Incorporated
1911

ORIGINAL SIXTEEN to ONE MINE, Inc.

"100 Years of Gold"

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(530) 287-3223 • www.origsix.com

October 14, 2014

Central Valley Water Board
211020 Sun Center Drive #200
Rancho Cordova, CA 95670

Regarding: order R5-2015-XXXX and NPDES NO. CA0081809

The tentative order under VI(A)(k) requires notification in the event a discharger will be unable to comply for any reason with effluent limitations or receiving water limitation and notify the Central Valley Water Board by phone and in writing. Original Sixteen to One Mine, Inc. will be unable to comply with the arbitrary arsenic limitations changed in 2004 for water flowing through its property. Its property is a well-established highly mineralized geological zone. It has been in existence as such for about 125 million years. It was transformed during the past million years by volcanoes, water and physical changes in the surface environment. It has been modestly transformed by mankind since 1848. Fortunately for the current environment there are no deleterious effects to Tahoe National Forest, the waters of the state of California, plants, fish, aquatic insects, and animals including humans. The arsenic has demonstrated no negative or harmful impact on the beneficial uses identified in the Porter - Cologne Act, subsequent regulations or historic beneficial uses.

Language in the order does not identify a person or department to contact; however I telephone Beth Thayer within 24 hours of having knowledge of this notification requirement. She did not identify who can waive written confirmation in order to eliminate the need to make a written confirmation of the inability to comply.

Sincerely yours,

Michael M. Miller

Michael Meister Miller, president

ATTACHMENT 1

Priority Toxic Pollutant Criteria

Water Quality Standards Handbook - Chapter 3: Water Quality Criteria (40 CFR 131.11)

EPA has translated the 65 compounds and families of compounds listed pursuant to section 307(a) into 126 more specific substances, which EPA refers to as "priority toxic pollutants. " The 126 priority toxic pollutants are listed in the WQS regulation and in Appendix P (PDF) (4 pp, 150K) of this Handbook. Because of the more specific requirements for priority toxic pollutants* it is convenient to organize the requirements applicable to State adoption of criteria for toxicants into three categories:

- requirements applicable to priority toxic pollutants that have been the subject of CWA section 304(a)(l) criteria guidance (see section 3.4.1);
- requirements applicable to priority toxic pollutants that have not been the subject of CWA section 304(a)(1) criteria guidance (see section 3.4.1); and
- requirements applicable to all other toxicants (*e.g.*, non-conventional pollutants like ammonia and chlorine) (see section 3.4.2). . in the affected waters could reasonably be expected to interfere with those designated uses adopted by the State, as necessary to support such designated uses Flexibility, accommodate existing water quality.
-
- To carry out the requirements of section 303(c)(2)(B), whenever a State revises its water quality standards, it must review all available information and data to first determine whether the discharge or the presence of a toxic pollutant is interfering with or is likely to interfere with the attainment of the designated uses of any water body segment

Section 303(c)(2)(B) addresses only pollutants listed as "toxic" pursuant to section 307(a) of the Act, which are codified at 40 CFR 131.36(b). The section 307(a) list contains 65 compounds and families of compounds, which potentially include thousands of specific compounds. The Agency has interpreted that list to include 126 "priority" toxic pollutants for regulatory purposes. Reference in this guidance to toxic pollutants or section 307(a) toxic pollutants refers to the 126 priority toxic pollutants unless otherwise noted. Both the list of priority toxic pollutants and recommended criteria levels are subject to change.

The decision maker considered the public interest of the State in selecting the risk level.

The State needs to demonstrate that its procedures for developing criteria, including translator methods, yield fully protective criteria for human health and for aquatic life. EPA's review

process will proceed according to EPA's regulation of 40 CFR 131.11, which requires that criteria be based on sound scientific rationale and be protective of all designated uses.

All waters, including those within mixing zones, shall be free from substances attributable to wastewater discharges or other pollutant sources that:

1. Settle to form objectional deposits;
2. Float as debris, scum, oil, or other matter forming nuisances;
3. Produce objectionable color, odor, taste, or turbidity;
4. Cause injury to, or are toxic to, or produce adverse physiological responses in humans, animals, or plants; or
5. Produce undesirable or nuisance aquatic life (54 F.R. 28627, July 6, 1989).

ATTACHMENT 2

Elizabeth Thayer

Water Resources Control Engineer

CVRWQCB

Dear Elizabeth,

This reply to the letter dated July 10, 2014 is addressed to you since you signed it on behalf of CVRWQCB. We spoke about the wrong address and phone number of the letter and you granted additional time. The draft is a very long and detailed document. There are 97 detailed pages to review. It is unreasonable to thrust this important document onto a small operator with such conditions as ten days' time to respond with a condition that the CVWB has no legal obligation to respond to comments. The letter also implies that this is the only time to correct any factual errors before a tentative Order is issued. CVRWQCB's purports that its purpose, stated many times is for the public benefit. There are facts and many assumptions, from facts or facts that do not represent the specific conditions at the property owned by Original Sixteen to One Mine, Inc. My responses are the best I could do under the time constraints and small size and demands placed upon me, as representative of the property. Therefore, it is truly most beneficial to the public's interest to stop the issuance of a flawed draft such as this and set a staff meeting with a representative from the owner to meet in Sacramento. I am quite positive that this will be beneficial to the CVRWQCB Board members as well. My intentions are honorable and not because of a desire to stall the project. Any delays from the projected time line for completing this project are not because of Original Sixteen to One Mine, Inc. I look forward to a workable document.

