



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 Hawthorne Street
San Francisco, CA 94105**

Via Electronic Mail

Michael Miller
Sixteen to One Mine, Inc.
506 Miners Street
Alleghany, CA 95910
mmeistermiller@gmail.com

RE: Notice of Intent to Seek Settlement for Clean Water Act Violations

Dear Mr. Miller:

This letter is to inform you of an ongoing investigation by the United States Environmental Protection Agency, Region 9, (EPA or Agency) of potential violations of the Clean Water Act (CWA) resulting from the Sixteen to One Mine, Inc.'s (Respondent) activities at the Sixteen to One Mine in Alleghany, California (the Facility). Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the "discharge of any pollutant by any person" to a water of the United States except, among other things, as authorized by a permit issued pursuant to section 402 of the CWA, 33 U.S.C. § 1342.

On February 5, 2015, the California Regional Water Quality Control Board – Central Valley Region – issued Order R5-2015-0002/NPDES Permit 0081809 (Permit), which became effective on April 16, 2015. The Permit authorized the Facility to discharge wastewater at Discharge Point 001 and contained technology-based effluent limits for mercury, zinc, and total suspended solids, and water quality-based effluent limitations for antimony, arsenic, cadmium, copper, lead, nickel, and pH. Respondent applied for a Time Schedule Order (TSO), which was approved by the Regional Water Board on April 17, 2015. This TSO, R5-2015-0035, (amended in 2018 as R5-2015-0035-001), included revised effluent limitations which allowed the Facility to work toward compliance with effluent limits in the Permit while avoiding Mandatory Minimum Penalties. Higher effluent limits included in this TSO were for arsenic, electrical conductivity, antimony, cadmium, copper, iron, lead, manganese, and nickel. The TSO expired on April 15, 2020. The Permit expired on March 31, 2020 and has been administratively continued.

On October 10, 2019, EPA Inspectors performed an inspection of the Facility to evaluate the Respondent's compliance with the Permit and TSO. EPA's inspection report was sent to the Respondent on December 18, 2019. As described in the inspection report, EPA Inspectors observed that the Facility failed to submit Self-Monitoring Reports (SMRs), that the SMRs showed several exceedances of total recoverable monthly average limit for nickel, antimony, and arsenic, that there were monthly average limit exceedances for arsenic and copper, and that the annual average mean limit value for electrical conductivity was exceeded; that sampling protocols were inconsistent; that wastewater from the milling process has the potential to be transported to other parts of the Facility; and that there is a potential for stormwater to leave the site and carry pollutants.

By this letter, the EPA is extending to you an opportunity to advise the Agency of any further information the EPA should consider with respect to the violations. EPA seeks to discuss resolution of the currently identified CWA violations through an administrative settlement without litigation. Pursuant to the CWA, the United States can unilaterally seek compliance with the CWA and penalties for noncompliance with the CWA by initiating either: a) a civil action in federal district court or b) an administrative action, either of which may include a complaint, demand for civil penalties and/or an order for compliance. Although such enforcement authorities are available to EPA, this letter provides you an opportunity to meet with EPA and submit additional information you believe relevant for EPA to consider regarding the potential CWA violations.

If you would like to discuss settlement, please contact Grant Scavello at (415) 972-3556 or by email at scavello.grant@epa.gov, or have your legal counsel contact Janet Magnuson in our Office of Regional Counsel at (415) 972-3887 or by email at magnuson.janet@epa.gov no later than **April 13, 2021**. Please note that to the extent there is ongoing CWA noncompliance, EPA specifically reserves the right to use any and all enforcement tools at its disposal to address ongoing violations at the Site regardless of any future discussions in response to this letter.

EPA has not determined whether you, either acting alone or in concert with another entity, constitute a "small business" under the Small Business Regulatory Enforcement and Fairness Act (SBREFA). Information on compliance assistance or contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities may be found at <https://www.epa.gov/sies/production/files/2017-06/documents/smallbusinessinfo.pdf>. Any decision to communicate with the SBREFA Ombudsman or to otherwise seek compliance assistance through this program does not relieve you of your obligation to respond in a timely manner to this letter or an EPA information request or an enforcement action, and does not create any new rights or defenses under law.

Please carefully consider the settlement negotiation opportunities being made available through this letter. We appreciate your cooperation and prompt response.

Sincerely,

**ELIZABETH
BERG**

Elizabeth Berg

Assistant Director, Water Branch

Enforcement and Compliance Assurance Division

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cc: Jim Marshall, CA Regional Water Board,
Xuan Luo, CA Regional Water Board,
Mohammad Farhad, CA Regional Water Board,
Michelle Snapp, CA Regional Water Board,