. This guidance documents the regions' water quality management program for controlling and preventing nonpoint source water pollution. It documents an iterative process of site-specific practice identification, implementation, monitoring and feedback.

It also describes the BMPs themselves, the process for development of site-specific methods and techniques for applying BMPs, and lists the references for each BMP. The directives, policies, laws, and other source documents listed in these references are regular reference materials for persons involved in project evaluation, design, implementation and quality control. The text documents the working relationship with the SWRCB, the Forest Service water quality management performance standards and regulatory agency expectations as required by the 1981 MAA.

11.1 NEPA and Interdisciplinary Approach.

The NEPA process is crucial for the development of site-specific methods and techniques for applying BMPs to fit individual project needs. Direction for environmental evaluations and preparation of environmental documents to comply with NEPA are contained in established NFS policy and procedures found in FSM 1900, FSM 1950 and FSH 1909.15. These references also contain direction to incorporate the interdisciplinary process into planning and decision making.

The BMPs documented herein have been considered in the development of Forest Land and Resource Management Plans and incorporated by reference. During the Forest Plan Implementation phase, this text will be used by the Interdisciplinary Team (IDT) to develop applications of the BMPs to protect and improve water quality. Inter-relationships between Forest Planning and Forest Plan Implementation are described in FSM 1922 and FSH 1909.12.

Under NEPA, interdisciplinary involvement is required to evaluate projects that may influence water quality and to develop the appropriate BMP applications for maintenance and improvement of water quality. The line officer responsible for a project selects and convenes an IDT to evaluate a proposed activity, and assigns them the task of formulating and evaluating alternatives. A major part of the IDT evaluation is an analysis of environmental consequences. Alternatives that cannot fully protect water quality and associated beneficial uses with full application of BMP will not be considered viable alternatives.

An IDT is comprised of individuals representing two, or more areas of professional knowledge and skills. They are not a fixed set of professionals. Each team is a unique combination of skills that the line officer selects according to the identified issues, concerns, and opportunities associated with each project proposal. The IDT does not make decisions, but provides the line officer with alternatives, evaluations and recommended mitigation and protection measures needed to make a reasoned decision and protect the environment. The final decision authority lies with the line officer.

1. IDT development of BMPs

The BMPs are water quality protection measures that must be considered in formulating a resource management plan, program, or project. Their purpose is to directly or indirectly protect water quality and mitigate adverse watershed impacts while meeting other resource goals and objectives. They are action-initiating mechanisms that lead to the development of detailed protection measures to be applied during project development and onsite implementation.

The IDT will identify the methods and techniques for applying BMPs for specific sites during the project planning process following onsite evaluation of the project area. In this manner the methods and techniques can be custom fitted to the specific environment, as well as the proposed project activities.

As a result of interaction between team members the appropriate mix of implementation methods and techniques are selected. The final combination of practices are selected which will control nonpoint pollution, and also meet other resource needs. Site-specific applications utilize innovations and refinements that have developed through monitoring and feedback.

Commonly, the methods and techniques for water quality protection that apply to a project site are a composite package of multiple BMPs with site-specific applications developed by the IDT. The appropriate BMPs and the methods and techniques of implementing the BMP are included in the environmental documentation, permit, contract, or other controlling document used to conduct and administer the project. The BMPs will be incorporated into these documents in various ways such as, design specifications, contract clauses, or management requirements and mitigation measures. This assures that they are part of the project work to be accomplished.

2. Implementation of BMPs

There are various methods and techniques available to implement a BMP, and not all are applicable to every site.

For example, BMP 2-7 "Control of Road Drainage" dictates that roads will be correctly drained to disperse water runoff to minimize the erosive effects of concentrated water flow. Some methods and techniques for draining a road are: out slope the road prism, install water bars, or inslope the road to a ditch line and install culverts. It is during the onsite evaluation of a specific road project that the appropriate method or combination of methods—to correctly drain the road—are identified. The methods are thereby custom fitted to the physical and biological environment of the project area.

The BMPs are presented under eight different resource categories in this handbook. The sequence in which these resource categories are presented has no intended significance.

Further, because a particular BMP is located within a given category of BMPs does not imply that it has no applicability in another resource area.

For example, consider a situation of tree removal within a developed campground for safety (hazard tree removal), or campground expansion, or insect infestation eradication purposes. Even though BMP 1-11, "Suspended Log Yarding In Timber Harvest", and BMP 1-12, "Log Landing Location", reside in the Timber Management category of BMPs, they are also applicable to tree removal in the developed campground area, even where the tree removal does not fall into the formal definition of a timber sale. It is appropriate that yarded logs in the recreation area be suspended when necessary to preclude excessive soil disturbance, or to maintain the integrity of the SMZ. It is also appropriate that any log landings be located to avoid creating hazardous watershed conditions and water quality.

The same is true for the "Road And Building Site Construction" BMP whether the road is for timber harvesting, mining, recreation access, or some other purpose; the road and building site BMPs are applicable.

This multi-resource, cross-resource utility is true for all BMPs in this guidance whenever applicable. The site of BMP documentation will be different (e.g. the recreation development plan may apply in place of the timber sale plan), and the person responsible for BMP implementation and monitoring will be different (e.g. recreation staff officer in place of the timber sale administrator), but the intent and application of the BMPs to protect and improve water quality is constant, and not necessarily vested with a given resource functional area.

11.2 Application of BMPs

After the BMP are identified, and the site-specific protective measures documented, they will be implemented along with any other mitigation measures, requirements and controls that are designated for the project and site-specific area.

1. Project application of BMP: The application of the BMPs is achieved by the Forest Service Official responsible for project implementation. Each of these personnel uses the BMP source documents as technical guidelines e.g. TSC, Timber Sale Administration (TSA) Handbook, FSM, FSH and Code of Federal Regulations (CFR).

2. Feedback to Line Officers: The effectiveness of the selected BMP is evaluated by the Forest Service officials responsible for the project and if required, qualified earth scientists. The evaluation includes a comparison of the actual results realized, to that, which was predicted in the environmental document. The reporting of monitoring and evaluation results by Forest Service personnel provides feedback to line officers for consideration in adapting future similar projects.

3. Technical assistance and training in the effective application of BMPs: One role of the earth scientist in BMP application is to provide technical assistance and training for resource project leaders, to:

   a. Ensure the effective application of the BMPs on the ground.

   b. Update and refine BMP as a result of knowledge gained from monitoring and evaluating previous applications.

   c. Conduct training for personnel as needed to maintain the most recent state-of-the-art knowledge and capability in water quality protection.

      Training personnel in the attributes of water quality management and the effective application of BMPs is a critical link in the water quality management process. With more intensive land management and a wider variety of beneficial uses dependent on the quality of water, an ever expanding skill base in the fields of land and watershed management becomes mandatory.

      A training and information program is essential to ensure consistent application and continued effectiveness of the practices. All Forest Service personnel will be trained on a periodic, recurring basis to ensure new and transferred employees receive the training, and as a refresher course for others.

Training

Training programs will focus on both water quality protection through BMP application and program monitoring through BMPEP.

Training for water quality protection through BMP application will focus on all USFS employees including:

- Administration employees not commonly associated with resource management field activities.
- Line and primary staff officers

- Field personnel that are responsible for the planning and conduct of projects

Training for program monitoring through BMPEP will focus on those Forest personnel responsible for project planning, implementation , quality control and reporting.

Training will be continually updated and conducted using state-of-the art tools and techniques to ensure effectiveness.

11.3 Environmental Variability and Best Management Practices

The management practices described herein are neither detailed prescriptions nor solutions to specific nonpoint pollution sources. Although some pollutants will be thought of as characteristic of a management activity, the actual effect of any activity on water quality will vary. The magnitude, scope, and duration of pollution are not activity-specific. The extent to which contaminants from an activity have the potential to degrade water quality is a function of:

1. The physical, biologic, meteorologic and hydrologic environment within which the activity takes place (e.g. topography, physiography, precipitation, channel density, soil type, vegetative cover).

2. The type of activity imposed on a given environment (recreation, mineral exploration, timber management), and the proximity to surface waters within the given environment.

3. The method of application and time frame over which the activity is applied (grazing system used, types of silvicultural practices used, constant use as opposed to seasonal use, recurrent application, or one-time application).

4. The kind of beneficial uses of the water in proximity to the management activity and their relative sensitivity to the type of contaminants associated with the activity.

These four factors vary throughout the State of California, from National Forest to National Forest, and from site to site on individual Forests. It follows then, that the extent and kind of contaminants are variable, as are the abatement and mitigation measures. No solution, prescription, method, or technique is best for all circumstances. The management practices presented in the following include such phrases as: "according to design," "as prescribed," "suitable for," "within acceptable limits," and so on. The actual methods and techniques applied to a project to implement a given BMP are the result of site-specific evaluation and development by professional personnel through interdisciplinary involvement in the decision-making process.

12 MANAGEMENT PRACTICES DOCUMENTATION

This section identifies the BMPs employed to protect water quality.

1. Source Documents of BMP. The BMPs described in this section were compiled from Forest Service manuals, handbooks, contract and permit provisions, and policy statements. These practices act as checks and balances that protect the quality of the water resource by requiring coordination, inventory, monitoring, analysis and evaluation of proposed management actions. They are consistent with legislative direction and complement an informed and reasoned planning and decision-making process. Their

purpose is to directly or indirectly maintain, or improve water quality and abate, or mitigate impacts, while meeting other resource goals and objectives.

2. Categories of BMP by Resources. The BMPs are identified in the following categories:
   1 Timber Management
   2 Road and Building Site Construction
   3 Mining
   4 Recreation
   5 Vegetation Manipulation
   6 Fire Suppression and Fuels Management
   7 Watershed Management
   8 Range Management

   BMPs cover three types of activities, administrative, preventive, and corrective. These practices are neither detailed prescriptions, nor solutions for specific problems. They are action-initiating mechanisms, processes, practices, which call for the development of site-specific, detailed prescriptions and solutions. They identify management considerations that must be taken into account prior to and during the formulation of alternatives for land management actions. They serve as checkpoints to consider in formulating a resource plan, a program, or a project.

3. Interagency accountability for implementation. BMPs are the practices both the State and Federal water quality regulatory agencies expect the Forest Service to implement to meet our obligation for compliance with applicable water quality standards, and to maintain and improve water quality. They are the performance standards for the agency.
   The BMPs are dynamic and always subject to improvement and development. Monitoring and evaluation of existing practices may disclose areas where refinement is warranted. Research, academia, and administrative studies are continually evolving new methods and techniques applicable to water quality protection. Provision has been made to allow for the continued updating and refinement of the existing practices as well as development of new practices. Attachment "A" of the 1981 MAA is updated annually to document and schedule BMP refinement and development needs (See Section 14).