Not only is CVRWQCB demanding objections to facts but that an infeasible analysis must be demonstrated to the satisfaction of V that the discharger needs time to implement actions based upon the documentation. Don't you think this unreasonable? The application for a permit was sent to CVRWQCB years ago. This preliminary draft came out with a demand for review in less than 10 days. It is impossible for Original Sixteen to One Mine, Inc.(hereafter OSTO) to carry out its fiduciary responsibility to its shareholders employees and public is such a short time. We will do our best; however is will not be possible to protect the interests of all Californians.

The premise of the water running through OSTO property is wrong. It is not as stated, "discharges untreated mine water wastewater from the 21 tunnel. It is a surface flow the passes through the geology of the land and exits on our property. It is not mine wastewater. It is snow melt, rain considered artesian.

Page F-3 The fact sheet does not include all technical data or rationale as the basis for the requirements. By omission it is inaccurate. As stated it was prepared under a "standardized format to accommodate a **broad** range." Required permits are required to use best management practices and be site specific when conditions are evaluated. Table F-1: mine is

operating, threat to water is 3, and Complexity is C. The Facility has no way to control, estimate or change the permitted flow. It 100% depends on nature.

F-4 The receiving waterway does not meet the definition of a navigable waterway. The water crossing OSTO (called effluent) and the water in Kanaka Creek (called receiving) cannot be altered by any action by OSTO. Regulations cited by CVRWQCB require samples and measurements to be representative of the volume and nature of the monitored discharge. The draft does not follow the law. A property owner is not required to measure the rain or snow melt from his property. No shopping mall or other business is required to measure the snow or rain melt from water crossing over its parking lot (E-3).

F-5 Mine property is 412 acres, slopes are greater than 45 degrees. Last paragraph: mine is a hard rock. F-6 there is no storage of underground ore. Mercury is no longer used and not necessary because of improved beneficiation technology.

F-7 Table F-2 is not a factual history representation. OSTO has over a twenty year history representation. CVRWQB has records for its review. A technical analysis supports the following conclusions: outflow is seasonal; Kanaka Creek is seasonal in flow; parameters are predictable.

F-8-9-10 Kanaka Creek is a federal designated intermittent creek. .It does not meet the intent of the Basin Plan as proposed. It does not comply with the intent of State Water Board Resolution 88-63. Water passing onto into through or out of OTSO property is wrongfully represented in the preliminary draft. The intent of water regulations passed by State and Federal legislators is not represented in applicable plans, policies and regulation of the draft for OSTO: beneficial uses, etc. Anti-Backsliding is not to be followed because it is a well-established fact the last two requirement permits were factually incorrect. Both failed to address the fact that milling was discontinued. If it is ignored for a third time, someone should be fired!

F11-RATIONALE FOR EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS: incomplete factual and legal analysis regarding determination of discharge specifications. Omission of or selective prejudicial selection of specific facts and conditions at OSTO property creates a repressive, unsupportable and unlawful economic disadvantage for operator. The public's beneficial rationale is not met. It is harmed. California needs blue collar jobs, natural resource production that causes no or acceptable environmental impact, domestic productivity, employment and business that increases taxes to support government. This preliminary draft fails in each of these categories.

Conclusion: Send this back to staff. Set a time for meeting. Save taxpayers much money by avoiding or eliminating legal challenges. Help California's economy. Counter the F minus California received for supporting small businesses. Demand honesty from public servants. Identify incompetency and deal with it in the government. Support common sense.

Michael Meister Miller, President

Dated: July 28, 2014

Original Sixteen to One Mine, Inc.

PO BOX 909 Alleghany, CA 95910

EPA And U.S. Army Corps of Engineers Publish Proposed Rule To Develop Regulatory Definition of "Waters of the United States" Under The Clean Water Act.

On April 21, 2014, the United States Environmental Protection Agency and the U.S. Army Corps of Engineers published in the Federal Register a proposed rule to clarify the jurisdiction of the Clean Water Act. According to the EPA, the proposed rule "does not protect any new types of waters that have not historically been covered under the Clean Water Act and is consistent with the Supreme Court's more narrow reading of Clean Water Act jurisdiction." The public comment period on the proposed rule will be open until Monday, July 21, 2014.

The proposed rule is designed to provide greater consistency, certainty, and predictability nationwide in determining what are "Waters of the United States" under the Clean Water Act.

The proposed rule includes exclusions from Clean Water Act jurisdiction for:

- Non-tidal drainage, including tiles, and irrigation ditches excavated on dry land.
- Artificially irrigated areas that would be dry if irrigation stops.
- Artificial lakes or ponds used for purposes such as stock watering or irrigation.
- Areas artificially flooded for rice growing.
- Artificial ornamental waters created for primarily aesthetic reasons.
- Water-filled depressions created as a result of construction activity.
- Pits excavated in uplands for fill, sand, or gravel that fill with water.

