

EDGCOMB LAW GROUP

115 Sansome Street, Suite 700
San Francisco, California 94104
415.399.1555 direct
415.399.1885 fax
jedgcomb@edgcomb-law.com

January 20, 2012

BY EMAIL & U.S. MAIL

Julie Macedo, Esq.
State Water Resources Control Board
Senior Staff Counsel, Office of Enforcement
1001 "I" Street, 16th Floor
P.O. Box 100
Sacramento, CA 95814

Dear Ms. Macedo:

In advance of the January 24, 2012 meeting between Sunoco, Inc. (R&M) ("Sunoco") and the Central Valley Regional Water Quality Control Board ("Regional Board") concerning the December 7, 2011 *Additional Characterization Report, Mount Diablo Mercury Mine* ("Site") prepared by Sunoco's consultant SGI, we are bringing to your attention another issue we would like to discuss at that meeting.

Specifically, our ongoing investigation into the corporate relationship between Cordero Mining Company ("Cordero") and Sunoco has determined there is no legal basis for the Regional Board to pursue Site related claims against Cordero, or to attribute Cordero liability at the Site, if any, to Sunoco.

The relevant background facts may be summarized as follows. Cordero was organized under Nevada law on March 4, 1941. Cordero briefly leased the Site and conducted limited operations there between late 1954 and early 1956. Effective as of November 18, 1975, long after Cordero operations at the Site were completed, Cordero was dissolved as a corporate entity, as acknowledged by the Nevada Secretary of State. It is our understanding that Cordero was a wholly-owned subsidiary of Sun Oil Company (Delaware) when Cordero dissolved in 1975.

Nevada law governs the capacity of Cordero, and its former shareholder, to be pursued for Cordero's Site actions. The California Corporations Code does not apply to foreign entities such as Cordero (a dissolved Nevada corporation). *See Cal. Corp. Code § 162* ("Corporation," unless otherwise expressly provided, refers only to a corporation organized under this division or a corporation subject to this division under the provisions of subdivision (a) of Section 102.")

Julie Macedo, Esq.
State Water Resources Control Board
Re: Sunoco Non-Liability
January 20, 2012

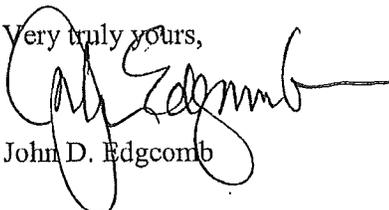
Nevada's corporate capacity statute provides that claims against a dissolved corporation relating to pre-dissolution acts survive only for a period of two years following the date of dissolution. NRS 78.595 ("The dissolution of a corporation does not impair any remedy or cause of action available to or against it or its directors, officers or shareholders arising before its dissolution and commenced within two years after the date of the dissolution.") Further, effective June 16, 2011, Section 15 of Nevada Senate Bill 405 enacted a provision reaffirming the limited liability of stockholders of a dissolved corporation:

"2. A stockholder of a corporation dissolved pursuant to an NRS 78.580 or whose period of corporate existence has expired, the assets of which were distributed pursuant to an NRS 78.590, is not liable for any claim against the corporation on which an action, suit or proceeding is not begun before the expiration of the period described in NRS 78.585."

As noted above, Cordero was dissolved as of November 18, 1975 and lacked the capacity to be sued two years later (November 18, 1977). Therefore, Cordero cannot be a liable party in regards to the Site. For the same reason, and also pursuant to Section 15 of Nevada Senate Bill 405, a former shareholder of Cordero cannot be held liable for Cordero's Site actions either.

A recent decision by the United States District Court for the District of Nevada, *Assurance Co. of Am. v. Campbell Concrete of Nev., Inc.*, 2011 U.S. Dist. LEXIS 145845 (D. Nev. Dec. 19, 2011), supports the non-liability under Nevada law of Cordero's former shareholder with respect to claims arising post-dissolution as well. *See Assurance, supra* (applying Nevada law, grants motion to dismiss filed by defendant shareholder of a dissolved Nevada corporation against which post-dissolution claims had been filed).

We look forward to discussing with you the technical and legal issues related to the Site on January 24, 2012. Please let us know if you have any questions regarding the above in advance of the meeting.

Very truly yours,

John D. Edgcomb

cc (via email only):
V. Izzo
J. Freudenberg
S. Cullinan
B. Morse