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California Regional Water Quality Control Board Central Valley Region

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Arnold
Schwarzenegger
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6 January 2009

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LAKE COUNTY GOVERNMENT
DEVELOPMENT DEPT.

Kevin Bennetto
Bottle Rock Power, LLC
7384 High Valley Road
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NOTICE OF VIOLATION, BOTTLE ROCK POWER, LLC, LAKE COUNTY

WWS

On 23 September 2008, Central Valley Water Board staff received a verbal complaint for drilling spoils from the well pad sumps being temporarily stored in a meadow, and a freeboard of less than one foot reported in the Francisco mud sump. In addition, the complainant was concerned that the drilling spoils from the mud sumps were not being properly disposed of, and that the clay sump liners may be leaking. Finally, the complainant indicated that considerable grading had taken place without any permits and that some of the stream beds had been damaged or altered.

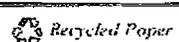
Following the complaint, Central Valley Water Board staff (staff) notified the Bottle Rock Power, LLC (Discharger) regarding our concerns about the allegations. The Discharger indicated that some of the drilling spoils that were determined to be non-hazardous were temporarily being stored onsite for drying purposes in a meadow near the Coleman Well Pad prior to being trucked offsite for disposal. Staff informed the Discharger that the drilling spoils needed to be removed and disposed of in accordance with Waste Discharge Requirements (WDRs) Order No. 99-091. In addition, staff requested the Discharger to provide written responses to the allegations and proposed corrective actions.

In a 2 October 2008 response letter, the Discharger indicated that the drilling spoils were being removed from the Francisco mud sump in order to comply with the three foot minimum freeboard requirement in the Lake County Amended Use Permit No. 85-27, and the two foot minimum freeboard requirement in the WDRs. In regards to disposal, the Discharger indicated that the drilling spoils removed from the mud sumps are tested by a California State Certified Laboratory for California Assessment Manual (CAM) 17 metals as defined in the California Code of Regulations Title 22 and asbestos. In addition, the Discharger stated that the material is not removed until analytical data from spoils contained in a particular sump is received. Finally, the Discharger stated that the materials (spoils and water) removed from the sumps are disposed of in accordance with Title 27 regulations.

Disposal Violations

The Discharger has stated that the drilling spoils determined to be non-hazardous were being trucked to the S Bar S Quarry in Kelseyville and Quakenbush Mountain Resource Recovery and

California Environmental Protection Agency



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Compost Facility (Quakenbush) in Clear Lake. Central Valley Water Board staff informed the Discharger that neither S Bar S Quarry nor Quakenbush are permitted to accept drilling spoils. The Discharger has also indicated that the drilling spoils that are determined to be hazardous are trucked to the Chemical Waste Management Facility in Kettleman City.

Because the non-hazardous drilling spoils were disposed of at non-permitted facilities in a manner not consistent with Title 27 requirements, the Discharger has violated Discharge Specification No. B.4 of the WDRs which states: : *"Any waste removed from mud sumps or cuttings stored onsite shall be disposed in a manner that is consistent with Title 27 and approved by the Executive Officer."*

It is our understanding that drilling spoils determined to be non-hazardous will be trucked to the Altamont Landfill in Livermore. It is also our understanding that the non-hazardous spoils that were temporarily stored at the Coleman Meadow were completely removed on 8 October 2008, and the meadow area was hydro-seeded.

Freeboard Violations

On 13 October 2008 the Discharger sent a letter stating that the freeboard in the Francisco Drilling Sump was measured at one foot on 4 October 2008. Discharge Specification No. B.2 of the WDRs states: *"A minimum freeboard of two feet shall be maintained in wellpad sumps, the reinjection pit, and all other locations utilized for the storage of wastewaters prior to injection in the steamfield."* To address the freeboard, the Discharger indicated that the level in the sump was lowered by pumping the material into temporary storage tanks. The material was then transported by tanker trucks to an offsite disposal site. The letter also stated that they were proposing to use a dewatering unit to ensure that a minimum of 2-feet of freeboard is maintained in the sumps and compliance with the Waste Discharge Requirements (WDRs) Order is met.

Staff has no objection regarding the use of a dewatering unit to lower the freeboard in the sumps. However, dewatering must be conducted in such a manner to ensure compliance with the WDRs, and if this project constitutes a significant material change to the WDRs, the existing WDRs will either need to be revised or amended. Therefore, by 1 April 2009, please provide a *Technical Report* that describes the proposed dewatering system. The report shall also provide information showing how the proposed dewatering system will be operated in such a manner to meet the conditions outlined in the WDRs. In addition, please include an *Operations and Maintenance Manual* for the proposed dewatering project.

Monitoring Reports

Finally, our records show that the Discharger has not submitted semi-annual monitoring reports as required by Monitoring and Reporting Program (MRP) No. 99-091. The most recent monitoring report in our records is the Annual Compliance Monitoring Report for 2005 which was not received until 4 April 2007. This report was to be submitted by 30 January 2006 as required by the MRP. The Discharger indicates that the report was late because it was sent to the Central Valley Water Board's previous office address.

To address the monitoring report violations, by 30 January 2009, the Discharger shall submit delinquent semi-annual and annual compliance monitoring reports for the 2006, 2007, and 2008. The reports must contain all of the monitoring data required by the MRP. If the delinquent monitoring reports and/or missing monitoring data are not available, the Discharger shall explain why the monitoring was not performed and identify actions that will be taken to assure that future monitoring reports will be submitted on time and complete. Please be advised that the 2008 Annual Compliance Report is also due on 30 January 2009.

Finally, staff is concerned about the complaint regarding the integrity of the clay lined sumps. Therefore, by 1 April 2009 please provide a technical report prepared by a Registered Civil Engineer that addresses the integrity of the sumps. At a minimum, the report needs to provide results of a detailed field inspection of the sumps conducted by a Registered Civil Engineer. The report shall also address compliance with Section C.1 of the County of Lake Amended Use Permit No. 85-27, pertaining to sump construction.

Finally, please be advised that failure to comply with your WDRs may result in further enforcement action, which could include administrative civil liability (a fine).

Should you have any questions regarding this Notice, please contact Guy Childs at (916) 464-4648.


STEVE E. ROSENBAUM
Senior Engineering Geologist
Compliance and Enforcement
Title 27 and Non15 Programs

916 464-4631

cc: Raymond Ruminski, Lake County Environmental Health Department, Lakeport
Melissa Floyd, Lake County Planning Department, Lakeport
Karon Thomas, Bottle Rock Power, LLC., Cobb
Ronald Suess, Bottle Rock Power, LLC, Santa Rosa
Marie Ivanovna Buric, Department of Water Resources, Sacramento

CWQS Violation ID Nos. 801118, 801128, 801129, 801130, 801131, 801134, 801154, 801157

gjc, 6 Jan-09