



California Regional Water Quality Control Board

Lahontan Region



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Secretary for
Environmental
Protection

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October 31, 2002

Sarah M. Fields
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02 NOV - 8 AM 10:29

STP

LEAD/IRON PRECIPITATE, PONDS P-8, P-11 AND P-24 MOLYCORP'S MOUNTAIN PASS MINE AND MILL SITE (MOUNTAIN PASS FACILITY), SAN BERNARDINO COUNTY

By this letter, we are responding to your three most recent letters (September 26, October 1 and October 28, 2002 letters). You have also sent correspondence to other agencies including the California Department of Health Services, Radiological Health Branch (DHS) and the California Department of Toxic Substances Control (DTSC).

Your letters express your concerns with decisions by the DHS and Nuclear Regulatory Commission (NRC) regarding the removal, transport, reprocessing and disposal of the lead/iron precipitate. You also expressed concern about solids shipped to the Mountain Pass Facility from out-of-state facilities. Your September 26 letter transmits 12 documents that pertain to MolyCorp shipments of solids from its York, Pennsylvania Facility (York Facility) to its Mountain Pass Facility for mineral processing. The NRC and MolyCorp authored the documents. The document dates range from October 23, 1981 through October 6, 1992 and do not indicate that the NRC or MolyCorp sent copies to the Regional Board. The NRC has classified the lead/iron precipitate and the solids from the York Facility as ore/product.

The Regional Board has limited authority over materials that are not waste. Most of the issues raised by your letters do not pertain to a waste and therefore are not within the jurisdiction of the Regional Board. Under the California Water Code, the Regional Board has authority to issue Waste Discharge Requirements (WDRs) to regulate discharges of waste to protect water quality. This includes authority to issue WDRs to regulate the discharge of waste generated by processing of ore/product.

Processing of the York Facility ore/product at the Mountain Pass Facility (hereafter referred to as the "activity") would constitute a violation of WDRs if it: (1) caused a material change in the character, location or volume of the waste discharge; and (2) MolyCorp did not include the activity in a Report of Waste Discharge (application) on which the WDRs are based. MolyCorp staff has indicated to Regional Board staff that it does not believe the activity constituted a material change in the discharge. Regional Board staff will soon request specific information from MolyCorp to determine whether we agree with this position. We will keep you informed of the results of our investigation as they become available.

California Environmental Protection Agency

STP-006 Template
RIDS DIST. SPD8

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>

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October 31, 2002

Your September 26 letter requests that the Regional Board delay decommissioning of the ponds until certain actions occur (i.e, DHS licensing of the Mountain Pass Facility and DTSC's investigation of whether the precipitate must be classified hazardous waste). As we stated in our September 25, 2002 letter to you, both agencies (DHS and DTSC) have independent authority to determine whether it (the agency) needs to take such action.

You request that we keep you informed of the status of the lead/iron precipitate in Ponds P-8, P-11 and P-24. Since DHS is the lead agency for oversight of the removal and containerization of the precipitate for transport, we suggest that you contact DHS staff directly for the status. The work may be underway.

Your October 1 letter states that our September 25 letter incorrectly indicates the NRC has authority over removal and transportation of the precipitate. You indicate the NRC does not have authority. We would like to point out that the portion of our September 25 letter that you are referring to did not use the word authority. In addition, the NRC staff report, which supports the NRC decision, does address removal and transportation.

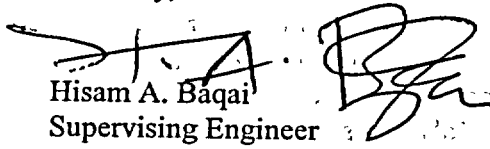
Your October 1 letter asks what our September 25 letter was referring to by the statement "workplan for the proposal." Our letter was referring to the document(s) that MolyCorp sent to the NRC and DHS before those agencies issued their decisions. The term "workplan" originated from a DHS staff member who referred to the document(s) as a "workplan" during a telephone conversation with Regional Board staff.

Your September 26 letter requested that we inform you of any activities at the Mine Site, for which the Regional Board has oversight. We have added you to our MolyCorp mailing list. You will receive copies of all correspondence and notices of Regional Board Meetings, which pertain to the Mine Site.

We would like to send copies of our letters to the same persons receiving your letters. Please provide us with the addresses of the people receiving your letters, with the exception of those that are State of California employees. We have addresses for those employees.

If you should need further information regarding this matter, please telephone me at (760) 241-7325 or Curt Shifrer of our staff at (760) 241-7376.

Sincerely,


Hisam A. Baqai
Supervising Engineer

Enclosures: Mailing List

cc: w/encls: Attached Mailing List

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California Environmental Protection Agency

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Page 1 of 2

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