4. Format of BMPs. Each practice is organized according to the following format:

Heading	Context
Practice	Includes the sequential number of the BMP and a brief title.
Objective	Describes the desired results or attainment of the practice as it relates to water quality protection.
Explanation	Further amplifies the brief title and expresses how to apply the practice. Describes criteria, or standards used when applicable.
Implementation	Describes where to apply the practice, who is responsible for application, direction and supervision, and when to employ the practice.

28. Surface Erosion Control at Facility Sites (PRACTICE: 2-28)

a. Objective: Reduce the amount of surface erosion taking place on developed sites and the amount of soil entering streams.

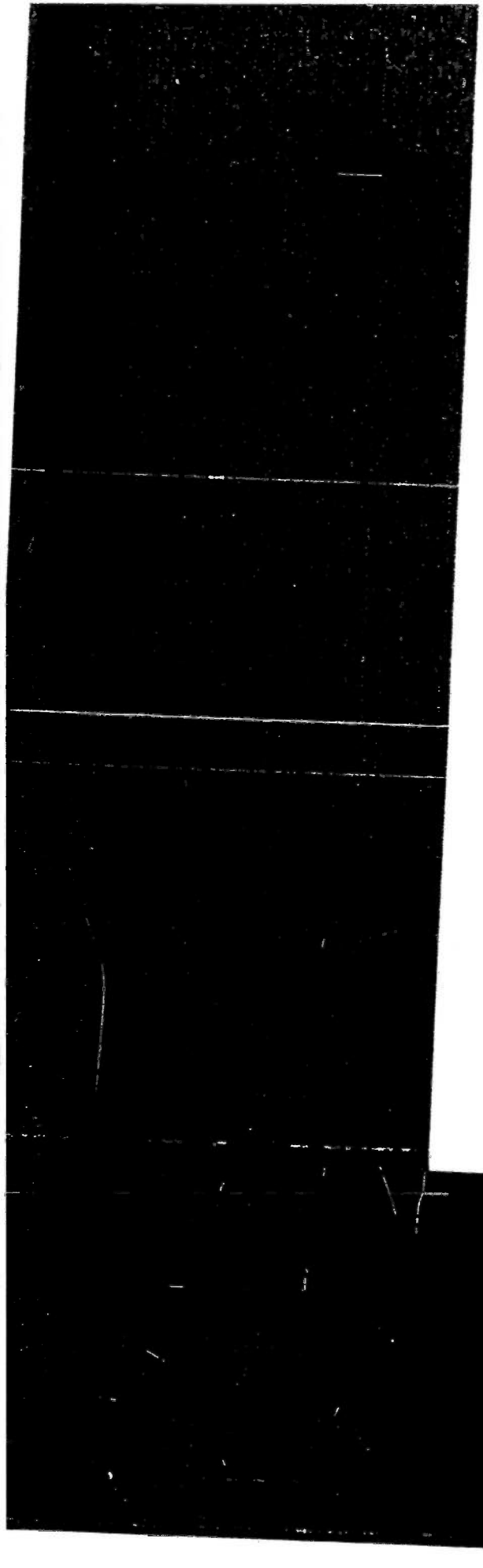
b. Explanation: On lands developed for administrative sites, ski areas, campgrounds, parking areas, or waste disposal sites, substantial acreage may be cleared of vegetation. Erosion control methods must be implemented to keep the soil in place, and to minimize suspended sediment delivery to streams. Some examples of erosion control methods that could be applied at a site for keeping the soil in place would be applying grass seed, erosion blankets, tackifiers, hydromulch, paving, or rocking of roads, water bars, cross drains, or retaining walls.

To control the amount of soil entering streams, the natural drainage pattern of the area should not be changed; sediment basins and sediment filters will be established to filter surface runoff; and diversion ditches, and berms will be built to divert surface runoff around bare areas. Construction activities will be scheduled to avoid periods of the year when heavy runoff is likely to occur.

c. Implementation: This management practice is used as a preventative and remedial measure for any site development project that will remove the existing vegetation and ground cover and leave exposed soil. This practice is applied during the planning phase for NFS projects, or by special use permit requirements for private development on public land.

Mitigation measures will be developed by the IDT and incorporated in the project by the design engineer. Project crew leaders and supervisors will be responsible for implementing force account projects to construction specifications and project criteria.

Contracted projects are implemented by the contractor, or operator. Compliance with plans, specifications, and operating plans is ensured by the COR, ER, and FSR.



12.3 Synopsis for Mining

Mineral exploration and extraction activities on NFS land including oil, gas, and geothermal resources, fall into the following categories:

1. Locatable Mineral Activities - Administered under the U.S. Mining Laws, Act of May 10, 1872 as amended. This Law applies to most hard rock and placer mineral deposits on NFS lands reserved from the public domain. The Law generally allows "...that all valuable mineral deposits in lands belonging to the United States...are free and open to exploration and purchase...by citizens of the United States..."

2. Leasable Mineral Activities - Minerals such as coal, oil and gas, phosphate, potash, sodium, geothermal steam and other minerals that will be acquired under the Mineral Leasing Act of 1920 as amended. This also applies to all minerals on lands that have been acquired by the Forest Service under authority of the Weeks Act.

3. Saleable Mineral Activities - Administered under the Materials Act of July 31, 1947, as amended. Common varieties of sand, stone, gravel, pumice, cinders and clay located on NFS land may be disposed of by sale, or given free to other units of government and non-profit entities when consistent with good public land management and the public interest.

12.31 Index for Mining Practices

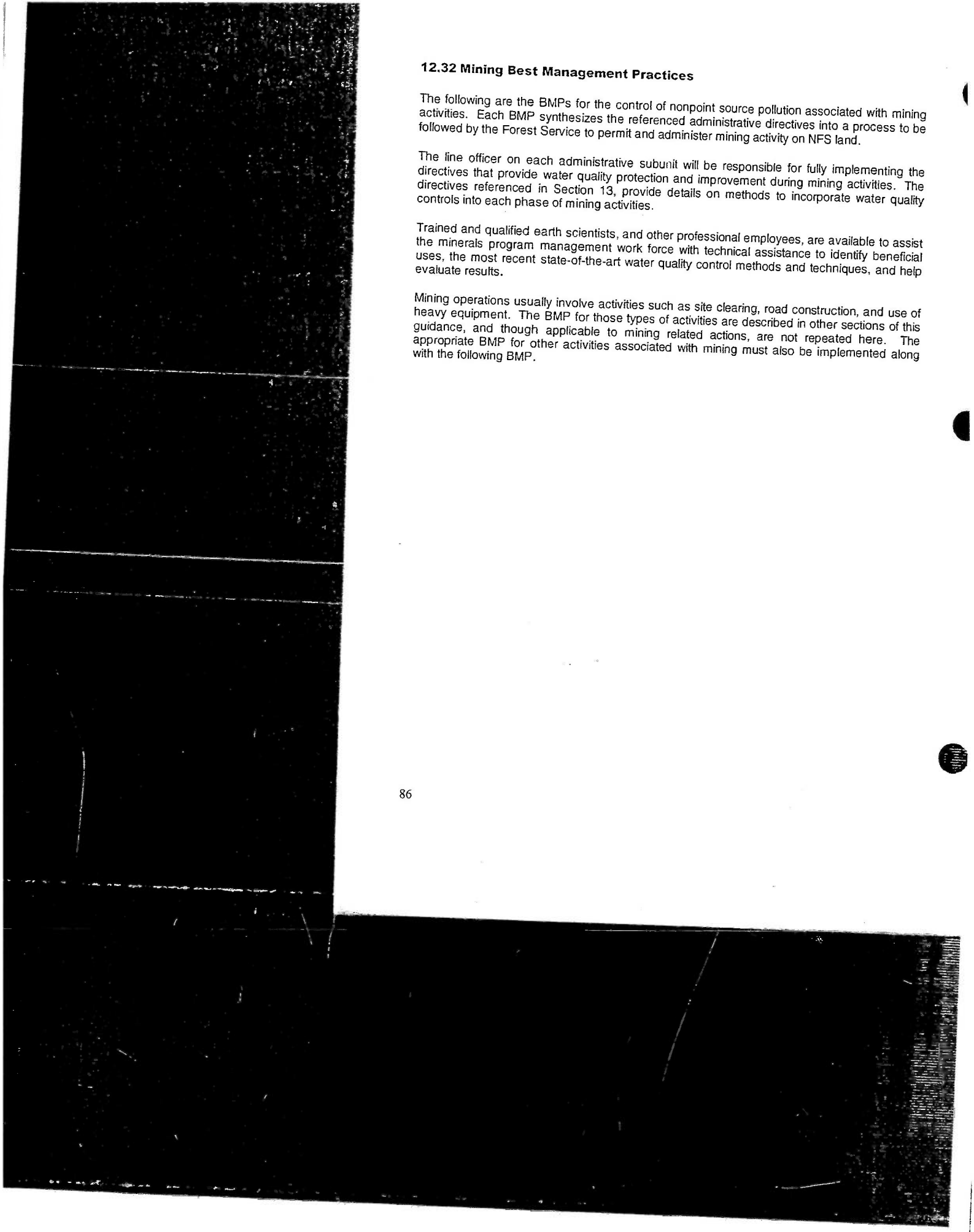
12.32 Mining Best Management Practices

The following are the BMPs for the control of nonpoint source pollution associated with mining activities. Each BMP synthesizes the referenced administrative directives into a process to be followed by the Forest Service to permit and administer mining activity on NFS land.

The line officer on each administrative subunit will be responsible for fully implementing the directives that provide water quality protection and improvement during mining activities. The directives referenced in Section 13, provide details on methods to incorporate water quality controls into each phase of mining activities.

Trained and qualified earth scientists, and other professional employees, are available to assist the minerals program management work force with technical assistance to identify beneficial uses, the most recent state-of-the-art water quality control methods and techniques, and help evaluate results.

Mining operations usually involve activities such as site clearing, road construction, and use of heavy equipment. The BMP for those types of activities are described in other sections of this guidance, and though applicable to mining related actions, are not repeated here. The appropriate BMP for other activities associated with mining must also be implemented along with the following BMP.



1. Water Resources Protection On Locatable Mineral Operations (PRACTICE: 3-1)

a. Objective: To protect water quality from degradation by physical and chemical constituents resulting from locatable mineral exploration, development, production, and associated activities.

