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11 CALIFORNIA SPORTFISHING  
PROTECTION ALLIANCE  
12

13  
14 UNITED STATES DISTRICT COURT  
15 EASTERN DISTRICT OF CALIFORNIA  
16

17 CALIFORNIA SPORTFISHING PROTECTION )  
ALLIANCE, a non-profit corporation, )

18 Plaintiff, )

19 vs. )

20 MERIDIAN GOLD COMPANY, a corporation, )

21 Defendant. )

Case No.: 1:06-cv-00023-REC-LJO

22 **FIRST AMENDED COMPLAINT FOR**  
23 **DECLARATORY AND INJUNCTIVE**  
24 **RELIEF AND CIVIL PENALTIES**

) Federal Water Pollution Control Act, 33 U.S.C.  
) §§ 1251 to 1387;

) California Health and Safety Code, § 25249.5

) Resource Conservation and Recovery Act, 42  
U.S.C. §§ 6901 to 6992

1 Plaintiff CALIFORNIA SPORTFISHING AND PROTECTION ALLIANCE, by and through  
2 its counsel, hereby alleges:

3 **INTRODUCTION**

4 1. This complaint seeks civil penalties and injunctive relief against MERIDIAN GOLD  
5 COMPANY to remedy its discharge of pollutants into surface and ground waters and drinking water  
6 supplies of the United States, namely, tributaries of the Flowers Reservoir, the San Joaquin River, and  
7 the Sacramento-San Joaquin River Delta. These discharges violate the Federal Water Pollution  
8 Control Act, also known as the Clean Water Act (hereinafter “CWA” or “the Act”), 33 U.S.C. § 1365,  
9 the Safe Drinking Water and Toxic Enforcement Act of 1986, also known as Proposition 65, Health &  
10 Safety Code § 25249.5 et seq. (hereinafter “Proposition 65”), and the Resource Conservation and  
11 Recovery Act (hereinafter “RCRA”), 42 U.S.C. § 6901 et seq. Such discharges have been occurring,  
12 and threaten to continue occurring, as a result of Meridian Gold Company’s handling, storing, and  
13 disposing of wastes from its mining activities at the Royal Mountain King Mine located near  
14 Copperopolis, California, approximately forty miles east of Stockton, California.

15 **PARTIES**

16 2. Plaintiff CALIFORNIA SPORTFISHING PROTECTION ALLIANCE (hereinafter  
17 “CSPA”) is a non-profit public benefit corporation organized under the laws of the State of California  
18 with its main office in Woodland, California. CSPA has approximately 2000 members who live,  
19 recreate and work in and around waters of the State of California, including the San Joaquin River and  
20 the Sacramento-San Joaquin River Delta (hereinafter “the Delta”). CSPA is dedicated to the  
21 preservation, protection, and defense of the environment, the wildlife, and the natural resources of all  
22 waters of California. To further these goals, CSPA actively seeks federal and state agency  
23 implementation of the Clean Water Act and other laws and, where necessary, directly initiates  
24 enforcement actions on behalf of itself and its members.

25 3. Defendant MERIDIAN GOLD COMPANY and related entities, including Meridian  
26 Beartrack Company (collectively hereinafter “Meridian”) is a gold producer with mining sites located  
27 in the United States and Latin America. Meridian owns the Royal Mountain King Mine (hereinafter  
28 “RMKM”), which covers approximately 197 acres of land approximately five miles from

1 Copperopolis, California. Active mining ceased at RMKM in 1994 and Meridian has been involved in  
2 closure activities ever since. According to available information, there are seven waste management  
3 units currently on the site, which are discharging pollutants into surface or ground waters, including  
4 into tributaries of the Flowers Reservoir, the San Joaquin River, and the Delta.

5 **JURISDICTION**

6 4. The Court has subject matter jurisdiction over this action pursuant to Section 505(a)(1)  
7 of the Clean Water Act, 33 U.S.C. § 1365(a)(1) and Section 7002(a)(1) of RCRA, 42 U.S.C. §  
8 6972(a)(1). The Court has supplemental jurisdiction over the Proposition 65 claim pursuant to 28  
9 U.S.C. § 1367, because the Proposition 65 claim is part of the same case or controversy as the federal  
10 claims.