The proposed rule takes into consideration the draft science report titled "Connectivity of Streams and Wetlands to Downstream Waters," released for public comment in September 2013, which presents a review and synthesis of peer reviewed scientific literature.

For more information:

http://water.epa.gov/lawsregs/guidance/wetlands/CWAwaters.cfm

http://yosemite.epa.gov/opa/admpress.nsf/3881d73f4d4aaa0b85257359003f5348/ae90dedd9595a02485257ca600557e30

ATTACHMENT 4

Water code definitions

32. Under CWC section 13050, subdivision (q)(1), "mining waste" means all solid, semisolid, and liquid waste materials from the extraction, beneficiation, and processing of ores and minerals. Mining waste includes, but is not limited to, soil, waste rock, and overburden, as defined in Public Resources Code section 2732, and tailings, slag, and other processed waste materials...." The constituents listed in Finding No.21 are mining wastes as defined in CWC section 13050, subdivision (q)(1).

33. Because the site contains mining waste as described in CWC sections 13050, closure of Mining Unit(s) must comply with the requirements of California Code of Regulations, title 27, sections 22470 through 22510 and with such provisions of the other portions of California Code of Regulations, title 27 that are specifically referenced in that article.

34. Affecting the beneficial uses of waters of the state by exceeding applicable WQOs constitutes a condition of pollution as defined in CWC section 13050, subdivision (1). The Discharger has caused or permitted waste to be discharged or deposited where it has discharged to waters of the state and has created, and continues to threaten to create, a condition of pollution or nuisance.

35. CWC section 13304(a) states that: *"Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a Regional Water Board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the Regional Water Board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts. A cleanup and abatement order issued by the state board or a Regional Water Board may require the provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the*

request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant."

36. The State Water Resources Control Board (State Board) has adopted Resolution No. 92-49, the *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under CWC Section 13304*. This Resolution sets forth the policies and procedures to be used during an investigation or cleanup of a polluted site and requires that cleanup levels be consistent with State Board Resolution No. 68-16, the *Statement of Policy With Respect to Maintaining High Quality of Waters in California*. Resolution No. 92-49 and the Basin Plan establish cleanup levels to be achieved. Resolution No. 92-49 requires waste to be cleaned up to background, or if that is not reasonable, to an alternative level that is the most stringent level that is economically and technologically feasible in accordance with California Code of Regulations, title 23, section 2550.4. Any alternative cleanup level to background must: (1) be consistent with the maximum benefit to the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Board.

37. Chapter IV of the Basin Plan contains the *Policy for Investigation and Cleanup of Contaminated Sites*, which describes the Central Valley Water Board's policy for managing contaminated sites. This policy is based on CWC sections 13000 and 13304, California Code of Regulations, title 23, division 3, chapter 15; California Code of Regulations, title 23, division 2, subdivision 1; and State Water Board Resolution Nos. 68-16 and 92-49. The policy addresses site investigation, source removal or containment, information required to be submitted for consideration in establishing cleanup levels, and the basis for establishment of soil and groundwater cleanup levels.

38. The State Board's Water Quality Enforcement Policy states in part: "At a minimum, cleanup levels must be sufficiently stringent to fully support beneficial uses, unless the Central Valley Water Board allows a containment zone. In the interim, and if restoration of background water quality cannot be achieved, the Order should require the discharger(s) to abate the effects of the discharge (Water Quality Enforcement Policy, p. 19)."

39. CWC section 13267 states, in part:
"(b)(1) In conducting an investigation, the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or, discharging, or who proposes to discharge waste within its region . . . shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports."

As described in Findings Nos. 5 – 14, the Dischargers are named in this Order because all have discharged waste at the Mine Site through their actions and/or by virtue of their ownership of the Mine Site. The reports required herein are necessary to formulate a plan to remediate the wastes at the Mine Site, to assure protection of waters of the state, and to protect public health and the environment.

40. CWC section 13268 states, in part:

(a)(1) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267 . . . or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars ($1,000) for each day in which the violation occurs.

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(c) Any person discharging hazardous waste, as defined in Section 25117 of the Health and Safety Code, who knowingly fails or refuses to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or who knowingly falsifies any information provided in those technical or monitoring program reports, is guilty of a misdemeanor, may be civilly liable in accordance with subdivision (d), and is subject to criminal penalties pursuant to subdivision (e).

(d)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed five thousand dollars ($5,000) for each day in which the violation occurs.

As described above, failure to submit the required reports to the Central Valley Water Board according to the schedule detailed herein may result in enforcement action(s) being taken against you, which may include the imposition of administrative civil liability pursuant to CWC section 13268. Administrative civil liability of up to $5,000 per violation per day may be imposed for non-compliance with the directives contained herein.

Arsenic release from iron oxide appears to be the most common cause of widespread arsenic concentrations exceeding 10 µg/L in ground water. This can occur in response to different geochemical conditions, including release of arsenic to ground water through reaction of iron oxide with either natural or anthropogenic (i.e., petroleum products) organic carbon. Iron oxide also can release arsenic to alkaline ground water, such as that found in some felsic volcanic rocks and alkaline aquifers of the western United States. Sulfide minerals are both a source and sink for arsenic. Geothermal water and high evaporation rates also are associated with arsenic concentrations >= 10 g/L in ground and surface water, particularly in the west.