To ensure that all mineral activities are conducted in an environmentally sound manner, and that lands disturbed by mineral activities are reclaimed for other productive uses.

b. Explanation: The authority for the occupancy and use of NFS land for mineral development is granted under the General Mining Law, as amended (30 USC 21-54 et seq.), and other statutes. In addition, regulations (36 CFR 228, subpart A, and 36 CFR 261) promulgated under the Organic Act (16 USC 551) obligate both the mineral operator and the Forest Service to minimize adverse environmental impacts to the surface resources of NFS administered land (36 CFR 228.1).

c. Implementation: Seven instruments will be used to control the impact on surface resources, including the water quality, of locatable mineral activities on NFS lands. It is seldom necessary to use all of these in every case. The seven instruments are listed below:

1) Notice of Intent to Operate

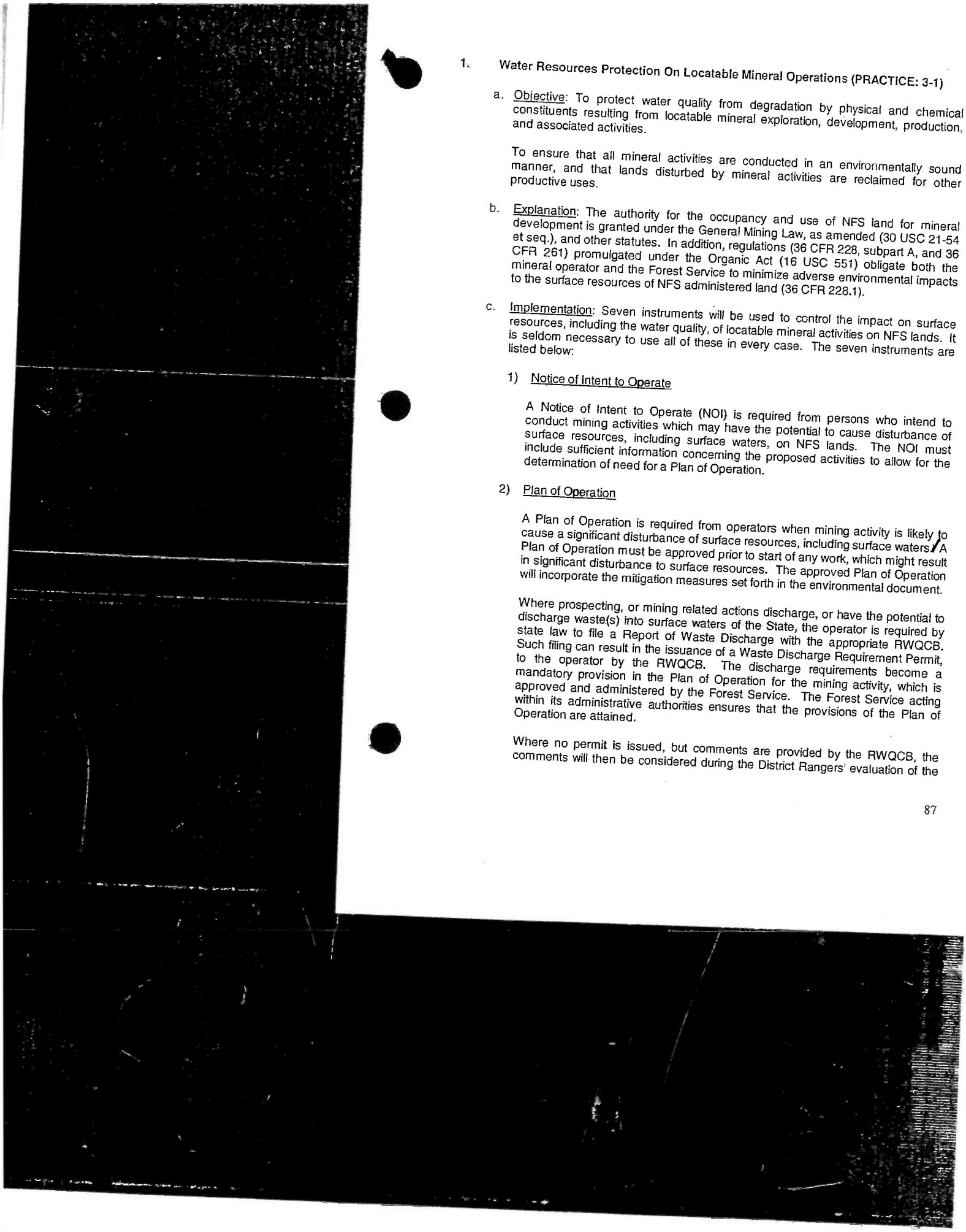
A Notice of Intent to Operate (NOI) is required from persons who intend to conduct mining activities which may have the potential to cause disturbance of surface resources, including surface waters, on NFS lands. The NOI must include sufficient information concerning the proposed activities to allow for the determination of need for a Plan of Operation.

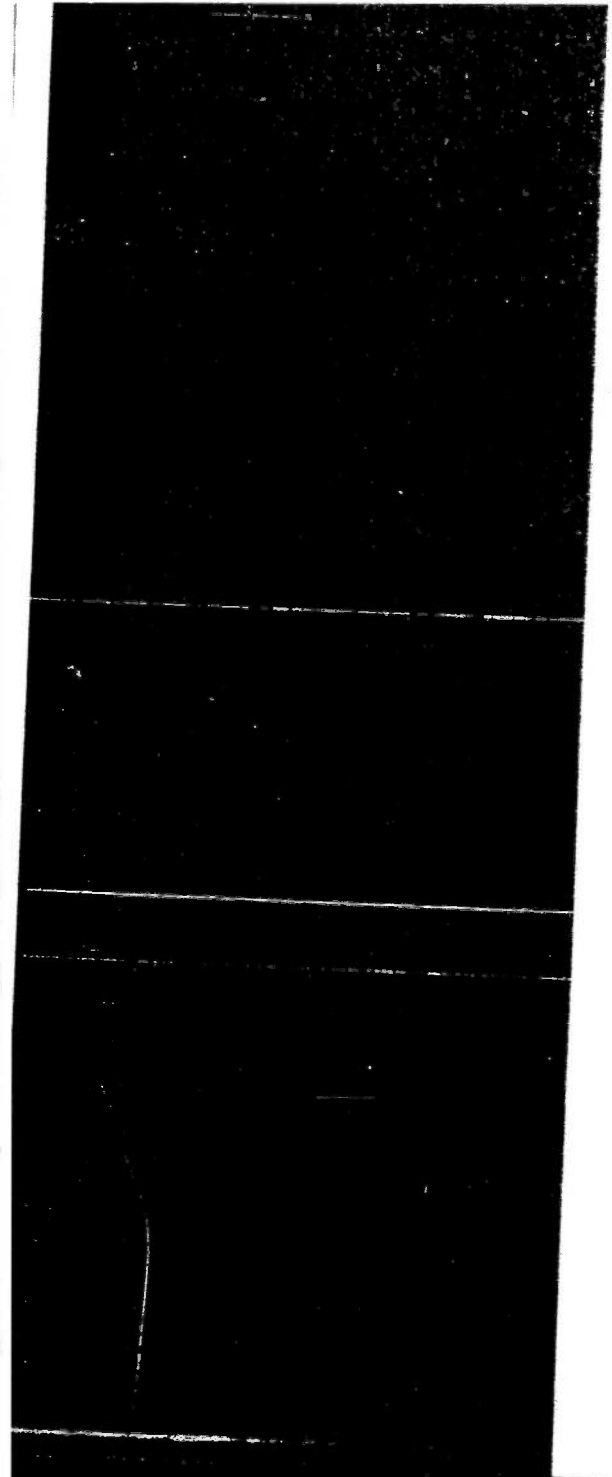
2) Plan of Operation

A Plan of Operation is required from operators when mining activity is likely to cause a significant disturbance of surface resources, including surface waters. A Plan of Operation must be approved prior to start of any work, which might result in significant disturbance to surface resources. The approved Plan of Operation will incorporate the mitigation measures set forth in the environmental document.

Where prospecting, or mining related actions discharge, or have the potential to discharge waste(s) into surface waters of the State, the operator is required by state law to file a Report of Waste Discharge with the appropriate RWQCB. Such filing can result in the issuance of a Waste Discharge Requirement Permit, to the operator by the RWQCB. The discharge requirements become a mandatory provision in the Plan of Operation for the mining activity, which is approved and administered by the Forest Service. The Forest Service acting within its administrative authorities ensures that the provisions of the Plan of Operation are attained.

Where no permit is issued, but comments are provided by the RWQCB, the comments will then be considered during the District Rangers' evaluation of the





adequacy of the proposed projects' water quality protection mitigation measures included in the Plan of Operation.

Mineral operations must comply with all Federal and State laws related to the Clean Water Act (CWA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and the Resource Conservation and Recovery Act (RCRA).

3) Environmental Document

The processes required in NEPA and its implementing regulations (43 CR 1500–1508) must be followed to evaluate a Plan of Operation. The appropriate line officer will convene an IDT to assess the impacts of a project on the environment, formulate alternatives, and prescribe mitigation measures. An environmental impact statement will be prepared if projects have the potential to result in significant adverse impact on the environment. The environmental document will set forth the mitigation measures for the proposed operation.

4) Reclamation Performance Bond

Prior to approval of the Plan of Operation, the operator may be required to furnish a financial guarantee to perform reclamation work. This will be in the form of an approved surety bond, cash, or other security to cover the estimated cost of reclamation work. When a financial guarantee is required, the Plan of Operation and reclamation plan are not approved until the required finances are on deposit. Hence, mining activity is postponed pending deposit of funds assuring reclamation.