11 5. The Court has jurisdiction over Meridian Gold Company because it is a business with  
12 sufficient minimum contacts in California, including a mining operation located in California, so as to  
13 render the exercise of jurisdiction over it consistent with traditional notions of fair play and substantial  
14 justice.

15 6. The members of CSPA reside in the vicinity of, own property near, or recreate on, in or  
16 near or otherwise use, enjoy and benefit from the Flowers Reservoir, the San Joaquin River, the Delta,  
17 and their associated tributaries into which Meridian discharges pollutants. The health, economic,  
18 recreational, aesthetic and environmental interests of CSPA and its members have been, are being, and  
19 will continue to be adversely affected by Meridian's unlawful discharges from the RMKM.

20 7. Venue is proper in the Eastern District of California because the events or omissions  
21 giving rise to the claim occurred in the district. 28 U.S.C. § 1391. Pursuant to Local Rule 3-120,  
22 intradistrict venue is proper in Fresno, California because the source of the violations is located within  
23 Calaveras County.

24 **NOTICE**

25 8. Pursuant to 33 U.S.C. § 1365(b) of the CWA, 42 U.S.C. § 6972(b)(2) of RCRA, and  
26 Cal. Health & Safety Code § 25249.7(d)(1), on or about June 1, 2005, CSPA gave notice of the  
27 violations alleged in this Complaint more than sixty days prior to commencement of this lawsuit, for  
28 purposes of the CWA and Proposition 65, and more than ninety days prior to commencement of this

lawsuit, for purposes of RCRA, to: (a) Meridian; (b) the United States Environmental Protection Agency; (c) the State Water Resources Control Board of the State of California; (d) the Regional Water Quality Control Board; (e) Proposition 65 Enforcement Reporting; (f) the U.S. Attorney General; (g) the California Attorney General; (h) the Calaveras County District Attorney; (i) the California Department of Toxic Substances Control; and (j) the California Integrated Waste Management Board. A true and correct copy of this Notice is attached hereto as Exhibit A and incorporated herein by reference.

**STATUTORY BACKGROUND**

The Clean Water Act: NPDES Permit Requirements

9. Section 301(a) of the Clean Water Act prohibits “the discharge of any pollutants by any person . . .” except as in compliance with, among other sections of the Act, Section 402, which outlines the National Pollutant Discharge Elimination System (“NPDES”) permitting requirements. 33 U.S.C. §§ 1311(a), 1342. The duty to apply for an NPDES permit extends to “[a]ny person who discharges or proposes to discharge pollutants. . . .” 40 C.F.R. § 122.21(a).

10. The term “discharge of pollutants” means “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12). Pollutants are defined to include, among other examples, industrial waste, chemical wastes, biological materials, heat, rock, and sand discharged into water. 33 U.S.C. § 1362(6).

11. A point source is defined as “any discernable, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, [or] conduit . . . from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14).

12. “Navigable waters” means “the waters of the United States.” 33 U.S.C. § 1362(7). Waters of the United States include all tributaries to navigable waters. Waters of the United States include ephemeral creeks.

The Clean Water Act: Industrial Storm Water Discharge Requirements

13. The State Board has issued a statewide general permit for industrial storm water discharges. The State Board issued the permit on or about November 19, 1991, modified the permit on or about September 17, 1992, and reissued the permit on or about April 17, 1997, pursuant to Section

1 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p). State Water Resources Control Board Water  
2 Quality Order No. 91-13-DWQ, as amended by Water Quality Order No. 92-12-DWQ and Water  
3 Quality Order No. 97-03-DWQ, NPDES General Permit No. CAS000001 (hereinafter “General  
4 Permit”).

5 14. In order to discharge storm water lawfully in California, industrial dischargers must  
6 comply with the terms of the General Permit or have obtained and complied with an individual NPDES  
7 permit. 33 U.S.C. § 1311(a).