Although arsenic has been used for a wide variety of purposes in the United States (Abernathy 1983; Lederer and Fensterheim 1983; Azcue and Nraigu 1994), agricultural applications, wood preservation, and glass production have been the dominant uses. Inorganic arsenic has been used as a wood preservative for more than 60 years and currently represents the single greatest use of arsenic compounds in the United States (Figure 1). Agricultural use of arsenical chemicals is now less than 10% of peak use and only slightly exceeded the amount used for glass production in 1996. Monosodium methanearsonate (MSMA) was the primary form of arsenic applied to agricultural land in 1996, primarily on cotton (U.S. Dept. of Agriculture 1997). Relatively small quantities of disodium methanearsonate (DMSA) and dimethyl arsinic acid (cacodylic acid) were also applied in 1996. Arsenic also is added to poultry and swine feed.

Arsenic use in the United States. Data are from Loebenstein (1994) and Edelstein (1997, 1998).

Inorganic arsenic was widely applied prior to being banned for pesticide use in the 1980s and 1990s. Lead arsenate ($PbHAsO_4$) was the primary insecticide used in fruit orchards prior to the introduction of DDT in 1947 (Shepard 1951). Inorganic arsenicals also have been applied to citrus, grapes, cotton, tobacco, and potato fields. Historic annual arsenic loading rates up to approximately 490 kg/ha (approximately 440 lb./acre) on apple orchards in eastern Washington (Benson 1976) led to arsenic concentrations in soil in excess of 100 mg/kg (Davenport and Peryea 1991). Agricultural soils in other parts of the United States also have high arsenic concentrations exceeding 100 mg/kg due to long-term application (20 to 40 years or more) of calcium- and lead-arsenate (Woolsen et al. 1971, 1973; Wauchope 1983). Early studies suggested that arsenic in eastern Washington orchards was largely confined to the topsoil, although evidence for movement into the subsoil also has been cited (Peryea 1991). This apparent movement of arsenic suggests a pot

Arsenic concentrations in ground water are high at many sites with contaminated ground water (Tables 1 and 2). About 30% of 1191 Superfund sites list arsenic as a "contaminant of concern" in the Record of Decision (ROD) abstract or in the contaminant list, suggesting that high arsenic in ground water associated with waste disposal is common. Sites associated with the production of inorganic arsenic pesticides locally have exceedingly high concentrations in ground water, although not all sites appear to have an anthropogenic source for the arsenic. Ground water at one site in Texas has arsenic concentrations exceeding 2×10^6 µg/L

Iron Mountain, California-- massive sulfide	60,000-340,000	-0.7 - 2.6	3	Nordstrom and Alpers 1995
Leviathan Mine, California-- volcanic-exhalative sulfur				

The assembled data suggest that ground water in the United States typically contains low to very low arsenic concentrations (=< 1 µg/L), particularly in the two eastern provinces where 75% or more of the sampled ground water contains arsenic concentrations =< 1 µg/L. In most of the areas outlined in Figure 3, which shows areas that tend to have high arsenic concentrations, some ground water with low to very low arsenic concentrations also exists. In areas with naturally high arsenic concentrations, steep lateral and vertical concentration gradients in arsenic concentration are commonly observed. Examples include areas 4, 6, 11, and 17 (Figure 3), where steep gradients exist between zones of low to very low concentrations and zones with high arsenic concentrations.

Copied from USGS Trace Elements National Synthesis Project

Where arsenopyrite is present in sulphide ores associated with sediment-hosted gold deposits, it tends to be the earliest-formed mineral, derived from hydrothermal solutions and formed at temperatures typically of 100°C or more. This is followed by the formation of rarer native arsenic and thereafter arsenian pyrite. Realgar and orpiment generally form later still. This paragenetic sequence is often reflected by zonation within sulphide minerals, with arsenopyrite cores zoning out to arsenian pyrite and realgar-orpiment rims. Oxi

ATTACHMENT 6

A Cannot Establish TMDL for Stormwater as Proxy for Sediment

The U.S. District Court for the Eastern District in Virginia held that the U.S. Environmental Protection Agency did not have the authority under the Clean Water Act ("CWA") to regulate flows of stormwater into a creek because stormwater did not qualify as a pollutant under the Act. In *Virginia Department of Transportation v. U.S. EPA*, 2013 U.S. Dist. LEXIS 981 (2013), EPA had established a total maximum daily load ("TMDL") limiting stormwater flow rate into the creek in order to reduce the amount of sediment entering the creek. EPA viewed stormwater flows as a proxy for sediment, a pollutant under the CWA. The court focused on the plain language of the CWA in determining that EPA had exceeded the scope of its authority. The court explained: "EPA is authorized to set TMDLs to regulate pollutants, and pollutants are carefully defined. Stormwater runoff is not a pollutant, so EPA is not authorized to regulate it via TMDL. Claiming that the stormwater maximum load is a surrogate for sediment, which is a pollutant and therefore regulable, does not bring stormwater within the ambit of EPA's TMDL authority."