5) Special use permit

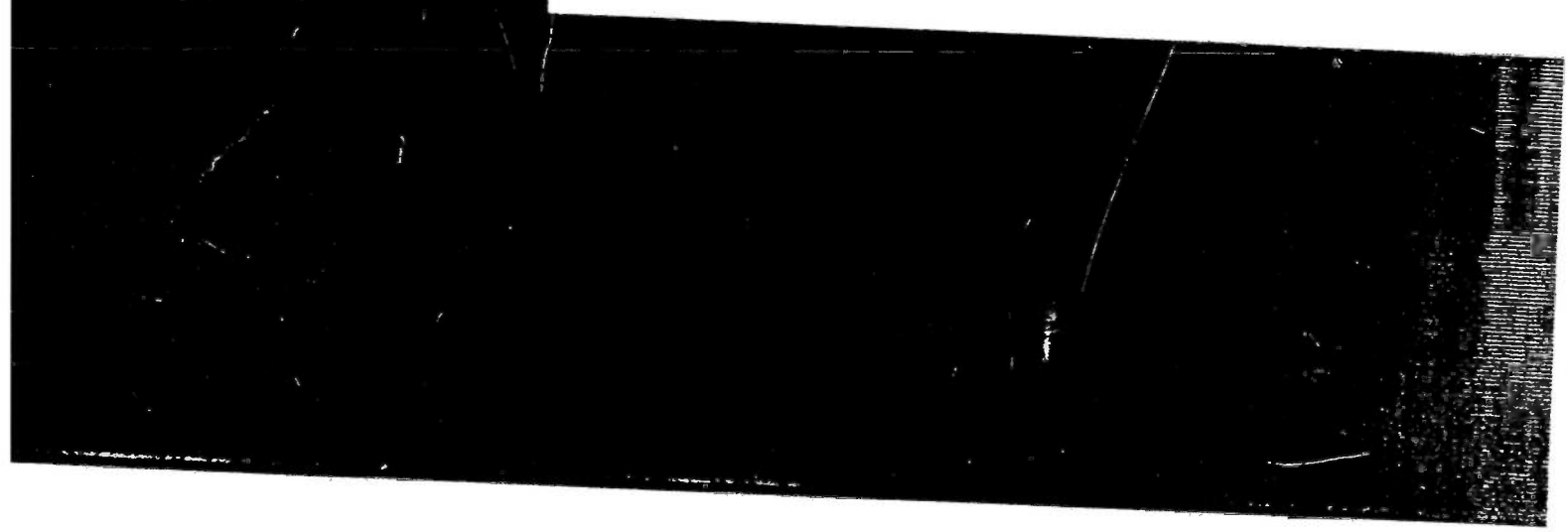
Special use permits may be required for off-claim facilities on NFS land that are needed to conduct mining. These include such things as water diversion and transmission facilities, power lines, road construction and/or reconstruction, tailings disposal areas, and other surface-disturbing or resource-impacting activities. In some cases, these facilities can be included, and administered in the Plan of Operation.

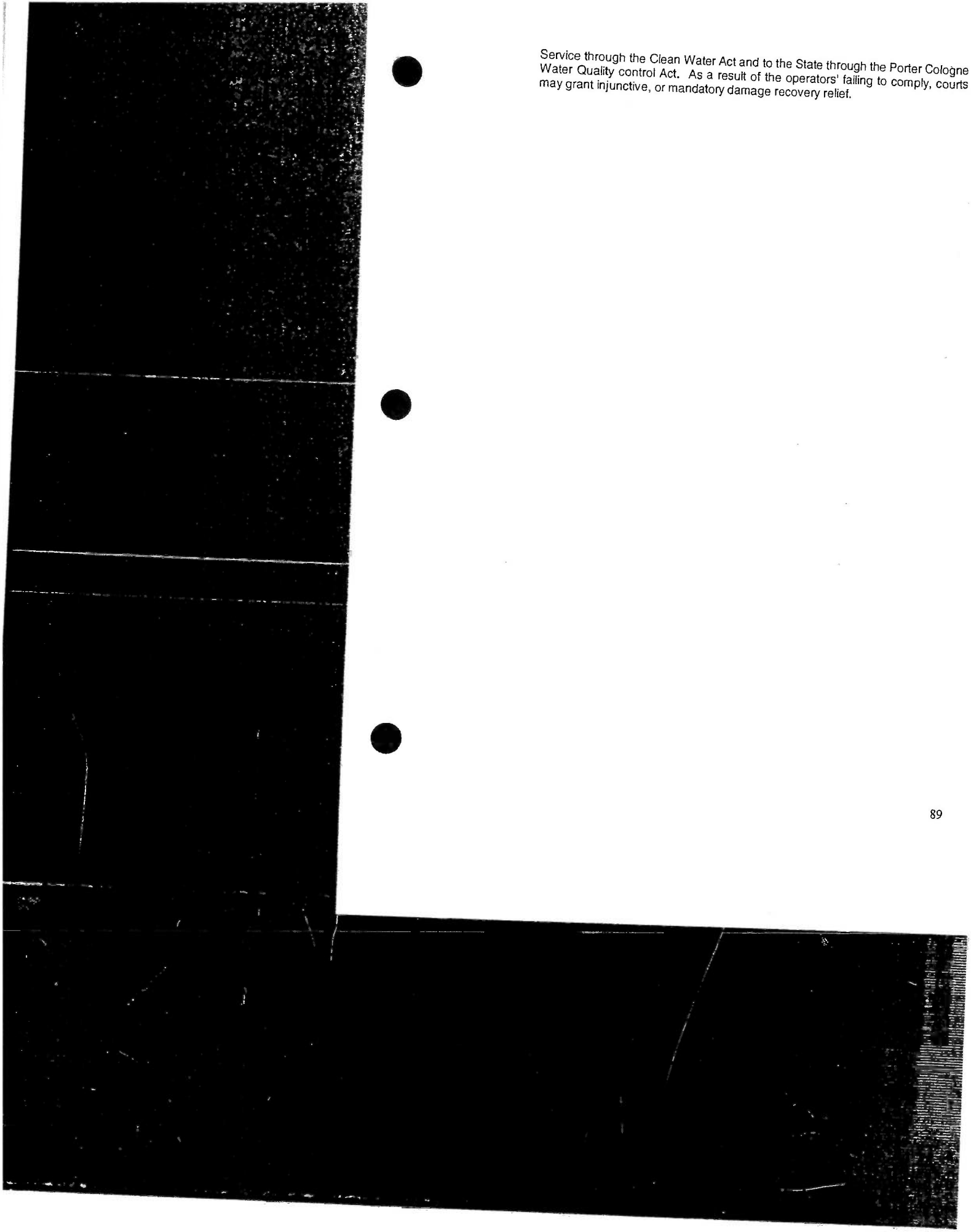
6) Road use permit

Road use permits will be issued for commercial use of certain NFS roads. In this case the appropriate BMP in Section 12.2 will apply. When a Plan of Operation is required, it must be approved prior to the issuance of and additional permits.

7) Notice of noncompliance

When an operator fails to comply with regulations, or approved Plan of Operation requirements, and the noncompliance is causing loss of, or damage to surface resource, the authorized Forest Service Official will issue the operator a "Notice of Noncompliance". It will describe the noncompliance and specify the actions and time frames (generally not to exceed 30 days) for bringing the action into compliance. Administrative and legal remedies are available to the Forest





Service through the Clean Water Act and to the State through the Porter Cologne Water Quality control Act. As a result of the operators' failing to comply, courts may grant injunctive, or mandatory damage recovery relief.

2. **Administering Terms of BLM-Issued Permits or Leases for Mineral Exploration and Extraction on NFS Lands (PRACTICE: 3-2)**

a. Objective: To ensure that other resource values, including water quality, are protected during mineral exploration, extraction processing and that reclamation activities carried out are under the terms of prospecting permits and mineral leases on NFS land.

b. Explanation: The Department of the Interior (USDI) has the major role in issuing and supervising operations on mineral licenses, permits and leases. The Forest Service coordinates with the USDI agencies to ensure that Forest Service resource management goals and objectives are achieved, that impacts to the land surface resources are minimized, and that the affected land is promptly rehabilitated.

Through the NEPA process the Forest Service and BLM make a determination as to whether a prospecting permit or lease will be issued to an applicant. The decision is based primarily on whether the mineral operation, including the construction and maintenance of access roads and other associated facilities, can be done in a manner, which adequately protects other resource values. The Forest Service and BLM develop the lease stipulations needed to protect water quality and other resources.

All prospecting permits and leases require that an operating plan be prepared by the applicant and approved by the Forest Service prior to any land disturbing activities.

c. Implementation: Detailed mitigation will be developed by an IDT and written into the special stipulations section of prospecting permits and leases. These special stipulations are also required in the Operating Plan. On-the-ground checks for compliance with the stipulations of the lease, or operating plan will be the responsibility of the Forest Service official designated "Authorized Officer" who is usually the District Ranger, or Forest Supervisor.

The BLM is primarily responsible for activities taking place on a lease site. By interdepartmental agreement, all applications to lease lands under USDA, Forest Service jurisdiction are referred to the Forest Service for review, recommendation, and the development of special stipulations to prevent adverse impacts on the surface resources.

EXHIBIT F

CAV-Nonpenalty

U.S. Department of Labor
Mine Safety and Health Administration

1. Date	Mo	Da	Yr	2. Event Number
	04	20	12	7654608

3. Served To	4. Operator
Richard Sykora	Wildcat Mining LLC

5. Mine	6. Mine ID	(Contractor)
Lee Jean Mine	04-04428	

7. Violation: A. Section of Act	B. Part/Section of Title 30 CFR
	57.11001

8. Type of Inspection (activity code)	9. Primary or Mill
E14	P

10. Condition

There was not a safe means of accessing the crusher feeders of dump site One and Two

11. Signature

Randy Cardwell

AR Number: 32611

MSHA Form 4000-51, Nov 85 (Revised)

EXHIBIT G

1993

MINING OPERATING PLAN

#54-93001

RED INK MAID
and
BIG SEAM
Mining Claims
Section 32, T14N, R11E

RICHARD R. SYKORA
Operator

FORESTHILL RANGER DISTRICT
TAHOE NATIONAL FOREST
PLACER COUNTY, CALIFORNIA

MINING OPERATING PLAN
RED INK AND BIG SEAM MINING CLAIMS

This Operating Plan supersedes Mining Operating Plan 54-025 as amended.

This operation is a lode gold mining operation. Milling is not required.

Surface disturbance associated with the mining operation includes an access road as depicted on Exhibit A, an active portal with mining equipment such as a generator, air compressor, and above ground fuel storage as show on Exhibit B, a tailings dump used from 1987 to 1990 and labelled Old Dump on Exhibit B, and a tailings disposal area labelled New Dump on Exhibit B.

I. ACCESS ROAD

The objective is to maintain a stable road, which to the extent feasible, is as non-visible from Mosquito Ridge road as possible. Stability includes protecting the surface from erosion.

PLAN REQUIREMENTS

1. The road has been surfaced with waste rock from the underground operation. Maintain the rock surfacing, adding material to repair worn areas.

2. To the extent practicable, using a combination of outsloping and water breaks, channel water off the road surface.

3. Maintain roadside vegetation to the extent practicable.

4. Maintain a road gate to prevent public vehicular use.

II. TAILINGS DISPOSAL

On-site disposal of unmilled tailings is planned. Providing for surface stability and stability from mass movement is of primary importance.

PLAN REQUIREMENTS, OLD TAILINGS DUMP

1. No further use.

2. Protect the tailings slope from water runoff which may originate from the surrounding area. Specific measures will include, (1) channeling water runoff from the access road around the west extremity of the dump, (2) channeling runoff from the upper edge of the dump, in the portal area, to the east, and (3) maintaining a berm along the upper edge of the dump.

Prevent erosion caused by water concentrated around the sides of the dump.