8 15. The General Permit contains certain absolute prohibitions. Discharge Prohibition A(1)  
9 of the General Permit prohibits the direct or indirect discharge of materials other than storm water  
10 (“non-storm water discharges”), which are not otherwise regulated by an NPDES permit, to the waters  
11 of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water  
12 discharges and authorized non-storm water discharges that cause or threaten to cause pollution,  
13 contamination, or nuisance. Receiving Water Limitation C(1) of the General Permit prohibits storm  
14 water discharges that adversely impact human health or the environment. Receiving Water Limitation  
15 C(2) of the General Permit prohibits storm water discharges that cause or contribute to an exceedance  
16 of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the  
17 applicable Regional Board’s Basin Plan.

18 16. The General Permit requires dischargers to eliminate all non-storm water discharges to  
19 storm water conveyance systems other than those specifically set forth in Special Condition D(1)(a) of  
20 the General Permit and meeting each of the conditions set forth in Special Condition D(1)(b).

21 17. In addition to these absolute prohibitions, the General Permit contains a variety of  
22 substantive and procedural requirements that dischargers must meet. Effluent Limitation B(3) of the  
23 General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges  
24 through implementation of the Best Available Technology Economically Achievable (“BAT”) for  
25 toxic and nonconventional pollutants and the Best Conventional Pollutant Control Technology  
26 (“BCT”) for conventional pollutants. BAT and BCT include both nonstructural and structural  
27 measures. General Permit, Section A(8).

1 18. Dischargers with a General Permit must develop and implement a Storm Water  
2 Pollution Prevention Plan (“SWPPP”). The SWPPP must comply with the BAT and BCT standards.

3 19. Section C(3) of the General Permit requires a discharger to prepare and submit a report  
4 to the Regional Board describing changes it will make to its current BMPs in order to prevent or  
5 reduce any pollutant in its storm water discharges that is causing or contributing to an exceedance of  
6 water quality standards. Once approved by the Regional Board, the additional BMPs must be  
7 incorporated into the Facility’s SWPPP. The report must be submitted to the Regional Board no later  
8 than 60 days from the date the discharger first learns that its discharge is causing or contributing to an  
9 exceedance of an applicable water quality standard. Section C(4)(a). Section C(11)(d) of the General  
10 Permit’s Standard Provisions also requires dischargers to report any noncompliance. See also Section  
11 E(6). Lastly, Section A(9) of the General Permit requires an annual evaluation of storm water controls  
12 including the preparation of an evaluation report and implementation of any additional measures in the  
13 SWPPP to respond to the monitoring results and other inspection activities.

14 20. The General Permit requires dischargers commencing industrial activities before  
15 October 1, 1992 to develop and implement an adequate written Monitoring and Reporting Program no  
16 later than October 1, 1992. Existing facilities covered under the General Permit must implement all  
17 necessary revisions to their monitoring programs no later than August 1, 1997.

18 21. As part of their monitoring program, dischargers must identify all storm water discharge  
19 locations that produce a significant storm water discharge, evaluate the effectiveness of BMPs in  
20 reducing pollutant loading, and evaluate whether pollution control measures set out in the SWPPP are  
21 adequate and properly implemented. Dischargers must conduct visual observations of these discharge  
22 locations for at least one storm per month during the wet season (October through May) and record  
23 their findings in their Annual Report.

24 22. Section B(14) of the General Permit requires dischargers to submit an Annual Report by  
25 July 1 of each year to the executive officer of the relevant Regional Board. The Annual Report must  
26 be signed and certified by an appropriate corporate officer. Sections B(14), C(9), (10). Section  
27 A(9)(d) of the General Permit requires the discharger to include in their annual report an evaluation of  
28

1 their storm water controls, including certifying compliance with the General Permit. *See also* Sections  
2 C(9) and (10) and B(14).

