



Molly C. Dwyer
Clerk of Court

Office of the Clerk
United States Court of Appeals for the Ninth Circuit
Post Office Box 193939
San Francisco, California 94119-3939
415-355-8000

ATTENTION
YOU ARE NOT REGISTERED FOR ELECTRONIC FILING

You are listed as counsel of record in this new appeal/petition but you are not registered for electronic filing with this Court. See Ninth Circuit Rule 25-5.

Until you register for electronic filing or provide the Court with proof of an exemption, you will not receive further notice of filings from the Court in this case, including important scheduling orders and orders requiring a response. Failure to respond to a Court order or otherwise meet an established deadline can result in the dismissal of the appeal for failure to prosecute by the Clerk pursuant to Ninth Circuit Rule 42-1, or other action adverse to your client.

Please register for electronic filing with the Court immediately or file a notice/motion to withdraw as counsel from this appeal.

To register for electronic filing, and for more information about Ninth Circuit CM/ECF, visit our website at <http://www.ca9.uscourts.gov/cmecf/#section-registration>.



Office of the Clerk
United States Court of Appeals for the Ninth Circuit
Post Office Box 193939
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Molly C. Dwyer
Clerk of Court

November 22, 2017

No.: 17-73170
Short Title: Town of Florence, et al v. USEPA, et al

Dear Petitioner/Counsel

Your Petition for Review has been received in the Clerk's office of the United States Court of Appeals for the Ninth Circuit. The U.S. Court of Appeals docket number shown above has been assigned to this case. You must indicate this Court of Appeals docket number whenever you communicate with this court regarding this case.

The due dates for filing the parties' briefs and otherwise perfecting the petition have been set by the enclosed "Time Schedule Order," pursuant to applicable FRAP rules. These dates can be extended only by court order. Failure of the petitioner to comply with the time schedule order will result in automatic dismissal of the petition. 9th Cir. R. 42-1.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

NOV 22 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

TOWN OF FLORENCE, a political
subdivision of the State of Arizona;
SWVP-GTIS MR, LLC, a Delaware
Limited Liability Company,

Petitioners,

v.

U.S. ENVIRONMENTAL
PROTECTION AGENCY; SCOTT
PRUITT, Administrator, United States
Environmental Protection Agency;
ALEXIS STRAUSS, Acting Regional
Administrator, United States
Environmental Protection Agency
Region 9,

Respondents.

No. 17-73170

Environmental Protection Agency

TIME SCHEDULE ORDER

The parties shall meet the following time schedule.

Wed., November 29, 2017 Mediation Questionnaire due. If your registration for Appellate ECF is confirmed after this date, the Mediation Questionnaire is due within one day of receiving the email from PACER confirming your registration.

Mon., February 12, 2018 Petitioner's opening brief and excerpts of record shall be served and filed pursuant to FRAP 32 and 9th Cir. R. 32-1.

Mon., March 12, 2018 Respondents' answering brief and excerpts of record shall be served and filed pursuant to FRAP 32 and 9th Cir. R. 32-1.

The optional petitioner's reply brief shall be filed and served within 21 days of service of the respondents' brief, pursuant to FRAP 32 and 9th Cir. R. 32-1.

Failure of the petitioner to comply with the Time Schedule Order will result in automatic dismissal of the appeal. See 9th Cir. R. 42-1.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Holly Crosby
Deputy Clerk
Ninth Circuit Rule 27-7

UNITED STATES COURT OF APPEALS for the NINTH CIRCUIT

Office of the Clerk

After Opening a Case – Counseled Non-Immigration Agency Cases
(revised April 2016)

Court Address – San Francisco Headquarters

<i>Mailing Address for U.S. Postal Service</i>	<i>Mailing Address for Overnight Delivery (FedEx, UPS, etc.)</i>	<i>Street Address</i>
Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals P.O. Box 193939 San Francisco, CA 94119-3939	Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals 95 Seventh Street San Francisco, CA 94103-1526	95 Seventh Street San Francisco, CA 94103

Court Addresses – Divisional Courthouses

<i>Pasadena</i>	<i>Portland</i>	<i>Seattle</i>
Richard H. Chambers Courthouse 125 South Grand Avenue Pasadena, CA 91105	The Pioneer Courthouse 700 SW 6th Ave, Ste 110 Portland, OR 97204	William K. Nakamura Courthouse 1010 Fifth Avenue Seattle, WA 98104

Court Website – www.ca9.uscourts.gov

The Court’s website contains the Court’s Rules and General Orders, information about electronic filing of documents, answers to frequently asked questions, directions to the courthouses, forms necessary to gain admission to the bar of the Court, opinions and memoranda, live streaming of oral arguments, links to practice manuals, and an invitation to join our Pro Bono Program.