3. Monitor (visually inspect) the dump periodically, especially following intense precipitation and periods of prolonged precipitation. Promptly report changes such as movement caused by slumping or slipping, and unusual erosion.

PLAN REQUIREMENTS, NEW TAILINGS DUMP

1. The boundary of the tailings dump will generally be the old tailings dump on the west, a bench or break in the topography on the low (south) side, approximately 100 feet linear distance from the level of the portal. While there is no well-defined boundary on the east, the east boundary will lie about 75 feet to the east of the old tailings dump. (The growth of the tailings dump in an easterly direction is essentially limited to a straight line paralleling the east edge of the tailings to the east edge of the bench or topographic break described as the south boundary. The topography east of this described line is too steep for catching and holding material which is sidecast from the dumping point.) The north (top) boundary is the flat area adjacent to the generator, compressor, etc. (The east and south sides have been marked with yellow engineers flagging.)

2. Weathered rock from the mining operation will be dispersed during dumping to aid in sealing the tailings material to moisture penetration.

3. Do not place weathered material on the final surface of the dump.

4. Protect the tailings slope from water runoff which may originate from the surrounding area, by using measures such as those described above for the old tailings dump.

5. Preserve vegetation around the perimeter.

III. GENERAL

PLAN REQUIREMENTS AND CONDITIONS

1. Maintenance During Operations

During all operations operator shall maintain equipment and the operating area in a safe, neat, and workmanlike manner.

2. Ownership and validity

Approval of this operating plan does not constitute certification of ownership to any person named herein as owner. Approval of this operating plan does not constitute recognition of the validity of any mining claim named herein, or of any mining claim now or hereafter covered by this plan.

3. Reclamation

Upon exhaustion of the mineral deposit, or at the earliest practicable time during operations, or within one year of the conclusion of operations, unless a longer time is allowed by the District Ranger, operator shall,

a. Remove all equipment (e.g. generators, compressors, fuel tanks, water lines, air lines, air ducting, barrels) located on the surface.
b. Ensure that the water drainage pattern described above for the access road and to protect the tailings dumps is in place and will provide permanent protection from erosion and landslides.
c. Secure the portal and other access to the underground workings.
d. Ensure there is complete coverage with road base material (tailings), then close or secure the road to prevent public vehicular use.
e. With the District Ranger, determine the need and feasibility of taking action to establish vegetation on all or a portion of either tailings dump.

4. Reclamation Bond

A reclamation bond is not required at this time. This non-bond status will be reviewed periodically by the District Ranger and is subject to change based on reclamation needs not presently anticipated.

5. Tenure

This plan will remain in effect until June 30, 1994, unless earlier terminated upon request of operator or terminated for cause by the District Ranger.

6. Water Quality

Operator shall comply with applicable Federal and State water quality standards.

7. Scenic Values

Operator shall, to the extent practicable, harmonize operations with visual values through such measures as protecting vegetative screening and utilizing vegetation to screen operational activities

8. Prevention and Control of Fire

Operator shall comply with all applicable Federal and State fire laws and regulations and shall take all reasonable measures to prevent and suppress fires on the area of operations and shall require employees, contractors, and subcontractors to do likewise.

ACCEPTED:

Richard R. Sykora 3-19-93

RICHARD R. SYKORA — Date
Operator

APPROVED:

3-23-93

RICHARD A. JOHNSON — Date
District Ranger

EXHIBIT H

WATER CODE
SECTION 13323-13328

13323. (a) Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision of law authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

(b) The complaint shall be served by certified mail or in accordance with Article 3 (commencing with Section 415.10) of, and Article 4 (commencing with Section 416.10) of, Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure, and shall inform the party so served that a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing.

(c) In proceedings under this article for imposition of administrative civil liability by the state board, the executive director of the state board shall issue the complaint and any hearing shall be before the state board, or before a member of the state board in accordance with Section 183, and shall be conducted not later than 90 days after the party has been served.

(d) Orders imposing administrative civil liability shall become effective and final upon issuance thereof, and are not subject to review by any court or agency except as provided by Sections 13320 and 13330. Payment shall be made not later than 30 days from the date on which the order is issued. The time for payment is extended during the period in which a person who is subject to an order seeks review under Section 13320 or 13330. Copies of these orders shall be served by certified mail or in accordance with Article 3 (commencing with Section 415.10) of, and Article 4 (commencing with Section 416.10) of, Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure upon the party served with the complaint and shall be provided to other persons who appeared at the hearing and requested a copy.

(e) Information relating to hearing waivers and the imposition of administrative civil liability, as proposed to be imposed and as finally imposed, under this section shall be made available to the public by means of the Internet.

13326. No person shall be subject to both civil liability imposed under this article and civil liability imposed by the superior court under Articles 5 (commencing with Section 13350) and 6 (commencing with Section 13360) for the same act or failure to act.

13327. In determining the amount of civil liability, the regional board, and the state board upon review of any order pursuant to Section 13320, shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the viola or, the abilit to pay, the effect on ability to continue in

business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.

13328. After the time for judicial review under Section 13330 has expired, the state board may apply to the clerk of the appropriate court in the county in which the civil liability or penalty was imposed, for a judgment to collect the civil liability or penalty. The application, which shall include a certified copy of the state board or regional board action, constitutes a sufficient showing to warrant issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

EXHIBIT I

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

State of California
Regional Water Quality Control Board

APPLICATION/REPORT OF WASTE DISCHARGE
GENERAL INFORMATION FORM FOR
WASTE DISCHARGE REQUIREMENTS OR NPDES PERMIT

INSTRUCTIONS

FOR COMPLETING THE APPLICATION/REPORT OF WASTE DISCHARGE GENERAL INFORMATION FORM FOR: WASTE DISCHARGE REQUIREMENTS/NPDES PERMIT

If you have any questions on the completion of any part of the application, please contact your RWQCB representative. A map of RWQCB locations, addresses, and telephone numbers is located on the reverse side of the application cover.

I. FACILITY INFORMATION

You must provide the factual information listed below for ALL owners, operators, and locations and, where appropriate, for ALL general partners and lease holders.

A. **FACILITY:**
Legal name, physical address including the county, person to contact, and phone number at the facility. (**NO P.O. Box numbers!** If no address exists, use street and nearest cross street.)

B. **FACILITY OWNER:**
Legal owner, address, person to contact, and phone number. Also include the owner's Federal Tax Identification Number.

OWNER TYPE:
Check the appropriate Owner Type. The legal owner will be named in the WDRs/NPDES permit.

C. **FACILITY OPERATOR** (The agency or business, not the person):
If applicable, the name, address, person to contact, and telephone number for the facility operator. Check the appropriate Operator Type. If identical to B. above, enter "same as owner".

D. **OWNER OF THE LAND:**
Legal owner of the land(s) where the facility is located, address, person to contact, and phone number. Check the appropriate Owner Type. If identical to B. above, enter "same as owner".

E. **ADDRESS WHERE LEGAL NOTICE MAY BE SERVED:**
Address where legal notice may be served, person to contact, and phone number. If identical to B. above, enter "same as owner".

F. **BILLING ADDRESS**
Address where annual fee invoices should be sent, person to contact, and phone number. If identical to B. above, enter "same as owner".

INTRODUCTION

This application package constitutes a Report of Waste Discharge (ROWD) pursuant to California Water Code Section 13260. Section 13260 states that persons discharging or proposing to discharge waste that could affect the quality of the waters of the State, other than into a community sewer system, shall file a ROWD containing information which may be required by the appropriate Regional Water Quality Control Board (RWQCB).

This package is to be used to start the application process for all waste discharge requirements (WDRs) and National Pollutant Discharge Elimination System (NPDES) permits* issued by a RWQCB except:

a) Those landfill facilities that must use a joint Solid Waste Facility Permit Application Form, California Integrated Waste Management Board Form E-1-77; and
b) General WDRs or general NPDES permits that use a Notice of Intent to comply or specify the use of an alternative application form designed for that permit.

This application package contains:

1. Application/General Information Form for WDRs and NPDES Permits [Form 200 (10/97)].
2. Application/General Information Instructions.

Instructions

Instructions are provided to assist you with completion of the application. If you are unable to find the answers to your questions or need assistance with the completion of the application package, please contact your RWQCB representative. *The RWQCBs strongly recommend that you make initial telephone or personal contact with RWQCB regulatory staff to discuss a proposed new discharge before submitting your application.* The RWQCB representative will be able to answer procedural and annual fee related questions that you may have. (See map and telephone numbers inside of application cover.)

All dischargers regulated under WDRs and NPDES permits must pay an annual fee, except dairies, which pay a filing fee only. The RWQCB will notify you of your annual fee based on an evaluation of your proposed discharge. Please do NOT submit a check for your first annual fee or filing fee until requested to do so by a RWQCB representative. Dischargers applying for reissuance (renewal) of an existing NPDES permit or update of an existing WDR will be billed through the annual fee billing system and are therefore requested NOT to submit a check with their application. Checks should be made payable to the State Water Resources Control Board.

Additional Information Requirements

A RWQCB representative will notify you within 30 days of receipt of the application form and any supplemental documents whether your application is complete. If your application is incomplete, the RWQCB representative will send you a detailed list of discharge specific information necessary to complete the application process. The completion date of your application is normally the date when all required information, including the correct fee, is received by the RWQCB.

* **NPDES PERMITS:** If you are applying for a permit to discharge to surface water, you will need an NPDES permit which is issued under both State and Federal law and may be required to complete one or more of the following Federal NPDES permit application forms: Short Form A, Standard Form A, Forms 1, 2B, 2C, 2D, 2E, and 2F. These forms may be obtained at a RWQCB office or can be ordered from the National Center for Environmental Publications and Information at (513) 891-6561.

EXHIBIT J

COUNTY OF PLACER
Community Development / Resource Agency

Michael J. Johnson, AICP
Agency Director

ENGINEERING & SURVEYING

Wes Zicker, PE
Director

September 2, 2010

Mr. Kenneth E. Trott
California Department of Conservation
Office of Mine Reclamation
801 K Street MS 09-06
Sacramento, CA 95814

RE: RED INK MAID MINE, ID #91-31-0020

Dear Mr. Trott:

We are in receipt of your correspondence dated August 6th, 2010, regarding the subject mine. We respond to the letter as follows:

Specifically, Placer County has not considered the mine as "idle" for the following reasons:

- When we considered the production amounts (annual MRRC-2 reports) provided to Placer County in 2005, 2006 and 2007, we calculated that production had decreased to a little over 80% between 2005 and 2006, therefore did not meet the criteria as being "idle" as defined by Public Resources Code (PRC) Section 2727.1.