3 Enforcement of the Clean Water Act

4 23. Section 505(a)(1) and Section 505(f) of the Act provide for citizen enforcement actions  
5 against any “person,” including individuals, corporations, or partnerships, for violations of NPDES  
6 permit requirements and for unpermitted discharges of pollutants. 33 U.S.C. §§1365(a)(1) and (f),  
7 § 1362(5). An action for injunctive relief under the Act is authorized by 33 U.S.C. § 1365(a).  
8 Violators of the Act are also subject to an assessment of civil penalties of up to \$27,500 per day  
9 (violations from January 30, 1997 through March 15, 2004) and \$32,500 per day (violations after  
10 March 15, 2004) pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365 and 40  
11 C.F.R. §§ 19.1 - 19.4.

12 Proposition 65

13 24. The California Safe Drinking Water and Toxic Enforcement Act of 1986, commonly  
14 referred to as Proposition 65 after the ballot measure that enacted it, prohibits businesses from  
15 knowingly discharging or releasing listed chemicals into water or onto land where it passes or probably  
16 will pass into a source of drinking water. Cal. Health & Safety Code § 25249.5.

17 25. “‘Source of drinking water’ means either a present source of drinking water or water  
18 which is identified or designated in a water quality control plan adopted by a regional board as being  
19 suitable for domestic or municipal uses.” Cal. Health & Safety Code § 25249.11(d). The State Board  
20 enacted Resolution No. 88-63 identifying all groundwaters of the State as water supplies.

21 26. The Governor of California, through the Office of Environmental Health Hazard  
22 Assessment, maintains the list of chemicals that are known to the State of California to cause cancer,  
23 birth defects or other reproductive harms. Cal. Health & Safety Code § 25249.8. On February 27,  
24 1987, arsenic was included on the Proposition 65 list. On May 7, 2004, nickel was included on the  
25 Proposition 65 list.

26 27. Proposition 65’s discharge prohibition does not apply to any discharge or release that  
27 meets both of the following criteria: (1) The discharge or release will not cause any significant amount  
28 of the discharged or released chemical to enter any source of drinking water, and (2) the discharge or

1 release is in conformity with all other laws and with every applicable regulation, permit, requirement,  
2 and order. Cal. Health & Safety Code § 25249.9(b). The burden of showing that a specific discharge  
3 or release meets both of these criteria falls on the defendant. *Id.* The discharge prohibition only  
4 applies to a particular listed chemical after 20 months have passed from the date of listing. Cal. Health  
5 & Safety Code § 25249.9(a)).

6 Enforcement of Proposition 65

7 28. Any person “violating or threatening to violate the statute may be enjoined in any court  
8 of competent jurisdiction.” Health & Safety Code § 25249.7(a). To “threaten to violate” is defined to  
9 mean “to create a condition in which there is a substantial probability that a violation will occur.”  
10 Health & Safety Code § 25249.11(e).

11 29. In addition, violators are liable for civil penalties of up to \$2,500 per day for each  
12 violation, in addition to any other penalty established by law for all violations occurring during the  
13 period commencing one year prior to the date of the Notice letter. § 25249.7(b).

14 The Resource Conservation and Recovery Act

15 30. The Resource Conservation and Recovery Act of 1976 (“RCRA”), 42 U.S.C. §§ 6901,  
16 *et seq.*, governs the treatment, storage and disposal of hazardous waste in the United States.

17 31. Section 7002 of RCRA prohibits the present or past handling, storage, treatment, and  
18 transportation of solid or hazardous waste which may present an imminent and substantial  
19 endangerment to health or the environment. 42 U.S.C. § 6972(a)(1)(B).

20 Enforcement of the Resource Conservation and Recovery Act

21 32. Section 7002 of RCRA provides for citizen enforcement actions against any “person,”  
22 including individuals, corporations, or partnerships, who have contributed to or who are contributing to  
23 the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous  
24 waste which may present an imminent and substantial endangerment to health or the environment. 42  
25 U.S.C. § 6903(15), 6972(a)(1)(B). An action for injunctive relief under RCRA is authorized by 42  
26 U.S.C. § 6972(a). Violators of RCRA are also subject to an assessment of civil penalties of up to  
27 \$27,500 per day (violations from January 30, 1997 through March 15, 2004) and \$32,500 per day  
28



1 (violations after March 15, 2004) pursuant to Sections 7002(a) and 3008(g) of the Act, 42 U.S.C. §§  
2 6972(a), 6928(g) and 40 C.F.R. §§ 19.1 - 19.4.