ATTACHMENT 7

Recently Adopted Waste Discharge Requirements for Growers Challenged

On December 7, 2012, the Central Valley Regional Water Quality Control Board ("Regional Board") adopted a discharge permit for irrigated agricultural lands within the Eastern San Joaquin River watershed. (Order No. R5-2012-0016, *Waste Discharge Requirements General Order for Growers in the Eastern San Joaquin River Watershed that are Members of the Third-Party Group* ("*WDR*").) The WDR seeks to implement the irrigated lands regulatory program for the watershed and rescinds the previously issued conditional waiver of waste discharge requirements for that area.

Three suits were filed against the WDR on January 7, 2013. Petitioners Asociación de Gente Unida por el Agua ("AGUA") filed a claim on anti-degradation grounds. AGUA cited its recent successful challenge of waste discharge requirements for the discharge of dairy waste in *Asociación de Gente Unida por el Agua v. Central Valley Regional Water Quality Control Board* (2012) 210 Cal.App.4th 1255.

Petitioners San Joaquin County Resource Conservation District, California Farm Bureau, and the Southern San Joaquin Valley Water Quality Coalition, among others, filed suit alleging the Regional Board abused its discretion in adopting the WDR. The claim alleged violations of the California Environmental Quality Act ("CEQA") and the Porter-Cologne Water Quality Act ("Porter-Cologne").

ATTACHMENT 8

Draft NPDES Industrial General Permit

The Industrial General Storm Water Permit regulates the storm water discharges from specific industrial sectors. Approximately 9,000 individual facilities are covered by the current permit. In 2012, the State Water Resources Control Board ("SWRCB") made a number of changes to the Draft Industrial NPDES permit, including (1) numeric effluent limits were removed because SWRCB staff acknowledged that they lack information necessary to set them; (2) flexibility was added to the minimum BMP's; (3) maximum inspections and visual observations were reduced from 361 to 49; and (4) a natural background report potential was added to reach Level 2 Numeric Action Level (NAL) exceedance status. The SWRCB anticipates that a new 2013 Draft Industrial General Permit and supporting documents will be released in July 2013, beginning a written comment period. Also a public hearing will likely be held in August 2013 for written comments on the new draft requirements. SWRCB staff anticipates that adoption of the Industrial General Permit will take place in late 2013 or early 2014, with an effective date of January 1, 2015. The new 2013 Draft Industrial General Permit and related documents will be posted here when available: http://www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.shtml.

The National Pollutant Discharge Elimination System (NPDES) Stormwater Program regulates stormwater discharges from three potential sources: municipal separate storm sewer systems (MS4s), construction activities, and industrial activities. Most stormwater discharges are considered point sources, and operators of these sources may be required to receive an NPDES permit before they can discharge. This permitting mechanism is designed to prevent stormwater runoff from washing harmful pollutants into local surface waters such as streams, rivers, lakes or coastal waters.

submitting a Notice of Intent (NOI), installing stormwater control measures to minimize pollutants in stormwater runoff, and developing a stormwater pollution prevention plan (SWPPP). View the general two-page fact sheet (PDF) (2 pp, 72K) summarizing the final 2008 MSGP.

The list below is provided as a resource for industrial dischargers who must determine whether they discharge to a Tier 2/2.5 or Tier 3 water. Only Tier 2/2.5 or Tier 3 waters specifically identified by a water quality standard authority (e.g., a State, Territory, or Tribe) are identified in the table below. Many authorities evaluate the existing and protected quality of the receiving water on a pollutant-by-pollutant basis and determine whether water quality is better than the applicable criteria that would be affected by a new discharge or an increase in an existing discharge of the pollutant. In instances where water quality is better, the authority may choose to allow lower water quality, where lower water quality is determined to be necessary to support important social and economic development. Permittees are not required to identify those waters which are evaluated on an individual basis.

Submission of this No Exposure Certification

The CWA gives EPA the authority to set effluent limits on an industry-wide (technology-based) basis and on a water-quality basis that ensure protection of the receiving water. The CWA requires anyone who wants to discharge pollutants to first obtain an NPDES permit, or else that discharge will be considered illegal.

r regulating the discharge of pollutants from point sources to waters of the United States. Section 402 of the CWA specifically required EPA to develop and implement the NPDES program.

ATTACHMENT 9

Title I - Research and Related Programs

- Section 101 - Declaration of Goals and Policy
- DECLARATION OF GOALS AND POLICY
- SEC. 101. (a) The objective of this Act is to restore and maintain
- the chemical, physical, and biological integrity of the Nation's
- waters. In order to achieve this objective it is hereby declared that,
- consistent with the provisions of this Act—
- (1) it is the national goal that the discharge of pollutants

- into the navigable waters be eliminated by 1985;
- (2) it is the national goal that wherever attainable, an interim
- goal of water quality which provides for the protection
- and propagation of fish, shellfish, and wildlife and provides for
- recreation in and on the water be achieved by July 1, 1983;
- (3) it is the national policy that the discharge of toxic pollutants
- in toxic amounts be prohibited;
- (4) it is the national policy that Federal financial assistance
- be provided to construct publicly owned waste treatment
- works;
- (5) it is the national policy that areawide treatment management
- planning processes be developed and implemented to
- assure adequate control of sources of pollutants in each State;
- (6) it is the national policy that a major research and demonstration
- effort be made to develop technology necessary to
- eliminate the discharge of pollutants into the navigable waters,
- waters of the contiguous zone and the oceans; and
- (7) it is the national policy that programs for the control
- of nonpoint sources of pollution be developed and implemented
- in an expeditious manner so as to enable the goals of this Act
- to be met through the control of both point and nonpoint
- sources of pollution.