NOT 90% 2727.1

- The Red Ink Maid mine has not curtailed production at all between 2005 and up until July 19th, 2010; rather, mining operations were conducted steadily. We take into consideration that this mining operation is an exploratory gold mine and that although operations may have remained steady during this period, the mine still had "mineral" production in the form of waste rock, rather than gold, which is NOT reported on the MRRC-2 since the waste rock is not considered a "commodity" per se. PRC Section 2727.1 refers to "mineral production" and not "commodity" production.

2730

- Our observations with on-site annual inspections have confirmed that the Red Ink Maid mine has not curtailed mineral production to 90% of the previous year.

Please provide direction in the event that your interpretation of the intent of PRC Section 2727.1 is different than the above.

In response to paragraph 4, Placer County, acting as Lead Agency, has received mine operator annual reports for 2008 and 2009 from the mine operator, however, they were not provided at the time of our inspection on March 10, 2010. Additionally, we cannot confirm if these reports

were submitted untimely to the Office of Mine Reclamation (OMR). Please provide direction and/or confirmation.

In response to paragraph 5 and 6, the mine operator for the Red Ink Maid mine submitted a Financial Assurance Cost Estimate (FACE) dated June 26th, 2009. Placer County, acting as Lead Agency has had several revision requests to the subject FACE which we will forward to OMR for your concurrence upon our final approval as the Lead Agency. A copy is attached to this correspondence, however, please note that we have not yet approved the latest revision.

In response to paragraph 7, we confirm the inspection date was March 10, 2010 and the agencies present including Placer County. We have received a copy the Notice of Violation issued by the California Regional Water Quality Control Board dated March 23, 2010 as mentioned in paragraph 7.

At this time, Placer County does not regulate nor enforce rules and regulations set forth by the California Regional Water Quality Control Board (CRWQCB) on federal lands under the jurisdiction of the USFS (or BLM), other than those requirements included in the Reclamation Plan approved by Placer County. Waste Discharge Requirement (WDRs) Order No. R5-2007-0181 was NOT part of the Reclamation Plan approved by Placer County, and in our opinion it is the responsibility of the USFS to ensure compliance in accordance with the Plan of Operations that is approved by the USFS for the Red Ink Maid mine. For example, we would note that on July 19, 2010, the USFS has ordered the Red Ink Maid mine to cease and desist operating until it complies with WDR Order No. R5-2007-0181.

We would also like to bring to your attention that Placer County is in receipt of two letters, copies attached, from the United States Forest Service (USFS) stating that waste rock dumps #1 through #4 are no longer the responsibility to the mine operator except for maintaining water quality and erosion control measures. The first letter was received on September 20, 2004 from District Ranger Richard Johnson. The second letter is dated October 21, 2009 from the current USFS District Ranger Chris Fischer confirming that the letter from the USFS on September 20, 2004 is still the position of the USFS.

At this time, Placer County, acting as Lead Agency, does not believe that there currently exist any violations associated with the approved current Reclamation Plan or any provisions of the Surface Mining and Reclamation Act. We would request your concurrence, based on the information presented here, with that finding.

If you have any questions on this information, please contact Ted Rel at (530) 745-7542.

Sincerely;

Wesley K. Zicker, P.E., Director,
Engineering and Surveying Department

3091 County Center Drive, Suite 120 / Auburn, California 95603 / (530) 745-3110 / Fax (530) 745-7569 / email: ENG_SURV@placer.ca.gov
565 West Lake Boulevard / P.O. Box 1909 / Tahoe City, California 96145 / (530) 581-6227 / Fax (530) 581-6228

cc: Michael Johnson, CDRA Director
Robert Sandman, County Counsel
Ted Rel, ESD
Richard Sykora, ~~Mine Operator~~ MANAGER
Jeff Huggins, RWQCB
Rick Weaver, USFS
Mike Luksic, OMR

Attch: Oct 21, 2009 Letter from USFS to Placer County
May 11, 2005 Letter from USFS to Mr. Sykora
Sept 20, 2004 Letter from USFS to Mr. Sykora
June 26, 2009 FACE
2008 MRRC-2 Annual report for Mine ID 91-31-0020
2009 MRRC-2 Annual report for Mine ID 31-31-0020

COUNTY OF PLACER
Community Development / Resource Agency

Michael J. Johnson, AICP
Agency Director

ENGINEERING & SURVEYING

Wes Zicker, PE
Director

Mr. Kenneth Trott
Department of Conservation
Office of Mine Reclamation
801 K Street, MS 09-06, Sacramento, CA 95814

8 November 2010

SUBJ: CA-MINE ID #91-30-0020 RED INK MAID MINE, RECLAMATION COMPLETE FOR WASTE ROCK DUMPS #1 – 4.

Dear Mr. Trott,

Placer County has received correspondence from the U.S. Forest Service (USFS) dated October, 21, 2009, from district ranger Mr. Chris Fischer confirming that the USFS has accepted responsibility (other than maintaining erosion control efforts) for waste rock dump sites 1, 2 ,3, and 4.

Placer County, acting as Lead Agency (SMARA) recognizes that the USFS takes responsibility for any outstanding reclamation liabilities for waste rock dump sites #1, 2, 3, and 4. Placer County performed a special inspection of the mine site on September 14th, 2010. As a result of the subject inspection, we have determined that waste rock dump sites #1, 2, 3, and 4, are considered reclaimed on behalf of the mine operator, Red Ink Maid, LLC, and that the mine operator has no outstanding reclamation liabilities on waste rock dump sites #1, 2, 3, and 4.

Placer County respectfully requests concurrence with our findings from the Office of Mine Reclamation.

Attached, please find the special inspection report, and revised financial assurance cost estimate for the remaining liabilities (existing portal landing area, waste rock site #5, access road to waste rock site #5) of the Red Ink Maid & Big Seam mining claim/s.

If you have any questions, please contact me at (530) 745-7542

Ted D. Rel

cc: Red Ink Maid, LLC
Chris Fischer, District Ranger, USFS

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION
MRRC-1 Page 1 of 3

SURFACE MINING INSPECTION REPORT

Instructions for completing this form are on the reverse side. Attach notice(s) of violation(s) and order(s) to comply for all observed non-compliance.

I. Mine Name as reported by Operator on Mining Operation Annual Report	Inspection Date:	CA MINE ID#:
RED INK MAID MINE	9/14/2010	91- 31-0020

II. SMARA Lead Agency Name (City or County only)		
PLACER COUNTY		
Inspector: TED REL		Telephone: (530) 745-7542
Title: JR. CIVIL ENGINEER	Organization: PLACER COUNTY ENGINEERING & SURVEYING DEPT.	
Mailing Address: 3091 COUNTY CENTER DRIVE SUITE 120		
City: AUBURN	State: CA	ZIP Code: 95603
E-mail Address (Optional): trel@placer.ca.gov		

III. Mine Operator		
WILD CAT MINING ENT. LLC		
Contact Person: RICHARD SYKORA		Telephone: (775) 882-4641
Mailing Address: PO BOX 622		
City: FORESTHILL	State: CA	ZIP Code: 95631
E-mail Address (Optional):		

IV. Does the operation have:	P	NR	No	Yes
A permit to mine?	☐	☐	☐	Permit # PMPB T20050399
An approved Reclamation Plan?	☐	☐	☐	RP # APPROVED WITH PMPB T20050399

Has the operator filed a Mining Operation Annual Report (form MRRC-2)? Check one: ☐ Yes ☐ No ☒ Unknown

Is this operation on Federal Land? Check one: ☒ Yes ☐ No

If "Yes", provide one or both of the Federal Mine Land Identification Numbers below:

California Mining Claim Number (CAMC#):

U.S. Forest Service Identification Number (USFS ID#): USFS ID# UNKNOWN AT THIS TIME

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

SURFACE MINING INSPECTION REPORT

V. Does the Operator currently have a Lead Agency approved Financial Assurance? Check one: ☐ Yes ☐ No If "Yes", complete section below. If "No", refer to instructions on the reverse of this page and complete Section VI.		Inspection Date: 9/14/2010	CA MINE ID#: 91 - 31-0020
Type of Financial Assurance Mechanism(s)	Financial Assurance Mechanism Number(s)	Current Amount on File	Date of Expiration
☐ Surety Bond		$	
☐ Certificate of Deposit		$	
☒ Letter of Credit	#4135883	$ 20,000.00	renews annually
☐ Trust Fund		$	
☐ Pledge of Revenue		$	
☐ Budget Set Aside		$	
☐		$	
The Financial Assurance Amount **must** be adjusted annually. **Attach a copy of the revised Financial Assurance Amount calculation with this report.**		Date of Financial Assurance Amount Calculation: 9/14/2010	
Does the current mechanism(s) on file cover the new annual calculation? ☒ Yes ☐ No		If "No", date operator was notified that a new mechanism is required:	

VI. Financial Assurance comments.

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

State of California
DEPARTMENT OF CONSERVATION
OFFICE OF MINE RECLAMATION

SURFACE MINING INSPECTION REPORT

VII. Is the operation in compliance with provisions of the approved Reclamation Plan with respect to:	OK	VN	NI	NA	CA MINE ID # 91 - 31-0020
Wildlife Habitat	X				Inspection Date: 9/14/2010
Revegetation	X				
Agricultural Land				X	Weather Code(s): CR
Stream Protection	X				Duration of Inspection: 1.5 HRS
Tailings and Mine Waste Management	X				
Closure of Surface Openings	X				Approximate Disturbed Acreage: >.5
Building, Structure, and Equipment Removal	X				
Topsoil Salvage, Maintenance, and Redistribution				X	Status of Operation Code(s): A
Backfilling, Regrading, Slope Stability, and Recontouring	X				
Drainage, Diversion Structures, Waterways, and Erosion	X				Status of Reclamation Code(s): see note
Other (list or explain below)				X	

VIII. Comments/Description of Violation(s) and Corrective Measure(s) Required
[NOTE: please indicate if you have attached notice(s) of violation(s) and correction order(s), in lieu of description on this form]:

NOTE:

This inspection was conducted to make a determination to consider waste rock dump sites #1 - 4 reclaimed. Reclamation is completed for waste rock dumps sites #1, 2, 3 & 4.

IX. Number of Violations:	Inspector's Signature:	Date Signed:
0		9/15/2010

DISTRIBUTION: Original to Operator. Copies to: State (by Lead Agency), Lead Agency, State (by Operator), and BLM or USFS (if required).

