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STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition  
by Jack Wessman for Review of  
Order No. 78-114, California  
Regional Water Quality Control  
Board, Central Valley Region.  
Our File No. A-209.

Order No. WQ 79-12

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BY THE BOARD:

The Mount Diablo Quicksilver Mine is an abandoned or non-operating mine located on the east slope of Mount Diablo in Contra Costa County. Drainage from the mine property flows to Dunn Creek near its confluence with Marsh Creek, a tributary of the San Joaquin River. On September 8, 1978, the California Regional Water Quality Control Board, Central Valley Region (Regional Board) adopted Waste Discharge Requirements, Order No. 78-114, prohibiting the direct discharge of waste to surface waters or surface water drainage courses. On October 9, 1978, Jack Wessman (petitioner) owner of the mine property filed a petition for review by the State Water Resources Control Board (State Board) of the Regional Board's action adopting Order No. 78-114. In general, the petitioner contends that the prohibition is unfair because the toxic metals found in certain spring water on the mine property are naturally occurring and not the result of mine related activities.

## I. BACKGROUND

The mine was operated intermittently from 1870 to 1970, when operation ceased and the property was sold. Surface and mineral rights of the mine are owned presently by Jack and Carolyn Wessman. The mine area includes an open-pit mine area and a mine dump area containing both overburden and roasted ore. On the hillside between the mine and Dunn Creek Valley are a series of springs which flow from beneath the mine tailings. In the center of the valley is a large earthen diked sediment reservoir. During the operational life of the mine, drainage was contained in this reservoir. Last winter the reservoir was breached and a portion of the accumulated silt was eroded from the reservoir and deposited in Dunn and Marsh Creeks.

## II. CONTENTION AND FINDINGS

The contention of the petitioner and our findings relative thereto are as follows:

Contention: The petitioner contends that discharge prohibition A.1. of Regional Board Order No. 78-114 is inappropriate and unfair because the toxic component of the springs is a natural phenomenon and not the result of mining activities. Prohibition A.1. states that "[t]he direct discharge of wastes to surface waters or surface water courses is prohibited."

Findings: While the spring water is naturally occurring, contact with the mine tailings is degrading the spring waters. This conclusion is reached in both the geologic report prepared for the Regional Board on August 21, 1978, and the geologist report prepared for the petitioner by Mr. D. L. Protzman in November 1975.

Sampling data contained in the Regional Board's file indicates that spring flow through the mine tailings is highly acidic with a metal content far exceeding other springs in the area that do not flow through mine tailings. Concentrations of arsenic, lead, mercury, and silver contained in a sample taken from the degraded spring water on July 20, 1978, by the Regional Board are 12, 28, 10, and 8 times, respectively, the maximum levels allowed by the national interim primary drinking water regulations. The sample also contained copper, iron, lead, manganese, mercury, silver, and zinc in concentrations toxic to fish and other aquatic life. Some of the concentrations were at levels considered to be greatly toxic to some types of aquatic life. Both geologic reports, referred to previously, indicate that degradation of the spring waters, Dunn and Marsh Creeks, could be abated by separating the tailings from the spring waters or vice versa. Under these circumstances, it is both appropriate and proper for the Regional Board to require the petitioner to keep the wastes involved from entering surface waters.

III. CONCLUSIONS

After review of this matter and for the reasons heretofore expressed, we concur with the Regional Board action.

IV. ORDER

IT IS HEREBY ORDERED that the action of the California Regional Water Quality Control Board, Central Valley Region, in adopting waste discharge requirements, Order No. 78-114 was appropriate and proper and this petition is hereby denied.

Dated: MAR 15 1979

/s/ W. Don Maughan  
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W. Don Maughan, Chairman

/s/ William J. Miller  
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William J. Miller, Member

/s/ L. L. Mitchell  
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L. L. Mitchell, Member