DECLARATION OF GOALS AND POLICY

SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983;

(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

(4) it is the national policy that Federal financial assistance be provided to construct publicly owned waste treatment works;

(5) it is the national policy that areawide treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each State;

(6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone and the oceans; and

(7) it is the national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.

(b) It is the policy of the Congress to recognize, preserve, and

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ATTACHMENT 10

TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

PURPOSE

SEC. 201. (a) It is the purpose of this title to require and to assist the development and implementation of waste treatment management plans and practices which will achieve the goals of this Act.

(b) Waste treatment management plans and practices shall provide for the application of the best practicable waste treatment

reclaiming and recycling of water, and confined disposal of pollutants so they will not migrate to cause water or other environmental pollution and shall provide for consideration of advanced waste treatment techniques.

(c) To the extent practicable, waste treatment management shall be on an areawide basis and provide control or treatment of all point and nonpoint sources of pollution, including in place or accumulated pollution sources.

(d) The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture, or aquaculture products, or any combination thereof;

(2) the confined and contained disposal of pollutants not recycled;

(3) the reclamation of wastewater; and

(4) the ultimate disposal of sludge in a manner that will not result in environmental hazards.

(e) The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment and recycling with facilities to treat, dispose of, or utilize other industrial and municipal wastes, including but not limited to solid waste and waste heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

(f) The Administrator shall encourage waste treatment management which combines ''open space'' and recreational considerations with such management.

(g)(1) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of publicly owned treatment works. On and after October 1, 1984, grants under this title shall be made only for projects for secondary treatment or more stringent treatment, or any cost effective alternative thereto, new interceptors and appurtenances, and infiltration-in-flow correction. Notwithstanding the preceding sentences, the Administrator may make grants on and after October 1, 1984, for (A) any project within the definition set forth in section 212(2) of this Act, other than for a project referred to in the preceding sentence, and (B) any purpose for which a grant may be made under sections 319 (h) and (i) of this Act (including any innovative and alternative approaches for the control of nonpoint sources of pollution), except that not more than 20 per centum (as

determined by the Governor of the State) of the amount allotted to a State under section 205 of this Act for any fiscal year shall be obligated in such State under authority of this sentence.
(2) The Administrator shall not make grants from funds authorized for any fiscal year beginning after June 30, 1974, to any

16) The term ``discharge'' when used without qualification includes a discharge of a pollutant, and a discharge of pollutants.

13) The term ``toxic pollutant'' means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation
into any organism, either directly from the environment or indirectly by
ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.

6) The term ``pollutant'' means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical
wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) ``sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces'' within the meaning of section 1322 of this title; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water
derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.

1362. Definitions

6) The term "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

CITE

33 USC Sec. 1319
01/05/2009

EXPCITE

TITLE 33 - NAVIGATION AND NAVIGABLE WATERS

CHAPTER 26 - WATER POLLUTION PREVENTION AND CONTROL
SUBCHAPTER III - STANDARDS AND ENFORCEMENT

HEAD

Sec. 1319. Enforcement

3) Determining amount

In determining the amount of any penalty assessed under this subsection, the Administrator or the Secretary, as the case may be, shall take into account the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

ATTACHMENT 12

May 18, 2010
Dear Dr. Goldman,

Andy Yeiser speaks highly of your approach to fact, evidence and fairness. May I come to Davis for a visit at which time I' will bring some data and be available to speak with you. You are invited to visit the mine and see for yourself. Alleghany is about two hours from Sacramento and it is a beautiful drive. It would be an honor to show you a part of California unknown to the majority, one of the world's greatest gold deposit.

The activities of the California water board in its treatment of Original Sixteen to One Mine, Inc do not protect the environment, are not beneficial to the People of California as it claims in court papers and mocks the history of our great state. I was born and raised in Sacramento from parents and grandparents who were also born in California. It was a stroke of chance that I learned about the Sixteen to One mine in 1974 and moved to Alleghany to become a gold miner. I took over the company in1983 and became a director and president to the present. I live in Sierra County, understand its environment and, as a graduate of UCSB (combined social sciences/economics) have an experienced background including the value of GDP and those blue-collar jobs. Our state has been hijacked by well meaning environmental claimants to the determent of future generations. It is not the gold miner of today that is polluting California's water. One only has to look to real estate development that has been unchecked for decades, urban sprawl and misguided enforcement programs.