EXHIBIT K

California Regional Water Quality Control Board
Central Valley Region

Linda S. Adams
Secretary for Environmental Protection

Sacramento Main Office
11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
http://www.waterboards.ca.gov/centralvalley

Arnold Schwarzenegger
Governor

28 November 2006

Richard Sykora
P.O. Box 622
Foresthill, CA 95631

WASTEROCK STABILITY EVALUATION AND INTIAL CHARACTERIZATION BIG SEAM AND RED INK MAID MINING CLAIMS, PLACER COUNTY

We have reviewed the Holdredge & Kull (H&K) report (dated 1 November 2006) for Wasterock Stability Evaluation and Initial Characterization of your Big Seam and Red Ink Maid Mining Claims in Placer County. We had requested this information in our 3 May 2006 letter and again in our 7 July 2006 letter as part of the Report of Waste Discharge pursuant to Title 27, California Code of Regulations (27 CCR).

After reviewing the H&K report, we have the following comments regarding the Wasterock Stability Evaluation:

1. In Section 4.1, H&K reports "*that the slumping observed in stockpile 4 was likely attributable to a failure within the underlying colluvium rather than a failure of the relatively high friction, predominantly granular wasterock*". In Section 2.1.1 of the H&K report, the colluvium underlying stockpile 2 was also reported as the likely cause of a toe failure. Thus, the underlying foundation material (colluvium) is the most likely failure plane. Stability analysis A and B in Table 4.1.1 tested wasterock only. The remaining stability analyses C through G included colluvium and have calculated factors of safety of less than 1.5 under static conditions. Dynamic conditions would likely have lower factors of safety. Title 27 CCR 21750 (f)(5)(C) requires that "*the report must indicate a factor of safety for the critical slope of at least 1.5 under dynamic conditions.*" Section 4.1 of the report states that H&K did not consider seismic loading (dynamic conditions) in the analysis of the wasterock stockpiles. Therefore, we conclude from the H&K report that the existing wasterock stockpiles do not meet the required minimum factor of safety of 1.5.

2. We request that you immediately implement the recommendations to reduce surface water infiltration of the wasterock stockpiles 1-4 as outlined in Section 4.2 of the H&K report, thus potentially decreasing the risk of slope failure during precipitation events.

3. No preliminary design or stability analysis of the proposed wasterock stockpile #5 was included for our review in the H&K report as was requested in our letters of 3 May 2006 and 7 July 2006. As required in 27 CCR 21760, a design report containing the preliminary plans for the proposed waste management unit (wasterock stockpile #5) must be submitted along with a stability analysis of the proposed design. No wasterock may be discharged at the proposed wasterock stockpile #5 without first securing Waste Discharge Requirements (WDRs).

We have the following comments regarding the Initial Characterization of the existing wasterock stockpile (#1 through #4):

4. We agree that the values reported for total and soluble arsenic in SP-1 samples likely represent a high concentration bias because samples submitted for analysis do not include the coarse fraction of the stockpiles (Section 5.4). Soluble arsenic was detected at a concentration of 8.1 micrograms per liter (µ/L), as determined by the California Waste Extraction Test using deionized water extractant solution (WET-DI).

5. We agree with the conclusion in Section 5.4 of the report "*that the acid neutralizing potential of the wasterock suggests that generation of leachate from the wasterock stockpiles is unlikely*". The ratio of acid neutralization potential to acid generating potential (NP:AGP) was 17:1, indicating that the mine waste material in SP-1 is acid neutralizing. Typically, ratios of greater than 3:1 indicate that an acid leachate will probably not be formed by the waste. In addition, the sample pH was 8.3.

6. We have reviewed the laboratory analysis of the samples in Table 1 of the H&K report. We agree with H&K assessment that they do not pose a significant threat to water quality nor do they contain a significant amount of degradable materials (Section 5.4). Therefore, the wasterock is appropriate for consideration as Group C mining waste under 27 CCR 22480.

7. We do not concur with H&K opinion in Section 5.4 that the wasterock stockpiles satisfy the general and specific conditions of the General Waiver (RWQCB Resolution No. R5-2003-0008). Small metals mining operations were specifically not included in the General Waiver when it was adopted (see Staff Report for Resolution No. R5-2003-0008).

SUMMARY:
We have reviewed the H&K report and have concluded that the existing wasterock stockpiles 1-4 do not meet the required minimum factor of safety of 1.5. Additionally, no stability analysis of the proposed wasterock stockpile #5 was included. Therefore, the Report of Waste Discharge is incomplete. No wasterock may be discharged at the site without first securing WDRs.

We are in agreement with the H&K report that the wasterock sampled for acid generating potential has a ratio of greater than 3:1, indicating that acid leachate will probably not be formed by the waste. We agree with H&K assessment that the wasterock stockpiles sampled do not pose a significant threat to water quality (other than turbidity) nor do they contain a significant amount off degradable materials.

Please call me at (916) 464-4639 should you have any questions.

Jeff S Huggins

JEFF HUGGINS
Water Resources Control Engineer
Land Disposal Program
Lower Sacramento River Watershed

cc: Printed on following page.

found in W.D.E. file

EXHIBIT L

United States Department of Agriculture
Forest Service
Foresthill Ranger District
22830 Foresthill Road
Foresthill, CA
95631
530 367-2224
530 367-2226 TDD
530 367-2992 FAX

File Code: 2810

Date: September 20, 2004

OCT 20 2004

Richard Sykora
PO Box 622
Foresthill, CA 95631

Dear Mr. Sykora:

Enclosed is your copy of the authorized Plan of Operations Conditions of Approval that are the terms and conditions for continued operations on the Big Seam and Red Ink Maid mining claims on National Forest lands.

Thank you for a productive meeting and dialogue that lead to this authorization. As agreed at the meeting, there are still many things to be done to meet the terms and conditions of the authorization. These are:

- Forest Service research on Item 3.c. regarding the storage of fuels and hazardous materials in an adequately sized covered impervious basin. Our research will generate a written response to you.
- Forest Service will list the items which will be covered by a bond, calculate the bond, and submit this to you for review. Personnel that have the expertise to do this are available, and scheduled, to visit the claim on Friday September 24 around 9:00 am.
- Return, completed, the fire plan that would exempt your operations from the 2004 fire restrictions, for my review and signature. This plan must be returned by September 22, 2004. Fire restrictions will be in effect until forest fuels are adequately moist; there is not a known date of when this would occur.
- Provide this office with documentation that you are in compliance with local, state and federal agencies that have jurisdiction over your operations. Specifically, provide the permit or plan, or documentation from the agency with jurisdiction that a permit or plan is not needed, for Waste Discharge Permit and Storm Water Pollution Prevention Plan. Provide information that you are working toward this effort by October 1, 2004.
- Provide this office with current copies of all the MSDS for hazardous materials and/or fuels on the claim at this time by October 1, 2004. Inform Mo Tebbe when new deliveries of hazardous materials and/or fuels are made in the future. Also, from hereon provide this office with advance notice of at least 24 hours, when hazardous materials would be transported on National Forest lands. This information will be kept confidential in the mining records.

- As mentioned in our meeting today, a monitoring plan needs to be developed to measure success of erosion control and rehabilitation efforts. Monitoring plans are part of the Best Management Practices and Rick Weaver will be assisting you and Mo in the development of this plan. The monitoring plan will be developed as soon as possible.

As discussed today, this Plan of Operations, and all of its terms and conditions, and the Reclamation Plan are for your current operations: the use of the existing access road, the use of the existing portal landing area, the new access road to waste area 5, and the new waste area - #5. In the Forest Service perspective, the only responsibility you now have to the previous waste areas – 1, 2, 3, and 4 and the access road to 2, 3, and 4, is to ensure that erosion control measures that you have been practicing, including all the successful measures previously used to divert water away from the waste dumps, continue.

If you have questions or concerns please contact Mo Tebbe at 530-478-6254.

Sincerely,

/s/ Richard A. Johnson

RICHARD A. JOHNSON
District Ranger

EXHIBIT M

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

REVISED CEASE AND DESIST
ORDER NO. R5-2012-0094

REQUIRING RICHARD SYKORA
RED INK MAID AND BIG SEAM MINE
PLACER COUNTY

TO CEASE AND DESIST
FROM DISCHARGING CONTRARY TO REQUIREMENTS

The California Regional Water Quality Control Board, Central Valley Region, ("Central Valley Water Board" or "Board") finds that:

1. On 27 June 2006, Richard Sykora (hereinafter Discharger) submitted a Report of Waste Discharge (ROWD) for waste discharge requirements (WDRs) for mining activities at Red Ink Maid and Big Seam Mine (Site). The land where the mining claims are located is owned by the United States government and administered by the United States Department of Agriculture, Forest Service (Forest Service). The Discharger is the mine claimant and operator and therefore has primary responsibility for compliance with WDRs. The Site is located on two contiguous 20-acre parcels of land within the Tahoe National Forest near the 6-mile mark of Mosquito Ridge Road in the Foresthill area in Placer County.

2. The mine is an underground lode gold mine accessed by one portal on the Big Seam mining claim. Waste rock created by drilling and blasting inside the mine is hauled and disposed in waste dumps on the Site. The waste rock created at this Site consists of natural geologic materials that have been removed or relocated but have not been processed. Analysis of the mining waste indicates that the waste is characterize as a Group C mining waste defined by Title 27 of the California Code of Regulations as waste discharges that should not pose a significant threat to water quality other than turbidity as the waste rock did not exceed hazardous waste total threshold limit concentrations or soluble threshold limit concentrations.

3. The Site slopes to the south and sits approximately 2000 feet above the Middle Fork of the American River. The Middle Fork of the American River is located approximately 0.4 miles south of the Site. Surface water drainage from the Site it to Mad Canyon, a seasonal drainage, and tributary to the Middle Fork of the American River, which is a water of the United States.

4. There are five waste dumps located on the Site (Exhibit C). Waste dumps 1 through 4 are located directly in front and to the east of the mine portal and cover about two acres. Waste dumps 1 through 4 have slopes ranging from 55-75%.

Lack of capacity and slope stability issues restrict further placement of waste rock on these waste dumps. Waste dump 5 is the newest waste dump located to the west of the portal on a slope ranging from 20-55%.

5. The Site is regulated by Waste Discharge Requirements (WDRs) Order No. R5-2007-0181, adopted by the Central Valley Water Board on 6 December 2007. Monitoring and Reporting Program No. R5-2007-0181 (hereinafter MRP) accompanies Order No. R5-2007-0181 (Exhibit D).