3 **BACKGROUND FACTS**

4 The Royal Mountain King Mine

5 33. Meridian owns the Royal Mountain King Mine, which covers approximately 197 acres  
6 of land approximately five miles from Copperopolis, California. Meridian and/or its predecessors in  
7 interest conducted gold mining, including heap leach mining, at the site from approximately 1988 to  
8 July 1994. During active mining, approximately 56 million tons of ore and overburden were removed  
9 from three mining pits at the site.

10 34. Two creeks flow through RMKM. Littlejohns Creek drains the eastern and central  
11 portions of the site. Clover Creek drains the western side of the mining area. Both creeks are  
12 tributaries to Flowers Reservoir. Littlejohns Creek continues below the Flowers Reservoir dam and  
13 flows into French Camp Slough. French Camp Slough is a tributary of the Delta.

14 35. Clover Creek, Littlejohns Creek, and Flowers Reservoir are tributaries to navigable  
15 waters. Clover Creek, Littlejohns Creek, and Flowers Reservoir are “waters of the United States”  
16 under the terms of the CWA.

17 The Applicable Water Quality Standards

18 36. The Regional Water Quality Control Board has established water quality standards for  
19 the San Joaquin River, the Delta and their tributaries in the Water Quality Control Plan for the  
20 Sacramento River and San Joaquin River Basins, generally referred to as the Basin Plan. The Basin  
21 Plan includes a narrative toxicity standard which states that “[a]ll waters shall be maintained free of  
22 toxic substances in concentrations that produce detrimental physiological responses in human, plant,  
23 animal, or aquatic life.” The Basin Plan establishes a dissolved oxygen standard of 6.0 mg/L for the  
24 San Joaquin River in and around Stockton and its tributaries. The Basin Plan establishes a standard for  
25 electrical conductivity in the Delta and its tributaries of 0.7 mmhos/cm from April 1 through August 31  
26 and 1.0 mmhos/cm from September 1 through March 31. The Basin Plan provides that “[t]he pH shall  
27 not be depressed below 6.5 nor raised above 8.5.” The Basin Plan also provides that “[a]t a minimum,  
28 water designated for use as domestic or municipal supply (MUN) shall not contain concentrations of

1 chemical constituents in excess of the maximum contaminant levels (MCLs).” Id., p. III-3.0. EPA has  
2 established recommended secondary MCL ranges for total dissolved solids (500 mg/L), specific  
3 conductance (900 µmho/cm), chloride (250 mg/L) and sulfate (250 mg/L). EPA also has established a  
4 maximum contaminant level for Nitrate + Nitrite of 10 mg/L.

5 37. The California Office of Environmental Health Hazard Assessments (“OEHHA”) has  
6 established a California Public Health Goal for arsenic of 0.004 ug/L. Pursuant to Proposition 65,  
7 OEHHA has established a no significant risk level for arsenic of 5 ug/L and a maximum allowable  
8 dose level for reproductive toxicity for arsenic of 0.10 ug/day, which is equivalent to a concentration of  
9 0.05 µg/L. EPA also has established a primary maximum contaminant level of 10 ug/L arsenic and a  
10 recommended criterion for ambient waters of 0.018 ug/L.

11 The Waste Management Units

12 38. There are at least seven waste management units currently on the RMKM site. These  
13 include several overburden disposal sites (“ODSs”).

14 39. CSPA is informed and believes, and thereupon alleges, that three of the seven waste  
15 management units at RMKM are discernable, confined and discrete conveyances, and therefore  
16 constitute “point sources” under the terms of the CWA. In addition, each of those three waste  
17 management units conveys pollutants to waters of the United States via seeps, sumps, drainage ditches,  
18 channels and other discrete conveyances that are also “point sources” under the CWA.