Sincerely,
Michael M. Miller
(530) 287-3223

ATTACHMENT 13

Sixteen to One Mine Summary of Water Issue

California enforces the federal and state water law

Operators that treat or discharge water may be required to obtain a permit from the State Water Control Board through one of its area agencies. The Central agency in Sacramento administers Sierra County, the home of Sixteen to One. An application is submitted to the agency. After review and consultation, a permit may be issued when applicable. Conditions are important because the law has specific requirements. One is the requirement to use site-specific data in recommending performance and terms. Permits are reviewed and renewed every five years. Relevant times to understand the current dispute between the agency and the Sixteen to One are: 1993,1998, 2003 and 2008. The operators of the Sixteen to One significantly modified its use of water in 1998 (surface milling of the ore ceased). The operator notified the agency in writing that milling and its subsequent discharge did not occur. This means that there was no treatment of surface or ground water that passes through the Sixteen to One property. The agency took no action to modify its review and subsequent test requirements in light of

this important information. Between 1998 and 2003 the agency failed to send any of its employees for an on-site inspection of the property. Instead it carried out its legislative authority blindly and failed to exercise the required specificity as the legislature intended.

ATTACHMENT 14

Conditions in Sierra County and the Sixteen to One

The Sierra County General Plan is in good standing. It has six General Plan Themes. One is to "protect the County's natural resource based industries". Another is the "protection of the environment and economic value of the Count's resources". A third deals with limiting the extension of County services in order "to reduce fiscal impacts and protect the environmental and economic value of the County's resources." The Sierra County General Plan is intended to serve these purposes locally until the year 2012 though updates within that period are expected.

Maintenance of the County's resource extraction economy is a primary goal of the General Plan. Mineral extraction, particularly gold mining, has also continued to be an important part of Sierra County's economy and identity over the years. Minerals are the basis for one of the principal industries of the County.

The State Conservation Element Guidelines (Government Code Section 65302(d)) calls for attention to the conservation, development and utilization of natural resources including gold. The Surface Mining and Reclamation Act (SMARA) also calls for very specific policies and mapping within general plans to protect minerals of economic value. It is the goal to encourage, enhance and protect mining and mining related activities in Sierra County.

The definitive federal document regarding the mineralization of the Sixteen to One is the United States Geological Survey, Professional Paper 172, and entitled "Gold Quartz Veins of the Alleghany District of California". According to this paper the following accounts are highly regarded as factual. During Cretaceous time and most of Eocene time the district was undergoing **erosion.** It is estimated that the amount of cover removed in the Alleghany District during these periods was at least 10,000 feet and possibly much more. During and after the filling of the veins there were continued movements along the walls. The minerals formed do not appear to have required the introduction of notable amounts of new material but resulted from the recrystallization of the minerals of the wall rock. Accompanying the dominant quartz were other minerals, chiefly arsenopyrite, pyrite, albite, oligoclase and barite. Arsenic is native to the area.

Kanaka Creek and its tributary North Fork of Kanaka Creek (Little Kanaka) flow through the Alleghany District. Both are classified as intermediate. Flow rate is seasonal. The creeks contain arsenic but there are no signs of environmental harm along its course.

Original Sixteen to One Mine, Inc is the owner and operator of the Sixteen to One mine. It incorporated in California in 1911 and is the oldest American gold mining corporation. It is also very small is size and global impact. Its gold is free milling and the process

does not use chemicals to break apart the various elements contained in the ore. It is a significant local employer, at one time the largest private employer in Sierra County.

The Central Valley Regional Water Control Board (water board) seeks millions of dollars from the company claiming it failed to report or conduct the 1440 annual tests it required. The company has over a decade of test results, which are predictable based on the time of year and weather. The water board refuses to discuss appropriate settlements and appears to hold out for a decision that may bankrupt the company, thereby closing the mine. Even if the operation ceased, the water conditions would not change. The operation does not alter the mineralogical composition of the water that passes over and through its property before entering Kanaka Creek.

ATTACHMENT 15

Water analysis 2010

To Whom It May Concern:

Over a thirty year history of water analysis exists, overseen by many different engineers, geologists, water experts and regular miners. There is nothing to hide because the water has established patterns and ranges according to seasons, weather and activity at the property. This report is prepared to list relevant facts as they are discovered while searching through the many files, boxes and storage rooms of data.

1. CRWQCB/Central Valley Region order 95-004, received 12/9/96, number 5: "The u.s. EPA and the board have classified this discharge as a minor discharge."
2. Number 8: "the Board finds that the discharge does not have a reasonable potential to cause or contribute to an in-stream excursion above a water quality objective."
3. Number 9.: "The impact on existing water quality will be insignificant."
4. D. Receiving Water Limitations: Number 2, "Arsenic level to exceed 360 ug/l"
5. General provisions of reporting requirements for waste discharge NPDES: discharger notification to Board of causes for modification of order.

ATTACHMENT 16

April 14, 2009

Michael Smith
California Toxic Water Agency
Sacramento, California

Dear Mr. Smith,

Please enter this note into the file for the Sierra County contamination of property owned by Original Sixteen to One Mine, Inc. The items are meant to establish a record that clearly proves that the State agency you represent is aware of the situation of toxic pollution in Alleghany.

