

State of California
State Water Resources Control Board
Division of Water Rights
P.O. Box 2000, Sacramento, CA 95812-2000

**Re: Pine Creek Mine LLC, Application for Preliminary Permit
Numbers: P-12532, P-13091, P-13163**

Proposed Project Protest – From Pacifica Development, Inc.

October 30, 2008

Pacifica Development, Inc., a “major” water user on Pine Creek, Inyo County, California, has a proposed Pine Creek Village Development Project (the “Project”) consisting of development of a residential subdivision and related activities on a 280-acre site presently containing the existing community of Rovana. Pine Creek bisects Project site in an east-west direction. Project build-out includes a total of 275 dwelling units based on potential future subdivisions that would be allowed under proposed General Plan land use designations and zoning for the site. The Project is located on Pine Creek Road, ten miles north of Bishop, California. It may be found on the Rovana, California U.S.G.S. Quadrangle, 7.5 Minutes Series in Section 19 and 20, R 31 E, T 6 S, MDB&M.

List of SWRCB Statement Number’s previously filed: S002161, 2162, 2164, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2176, 2177, 2178.

Pacifica Development, Inc. maintains established water rights in Sections 19 and 20 as described in the Supplemental Statement of Water Diversion and Use Reports previously filed with the SWRCB. Numerous diversions and manmade irrigation channels, dating as far back as the late 1800’s, exist on the Project site. The Village of Rovana, consisting of 86 residences, used Pine Creek as source water for domestic purposes until mid-1997. The water treatment facility continues as a standby public drinking water source. The Project, as designed, will continue to have numerous diversions and irrigation ditches running in backyards of privately owned residential lots, adjacent to or near Pine Creek, Mill Creek and Arcularius ditch.

The Preliminary Permit number P-13091 filed by Mr. Lynn Goodfellow, the manager of Pine Creek Mine, LLC, refers to the collection of water flows from an intake system located on Pine Creek resulting in discharges to a separate detention pond and then eventually being returned to Pine Creek through an outflow. This collection method, resulting in fluctuating flow regimes, could have an impact on downstream users. More specifically, if there were a sudden drop in load with a corresponding stop in flow through the turbine, water would be shunted around the penstock resulting in low flows because of lag time. Again, because of lag time and flows being shunted, when the

turbine is brought back on line, flow rates would have a potential of doubling. This could have major implications to downstream users. In addition, with the use of Pine Creek as a standby public drinking water source, intake facilities could be severely compromised with major fluctuations in creek flow. Currently, major fluctuations occur only rarely... only during time of major thunderstorm activity and high-intensity rainfall. Being faced with the potential of increased frequency of major water fluctuations creates a design and operational challenge resulting in increased costs.

The application refers to water being collected at the Pine Creek Mine millsite where the mine discharges its mine and mill water. The design of the intake structure to the 9,000-foot-long, 28-inch-diameter penstock is not described, yet the application declares that the project does not include any dam, reservoir or other appurtenant facility. Any dam or reservoir will obviously create a tilling basin allowing sediment to accumulate that will require periodic flushing. These episodes of flushing high concentration sediment could again pose a threat to the operation of the treatment facility associated with the water system source. In addition, high concentrations of sediment can create problems with diversion and control structures, as well as the low velocity ditches associated with the esthetic ditch system. Also, an open reservoir containing ponded water will require periodic cleaning to prohibit downstream sediment flow and its existence may be detrimental to wildlife.

The project description in Docket 12532 includes the existence of a concrete plug at the millsite. Down stream users have been directly affected as a result of the construction of this plug resulting in ponding of water and fluctuations in its flow into the creek. The applicant's water rights associated with this water is of question.

There is cause for concern that fish could possibly enter the penstock and go through the turbine thus increasing the organic loading in the creek. This could have major implications to operating a source water supply downstream. Treatment and disinfection would be operated, assuming background BOD's and organic loading. The introduction of fish remains could have major implications in the treatment and disinfection of the water.

The proposed location of the penstock will run within and around the existing tailings piles and down slopes separating them. The County of Inyo required capping of the tailings ponds and other mitigation efforts to ensure that erosion is minimized and wildlife is protected. This area will be disturbed during construction and likely as a result of ongoing operations. Disposal of tailings, mine water, and ore-processing effluent were the main impacts of the underground mines on streams in various studies. There is also a major question of liability in cleanup efforts. Current law holds those attempting remediation to be liable for any damage caused by their activities or, presumably, failure of the project to solve the problem. What precautions will be taken to prevent a return to pre-existing conditions at the tailings ponds?

A variety of studies have examined sediment production and mass movement occurrence from roads. If maintenance is not improved, quality of both transportation and streams

will suffer. Lack of maintenance is often used as an excuse for failures resulting from poor design or construction (Seidelman et al. 1986). The road network must be acknowledged as both an investment and a liability for the long term

The proposed penstock will store approximately 290,000 gallons of water. What precautions are being taken to protect against seismic forces, acts of vandalism, or equipment malfunction to prevent a major rupture resulting in a potentially destructive water surge in the creek? A surge like this could create major damage to the source water intake and treatment facilities, create property damage and flooding throughout the development, and pose a health and safety risk for downstream recreational users of the creek. Catastrophic failure of impoundments is always a concern of those living below dams and other containers of water. Sudden releases of water also have great potential for dramatic environmental change.

Fire prevention and control as a result of ongoing project activities is a concern, especially considering its remote location. With the closure of the Pine Creek Mine, operations, what fire prevention and suppression facilities are proposed at or near the site?

Thank you for opportunity to comment. I may be reached at the address and phone number below.

Sincerely,

Pacifica Development, Inc.

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Document Content(s)

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