19 40. CSPA is informed and believes, and thereupon alleges, that Meridian is discharging  
20 pollutants governed by the CWA, including manganese, nitrate, selenium, sulfate, total dissolved  
21 solids, arsenic, and nickel, from at least three of the waste management units into waters of the United  
22 States.

23 41. CSPA is informed and believes, and thereupon alleges, that Meridian is discharging  
24 pollutants and/or chemicals listed pursuant to Proposition 65, including arsenic and nickel, from all  
25 seven of its waste management units into surface waters and/or ground waters on, adjacent to or  
26 beneath the mining site.

27 42. Specifically, CSPA is informed and believes, and thereupon alleges, that the following  
28 discharges are occurring from the waste management units:

1           Discharges from Skyrocket Pit Lake

2           43.     Skyrocket Pit Lake is a former mining pit now filled with a combination of wastewater,  
3 groundwater and stormwater. Skyrocket Pit Lake is a point source under the terms of the CWA.  
4 Pollutants from Skyrocket Pit Lake are discharging to groundwater beneath the mining site. Pollutants  
5 from Skyrocket Pit Lake are discharging by upwelling and lateral flow to surface water in Littlejohns  
6 Creek. CSPA is informed and believes, and thereupon alleges, that Skyrocket Pit Lake is discharging,  
7 among other pollutants, nitrate, selenium, sulfate, bicarbonate and total dissolved solids to Littlejohns  
8 Creek. CSPA is informed and believes, and thereupon alleges, that the levels of these pollutants  
9 entering Littlejohns Creek from Skyrocket Pit Lake frequently exceed applicable numeric and narrative  
10 water quality standards. CSPA is informed and believes, and thereupon alleges, that Skyrocket Pit  
11 Lake is discharging, among other pollutants, arsenic, nickel, and sulfate to groundwater flowing  
12 beneath the mining site. CSPA is informed and believes, and thereupon alleges, that the levels of these  
13 pollutants entering groundwater from Skyrocket Pit Lake frequently exceed applicable public health  
14 goals, no significant risk levels, maximum allowable dose levels, or maximum contaminant levels.

15           Discharges from Gold Knoll ODS

16           44.     Gold Knoll ODS is a waste management unit filled with discarded waste rock.  
17 Pollutants from Gold Knoll ODS are discharging to groundwater beneath the mining site. Pollutants  
18 from Gold Knoll ODS are also discharging by lateral flow to surface water in Clover Creek. CSPA is  
19 informed and believes, and thereupon alleges, that the Gold Knoll ODS is discharging, among other  
20 pollutants, manganese, nitrate, selenium, sulfate and total dissolved solids to Clover Creek. CSPA is  
21 informed and believes, and thereupon alleges, that the levels of these pollutants entering Clover Creek  
22 from Gold Knoll ODS frequently exceed applicable numeric and narrative water quality standards.  
23 CSPA is informed and believes, and thereupon alleges, that the Gold Knoll ODS is discharging, among  
24 other pollutants, arsenic, nickel, nitrate, sulfate, and total dissolved solids to groundwater flowing  
25 beneath the mining site. CSPA is informed and believes, and thereupon alleges, that the levels of these  
26 pollutants entering groundwater from Gold Knoll ODS frequently exceed applicable public health  
27 goals, no significant risk levels, maximum allowable dose levels, or maximum contaminant levels.

1           Discharges from West ODS

2           45.     The West ODS is a waste management unit filled with discarded waste rock. Pollutants  
3 from the West ODS are discharging to groundwater beneath the mining site. Pollutants from the West  
4 ODS are discharging by lateral flow to surface water in Littlejohns Creek. The West ODS is a point  
5 source under the terms of the CWA. CSPA is informed and believes, and thereupon alleges, that the  
6 West ODS is discharging, among other pollutants, manganese, nitrate, selenium, sulfate and total  
7 dissolved solids to Clover Creek. CSPA is informed and believes, and thereupon alleges, that the West  
8 ODS is discharging nitrate, selenium and sulfate to Littlejohns Creek. CSPA is informed and believes,  
9 and thereupon alleges, that the levels of these pollutants entering Littlejohns Creek from the West ODS  
10 frequently exceed applicable numeric and narrative water quality standards. CSPA is informed and  
11 believes, and thereupon alleges, that the West ODS is discharging arsenic and nickel to groundwater  
12 flowing beneath the mining site. CSPA is informed and believes, and thereupon alleges, that the levels  
13 of these pollutants entering groundwater from West ODS frequently exceed applicable public health  
14 goals, no significant risk levels, maximum allowable dose levels, or maximum contaminant levels.