1. Fumes and visual evidence of an oily substance persist at the Happy Jack property. The toxic discharge has continued since its discovery in 2008. The amount of pollution varies with the weather and runoff from rain and snow.
2. The property owner has taken mitigation steps to reduce the amount of pollutants flowing into Kanaka Creek; however, it is likely that contaminated water has reached the creek.
3. The property owner and its contractor filed an invoice for its efforts to solve and mitigate damages to the waterways of the State of California on February 2, 2009. The Board of Supervisors with notice that statute allows six months to file a court action to recover expenses and damages rejected the claim.
4. Federal and State law has language that willful negligence criminal charges are applicable for persons who fail to stop or at least mitigate a toxic discharge. There is no dispute about who is responsible for the pollution and that pollution is ongoing.
5. The issue seems to be money, not stopping the pollution. Upon an independent investigation both the county and the State water agency have adequate funds to remedy the problem.
6. The contractor opines that removing the debris is not complicated, that there is no evidence of subsidence on the surface above the projected path of the tunnel, and it is likely that minor erosion instead of massive cave ins will be encountered underground. Because of his experience the work is expected to be routine rather than exceptional.
7. The toxic pollution will not correct itself and places the property owner in financial jeopardy.
8. Attached are: e-mail to Craig Morgan dated March 27, 2009; Mountain Messenger article from April 9, 2009; claim for damages.

M. Miller, president

ATTACHMENT 17

EXHIBIT A
Re: FACILITY id #5A452023001

Original Sixteen to One Mine, Inc, (OAU) a California corporation formed in 1911, has conducted mining operations at the same location in Sierra County, California for ninety-seven (97) years. Its operations qualify for grandfather rights under federal and state Ex Post Facto restrictions.

Guidelines for water discharges pursuant to California Water Code Section 13260 states that "discharge waste that could affect the quality of the waters of the State" is the qualifier that may require specific permits. The water that passes through OAU's property does not meet this condition. Therefore no permits are required.

OAU for decades has co-operated with State and Federal agencies to maintain a safe and healthy environment for itself, its employees, its county, region, state and neighbors. Its cost estimates for this co-operation exceed $250,000. During these decades nature's patterns of seasons and water flows became predictable and reports were submitted to various governmental agencies.

Upon notification that a renewal date was not met, OAU contacted the Sacramento regional agency, invited and encouraged a staff member to its property and sent its agent to review State records in Sacramento. His summary of the files for OAU follows.

- Porter-Cologne Water Quality Control Act, Division 7 of California Water Code is the authority. The Designated Level Methodology for Waste Classification and Clean Up is a determinant (Oct 1986 updated June 1989)
- Classification based on threat that wastes and contaminated sites pose to the beneficial uses of waters of the State.
- Designated waste categories try establishing "designated levels for specific constitutes of a waste which provides a site specific indication of the water quality impairment potential of the waste."
- 1. Determine the bodies of water that may be affected;
- 2 Next site specific water quality goals are selected based on background water quality;
- 3. Consider environmental attenuations; attenuate to reduce in value, quantity, size or strength.
- 4. Resulting in a set of Soluble and Total Designated Levels applicable to particular waste and site.

An important concept for designation is a process called "environmental fate". The agency did not prepare an environmental fate analysis or no such analysis was included in the file. The most important characteristic that must be evaluated in the derivation of environmental attenuation factors is the relative uncertainty of the data and assumptions used to describe the environmental fate process. The more uncertainty involved in the estimation of environmental attenuation factors, the more the assumptions being used in

their derivation should lean in the direction of under estimating the amount of attenuation expected to occur.

Porter Colone, Section 13050 (2) (A) defines untreated storm water that is non toxic, non flammable and non corrosive from underground vaults or chambers is not considered a HAZARDOUS substance. Enhanced by exclusion (c). Not producing mine waste as defined. OAU may qualify for a "No Exposure Certification". OAU current situation is consistent with waste management strategy after closure.

Regulation language says that the total amount of annual fees collected equal the amount necessary to recover costs. Costs are administration, reviewing, monitoring and enforcement. Language says the board shall consider: size of operation, pricing mechanism of commodity produced, compliance costs borne by operation pursuant to state and federal water regulations.

There were no entries submitted by OAU in the file for recent years. An annual letter has been sent to the agency for over ten years stating the Company's position on the erroneous classification as well as the change in operations (discontinuation of the mill). OAU has asked for a physical inspection for over ten years, which requests were ignored. Correspondences in the files between agency employees confirm that members of staff were aware of the requests, OAU's position on classification and that operations at the site had significantly changes.

Included in this filing are six letters marked number one through six. The Financial Assurance Agreement is included as it has been in the past.

ATTACHMENT 18

How about this article in the Sacramento Bee!!
January 3, 2009
Headline: "Kern inmates forced to use tainted water".

Here's the scoop. Kern Valley State Prison opened in 2005 with local water registering higher in arsenic than the new federal limits. The government shelved a $629,000 filtration system and did not notify the staff and inmates. "Its not that major of an issue," said Kelly Harrington, the prison's new warden. The administrators say the health hazard from arsenic (from chemicals used in industry and farming) is insignificant and they will get around to it in the next few years. The prison's chief medical officer, Dr. Sherry Lopez, said there was no immediate danger from the lockup's water, based on an email from a poison-control expert who said arsenic is "much more a regulatory problem than a public health problem."

Oxygen is a poison; plain water can kill, so can chocolate, meat, vitamins A-B-D and E. It's all about dosage, the amount and time line of ingestion. Let's hope this new and fresh look at America and ourselves will examine the utterly false and misleading claims of arsenic, especially natural elemental arsenic as dangerous enough to waste millions of our precious dollars.