6. The Prosecution Team recently discovered that the Discharger may have transferred ownership and operating responsibilities of the mining claims to Red Ink Maid, LLC and Wildcat Mining Enterprises, LLC, respectively (Group Exhibit P). Both of these entities are Nevada limited liability companies of which the Discharger is a named officer (Exhibit Q). A search of the California Secretary of State's business database yields no results for either of these limited liability companies, indicating that they may not be registered to conduct business in California. Furthermore, the Discharger has not applied in writing to the Executive Officer of the Central Valley Water Board requesting transfer of WDRs Order No. R5-2007-0181 as required by Provision F.6 of that Order (Exhibit D). The Central Valley Water Board staff sent the Discharger a letter dated 6 April 2012 requesting submission of the required information to transfer the Order to the subsequent operator if such a change in control or ownership has occurred (Exhibit R). Therefore, because the Discharger continues to be the named mine claimant and operator on the waste discharge requirements, the Discharger remains responsible for complying with the terms of WDRs Order No. R5-2007-0181 and this CDO.

7. Pursuant to title 27 of the California Code of Regulations section 22510 subdivision (c) and WDRs Order No. R5-2007-0181, the WDRs incorporate the relevant provisions of the mining and reclamation plan, approved by Placer County as lead agency in the administration of the Surface Mining and Reclamation Act (SMARA), and prescribes additional conditions necessary to prevent water quality degradation. Closure and reclamation requirements ensure that mining units no longer pose a threat to water quality.

8. Specifically, WDRs Order No. R5-2007-0181 Discharge Specifications B.6 and B.7 requires the Discharger to fully reclaim Waste dumps #1 through #4 by 30 October 2009 and submit to the Central Valley Water Board a report describing reclamation completion and closure of Waste dumps #1 though #4 by 30 November 2009 (Exhibit D). In a Site inspection on 10 March 2010, staff of the Central Valley Water Board observed that Waste dumps #1 through #4 had not been fully reclaimed as required by WDRs. No apparent reclamation measures such as hydroseeding or hydromulching establishing self-sustaining plant cover to control erosion, reduce infiltration, and provide for increased slope stability were evident (Exhibit E). To date, the Discharger has not fully reclaimed Waste

dumps #1 through #4 and has not submitted the required report detailing the reclamation and closure of those mining units and is in violation of WDRs Order No. R5-2007-0181.

9. On 12 March 2007, the Discharger submitted an addendum to the 27 June 2006 ROWD titled *Proposed Stockpile 5 Plan Sheets and Stability Review* (Exhibit S). The plan sheets and stability review depict two alternative waste rock configurations for Waste Dump #5, also referred to as Stockpile 5. The first alternative depicts a gabion basket retaining structure at the toe of the slope to allow increased waste rock storage volume (Exhibit T). The second alternative depicts a completed waste rock stockpile configuration with a finished slope with a maximum slope gradient of 33 degrees (1.5 : 1 horizontal to vertical)(Exhibit U). On 6 March 2012, the Discharger through the Discharger's consultant submitted a letter indicating that waste rock placement to Waste Dump #5 resulted in an estimated 38 degree to 40 degree slope and that the gabion basket retaining structure was the preferred option for construction of Waste Dump #5 (Exhibit V).

10. Additionally, WDRs Order No. R5-2007-0181 Discharge Specification B.9 states Waste Dump #5 shall be designed, constructed, and maintained to prevent scouring and/or erosion of the mine waste material, the surrounding area, and shall incorporate the provisions of Findings 27 through 29 in the WDRs (Exhibit D).

    a. Finding 27 states: "[t]his Order includes the design and method of disposal of waste rock for waste dump #5. The design and method of disposal of waste rock to waste dump #5 is based on the Discharger's report dated 12 March 2007." The Discharger's report dated 12 March 2007 is attached to this Order as Exhibit S.

    b. Finding 28 states: "[i]nitially, waste rock is to be dumped from the end of the existing access road in the waste dump #5. When sufficient material is present, a ramp is to be constructed into the bottom of the waste area and the waste material shaped and compacted. From that point forward, waste material is to be placed from the toe in an upgradient direction to promote stability."

    c. Finding 29 states: "[t]he face of the waste dump #5 is to be armored with coarse rock to control erosion during periods of inactivity and when the dump is complete. The Discharger is to prevent movement of fine material (soil and sediment) down gradient in the waste dump area by installing an approved erosion barrier as described in the Forest Service Mitigating Measures dated 20 September 2004." The Forest Service Mitigating Measures are attached to this Order as Exhibit W.

11. On 18 August 2009, staff of the Central Valley Water Board expressed concerns regarding the long term stability of Waste Dump #5 because of ongoing placement of the waste rock by the end-dumping method alone (Exhibit X). Concerns of this nature were previously raised by both United States Forest Service and Central Valley Water Board representatives in July 2009. During Site inspection on 3 March 2010 and in a Notice of Violation issued on 23 March 2010, the staff of the Central Valley Water Board noted that mining waste continued to be discharged to Waste Dump #5 by the end-dumping method only and that it was not being constructed in the manner prescribed in Findings 27 and 28 of the WDRs (Exhibit Y). Additionally with respect to Waste Dump #5, on 19 July 2010, the Forest Service also directed the Discharger to "construct the fill from the bottom up as described in your consultant's revised stability report dated March 12, 2007 and the mitigation measures from you[r] previous approved Plan of Operation that expired on December 1, 2009" (Exhibit Z). On 9 January 2012, the Department of Conservation, Office of Mine Reclamation issued a Notice and Order to Comply with SMARA, including ordering the Discharger to comply with reclamation plan Condition 4 regarding compliance with the Central Valley Water Board's WDRs (Exhibit AA).

12. Pursuant to title 27 of the California Code of Regulations section 22510 subdivision (f), the Discharger shall provide for adequate funding to pay for the costs of closure and post closure maintenance as required and shall provide assurance of financial responsibility. Since Placer County, acting as lead agency under SMARA, requires financial assurances for the cost of closure and post closure maintenance, the Central Valley Water Board approved these comparable requirements and waived the requirement that the Central Valley Water Board be listed as an alternate payee to the financial assurance.

13. As a part of the 2006 Reclamation Plan approved by Placer County, the County approved the related financial assurance in the form of an Irrevocable Standby Letter of Credit from Placer Sierra Bank in the amount of $20,000 naming Placer County, the California Department of Conservation, and the United States Forest Service as the beneficiaries (Exhibit AB). However, on 20 April 2011, the beneficiaries received notice that Wells Fargo Bank would not be extending its Letter of Credit in the amount of $20,000 (Exhibit AC). The Discharger's financial assurances expired on 1 December 2011.

REGULATORY CONSIDERATIONS

14. Water Code section 13301 states, in part, "[w]hen a Regional Board finds that a discharge of waste is taking place or threatening to take place in violation of the requirements or discharge prohibitions prescribed by the regional board or the state board, the [regional] board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule

set by the [regional] board, or (c) in the event of a threatened violation, take appropriate remedial or preventative action."

15. As a result of the events and activities described in this Order, the Central Valley Water Board finds that discharges of waste are taking place and/or threatening to take place to Mad Canyon, a tributary to the Middle Fork of the American River, in violation of WDRs.

16. Water Code section 13267, subdivision (b) states, "[i]n conducting an investigation specified in subdivision (a), 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, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of the waters 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 these 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."

17. Monitoring reports and other technical reports are necessary to determine compliance with the WDRs and with the terms of this Order. Technical or monitoring reports required by this Order shall be submitted to the Central Valley Water Board pursuant to the requirements of Water Code section 13267.

18. The issuance of this Order is an enforcement action by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to section 15321 subdivision (a)(2), Title 14, California Code of Regulations.

19. On 5 October 2012, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Central Valley Water Board conducted a public hearing at which evidence was received to consider a Cease and Desist Order under Water Code section 13301 to establish a time schedule to achieve compliance with waste discharge requirements.

IT IS HEREBY ORDERED that, pursuant to sections 13301 and 13267 of the Water Code, Richard Sykora shall, in accordance with the following tasks and time schedule, implement the following measures required to ensure compliance with WDRs Order No. R5-2007-0181.

1. By **5 November 2012**, submit to the Central Valley Water Board an updated financial assurance cost estimate for reclamation of the Site in accordance with Public Resources Code, Division 2, Chapter 9 section 2773.1, Title 14 California Code of Regulations section 3804, and the State Mining and Geology Board's Financial Assurance Guidelines.

2. By **20 November 2012**, submit a technical report with plans and specifications for construction of waste dump #5 in accordance with the 12 March 2007 *Proposed Stockpile 5 Plan Sheets and Stability Review* and the recommended Appendix A Mitigation Measures for Waste Dump #5 described in the Forest Service's 20 September 2004 Plan of Operations for the Site. The technical report shall also provide a calculation of the material already discharged to Waste Dump #5 and the remaining capacity of Waste Dump #5.

3. By **19 December 2012**, post a financial assurance mechanism in an amount of the approved financial assurance cost estimate in item 1 above and submit a copy to the Central Valley Water Board. The Central Valley Water Board shall be named as an alternative payee on the financial assurance in accordance with title 27 of the California Code of Regulations section 22510 subdivisions (f) and (g).

4. By **30 November 2012**, submit a report describing the interim erosion control measures employed at the Site, including such measures as hydroseeding or hydromulching or applying erosion control fabrics or bonded fiber matrix to the waste dump slopes, to establish self-sustaining plant cover to control erosion, reduce infiltration, and provide for increased slope stability.

5. By **19 October 2014**, fully reclaim waste dumps #1 through #4 as originally required by WDRs Order No. R5-2007-0181 Discharge Specification B.6 and the Discharger's Reclamation Plan approved by Placer County on 7 December 2006. Reclamation must continue until successful revegetation is established in accordance with the approved Reclamation Plan.

6. By **31 October 2014**, submit a report describing and certifying completion of reclamation and closure of waste dumps #1 through #4 as originally required by WDRs Order No. R5-2007-0181 Discharge Specification B.7. The report shall also include:
    a. A certification that the reclamation measures discussed in the Discharger's 31 August 2007 Addendum to the Report of Waste Discharge have been implemented;

b. A certification that the 20 September 2004 Forest Service Mitigation Measures attached to the 2004 Plan of Operation have been implemented; and
c. A certification that the 20 September 2004 Forest Service Best Management Practices attached to the 2004 Plan of Operation have been implemented.

7. All technical reports required herein that involve planning, investigation, evaluation, design, or other work requiring the proper application of engineering or geologic sciences, shall be prepared by, or under the supervision of, a California Registered Engineer or Registered Geologist (as applicable) pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1, and shall be signed by a registered professional.

Any person signing a document submitted under this Order shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

If in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

Failure to comply with this Order or with WDRs may result in the assessment of administrative civil liability pursuant to the California Water Code. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Resources Control Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Resources Control Board must receive the petition by 5:00 p.m., 30 days after the date that this Order is adopted, except that if the thirtieth day following the date that this Order is adopted falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Resources Control 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_notice/petitions/water_quality
or will be provided upon request.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 5 October 2012.

for PAMELA C. CREEDON, Executive Officer