15           Discharges from Flotation Tailings Reservoir ODS

16           46.     The Flotation Tailings Reservoir ODS is a waste management unit filled with discarded  
17 waste rock. Pollutants from the Flotation Tailings Reservoir ODS are discharging to groundwater  
18 flowing beneath the mining site. CSPA is informed and believes, and thereupon alleges, that the  
19 Flotation Tailings Reservoir ODS is discharging, among other pollutants, selenium, sulfate, TDS and  
20 nitrate to groundwater flowing beneath the mining site. CSPA is informed and believes, and thereupon  
21 alleges, that the levels of these pollutants entering groundwater from the Flotation Tailings Reservoir  
22 ODS frequently exceed applicable public health goals, no significant risk levels, maximum allowable  
23 dose levels, or maximum contaminant levels.

24           Discharges from the Flotation Tailings Reservoir

25           47.     The Flotation Tailings Reservoir is an engineered waste management unit. Pollutants  
26 from the Flotation Tailings Reservoir are discharging to groundwater beneath the mining site. CSPA is  
27 informed and believes, and thereupon alleges, that the Flotation Tailings Reservoir is discharging,  
28 among other pollutants, sulfate, TDS and nitrate to groundwater flowing beneath the mining site.

1 CSPA is informed and believes, and thereupon alleges, that the levels of these pollutants entering  
2 groundwater from the Flotation Tailings Reservoir frequently exceed applicable public health goals, no  
3 significant risk levels, maximum allowable dose levels, or maximum contaminant levels.

4 Discharges from the Process Water Pond

5 48. The Process Water Pond is an engineered waste management unit. Pollutants from the  
6 Process Water Pond are discharging to groundwater beneath the mining site. CSPA is informed and  
7 believes, and thereupon alleges, that the Process Water Pond is discharging, among other pollutants,  
8 sulfate, TDS and nitrate to groundwater flowing beneath the mining site. CSPA is informed and  
9 believes, and thereupon alleges, that the levels of these pollutants entering groundwater from the  
10 Process Water Pond frequently exceed applicable public health goals, no significant risk levels,  
11 maximum allowable dose levels, or maximum contaminant levels.

12 Discharges from the Leachate Concentrate Residue Facility

13 49. The Leachate Concentrate Residue Facility is an engineered waste management unit.  
14 Pollutants from the Leachate Concentrate Residue Facility are discharging to groundwater beneath the  
15 mining site. CSPA is informed and believes, and thereupon alleges, that the Leachate Concentrate  
16 Residue Facility is discharging, among other pollutants, sulfate, TDS, nitrate, and cyanide to  
17 groundwater flowing beneath the mining site. CSPA is informed and believes, and thereupon alleges,  
18 that the levels of these pollutants entering groundwater from the Leachate Concentrate Residue Facility  
19 frequently exceed applicable public health goals, no significant risk levels, maximum allowable dose  
20 levels, or maximum contaminant levels.











1 BMPs that achieve BAT and BCT (Effluent Limitation B(3)) and include information specified by the  
2 General Permit. Permit, Sections A(3)-(10). In operating with an SWPPP that lacks these  
3 requirements, Meridian has been in continuous violation of these sections of the General Permit every  
4 day since October 1, 1992, and will continue to be in violation every day that Meridian fails to develop  
5 and implement an effective SWPPP.

6 73. CSPA is informed and believes, and thereupon alleges, that Meridian has not  
7 implemented BAT and BCT at RMKM for its discharges of high electrical conductivity, total  
8 dissolved solids, sulfate, arsenic, selenium, nitrate+nitrite, and other pollutants in violation of Effluent  
9 Limitation B(3) of the General Permit.

10 74. Meridian was required to have implemented BAT/BCT by no later than October 1,  
11 1992. Therefore, Meridian has been in continuous violation of the BAT/BCT requirements every day  
12 since October 1, 1992, and will continue to be in violation every day that Meridian fails to implement  
13 BAT/BCT.

14 75. Consistent with the five-year statute of limitations applicable to citizen enforcement  
15 actions brought pursuant to the CWA, Meridian is subject to penalties for these violations of the  
16 General Permit and the Act occurring every day since June 1, 2000.

17 WHEREFORE, CSPA prays for relief as hereinafter set forth.

18 **THIRD CAUSE OF ACTION**  
19 **Discharge of Listed Chemicals into Ground and Surface Waters**  
**(Violation of Proposition 65, Cal. Health & Safety Code § 25249.5)**

20 76. CSPA realleges and incorporates Paragraphs 1-75, inclusive, as if fully set forth herein.

21 77. CSPA is informed and believes, and thereon alleges, that Meridian is discharging  
22 contaminants listed pursuant to Proposition 65 to sources of drinking water beneath and downgradient  
23 from the Royal Mountain King Mine in violation of California Health & Safety Code § 25249.5.

24 78. CSPA is informed and believes, and thereon alleges, that Meridian is knowingly  
25 discharging arsenic and nickel from the Western ODS, the Gold Knoll ODS and Skyrocket Pit Lake to  
26 ground water flowing beneath the site. Groundwater beneath the mine site flows downgradient to  
27 areas where domestic wells are located, to Littlejohns and Clover Creeks and to the Flowers Reservoir,  
28 all of which the Regional Board or State Board have designated for drinking water use. Because

1 Meridian is violating the CWA as well as the Porter-Cologne Water Quality Control Act, Water Code  
2 § 13000, et seq., discharges of listed chemicals from the site are strictly prohibited.

3 79. In addition, Meridian is discharging arsenic into groundwater at levels well in excess of  
4 the significant risk level of 5 ug/day and the maximum allowable dose level for reproductive toxicity  
5 of 0.05 ug/L identified by OEHHA.

6 80. CSPA is informed and believes, and thereupon alleges, that Meridian's current  
7 discharges of nickel constitute a threat to violate Health and Safety Code § 25249.5 when its  
8 provisions regarding nickel discharges become effective on January 7, 2006 (20 months subsequent to  
9 the date nickel was included on the Proposition 65 list).

10 81. Through its acts and omissions, as alleged above, Meridian has, in the course of doing  
11 business, knowingly discharged or threatened to discharge arsenic and nickel into waters designated  
12 for drinking water.

13 82. CSPA is informed and believes, and thereon alleges, that the arsenic violations have  
14 been ongoing on a daily basis since at least June 1, 2004, and will continue to occur. Each discharge  
15 of arsenic as described above constitutes a separate violation of Proposition 65. Consistent with the  
16 one-year statute of limitations applicable to Proposition 65 enforcement actions, Meridian is subject to  
17 penalties for violations of Proposition 65 since June 1, 2004.

18 WHEREFORE, CSPA prays for relief as hereinafter set forth.

19 **FOURTH CAUSE OF ACTION**  
20 **Imminent and Substantial Threat to Health and/or the Environment**  
**(Violation of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6972(a)(1)(B))**

21 83. CSPA realleges and incorporates by reference as if specifically set forth herein  
22 Paragraphs 1 through 82, inclusive, as if fully set forth therein.

23 84. CSPA is informed and believes, and thereupon alleges, that Meridian is violating RCRA  
24 at RMKM by discharging solid and/or hazardous wastes into water from its waste management units.  
25 Moreover, CSPA is informed and believes, and thereupon alleges, that Meridian is handling, storing or  
26 disposing of solid or hazardous wastes at RMKM in a manner that may present an imminent and  
27 substantial threat to health and or the environment.