Court Phone List

Main Phone Number	(415) 355-8000
Attorney Admissions.....	(415) 355-7800
Calendar Unit.....	(415) 355-8190
Docketing.....	(415) 355-7840
Death Penalty.....	(415) 355-8197
Electronic Filing – CM/ECF.....	Submit form at http://www.ca9.uscourts.gov/cmecf/feedback
Library.....	(415) 355-8650
Mediation Unit.....	(415) 355-7900
Motions Attorney Unit.....	(415) 355-8020
Procedural Motions Unit.....	(415) 355-7860
Records Unit.....	(415) 355-7820
Divisional Court Offices:	
Pasadena.....	(626) 229-7250
Portland.....	(503) 833-5300
Seattle.....	(206) 224-2200

Electronic Filing - CM/ECF

The Ninth Circuit’s CM/ECF (Case Management/Electronic Case Files) system is mandatory for all attorneys filing in this Court, unless they are granted an exemption. All non-exempted attorneys who appear in an ongoing case are required to register for and to use CM/ECF. Registration and information about CM/ECF is available on the Court’s website at www.ca9.uscourts.gov under *Electronic Filing–CM/ECF*. Read the [Circuit Rules](#), especially Ninth Circuit Rule 25-5, for guidance on filing documents electronically via CM/ECF, and see the [CM/ECF User Guide](#) for a complete list of the available types of filing events.

Rules of Practice

The Federal Rules of Appellate Procedure (Fed. R. App. P.), the Ninth Circuit Rules (9th Cir. R.) and the General Orders govern practice before this Court. The rules are available on the Court's website at www.ca9.uscourts.gov under *Rules*.

Practice Resources

The [Appellate Lawyer Representatives' Guide to Practice in the United States Court of Appeals for the Ninth Circuit](#) is available on the Court's website www.ca9.uscourts.gov at *Guides and Legal Outlines > Appellate Practice Guide*. The Court provides other resources in *Guides and Legal Outlines*.

Admission to the Bar of the Ninth Circuit

All attorneys practicing before the Court must be admitted to the Bar of the Ninth Circuit. Fed. R. App. P. 46(a); 9th Cir. R. 46-1.1 & 46-1.2.

For instructions on how to apply for bar admission, go to www.ca9.uscourts.gov and click on the *Attorneys* tab > *Attorney Admissions > Instructions*.

Notice of Change of Address

Counsel who are registered for CM/ECF must update their personal information, including street addresses and email addresses, online at: <https://pacer.psc.uscourts.gov/pscof/login.jsf> 9th Cir. R. 46-3.

Counsel who have been granted an exemption from using CM/ECF must file a written change of address with the Court. 9th Cir. R. 46-3.

Payment of Fees

The \$500.00 filing fee or a motion to proceed in forma pauperis shall accompany the petition. 9th Cir. R. 3-1.

A motion to proceed in forma pauperis must be supported by the affidavit of indigency found at [Form 4](#) of the Federal Rules of Appellate Procedure, available at the Court's website, www.ca9.uscourts.gov, under *Forms*.

Failure to satisfy the fee requirement or to apply to proceed without payment of fees will result in the petition's dismissal. 9th Cir. R. 42-1.

Motions Practice

Following are some of the basic points of motion practice, governed by Fed. R. App. P. 27 and 9th Cir. R. 27-1 through 27-14.

- Neither a notice of motion nor a proposed order is required. Fed. R. App. P. 27(a)(2)(C)(ii), (iii).
- Motions may be supported by an affidavit or declaration. 28 U.S.C. § 1746.
- Each motion should provide the position of the opposing party. Circuit Advisory Committee Note to Rule 27-1(5); 9th Cir. R. 31-2.2(b)(6).
- A response to a motion is due 10 days from the service of the motion. Fed. R. App. P. 27(a)(3)(A); Fed. R. App. P. 26(c). The reply is due 7 days from service of the response. Fed. R. App. P. 27(a)(4); Fed. R. App. P. 26(c).
- A response requesting affirmative relief must include that request in the caption. Fed. R. App. P. 27(a)(3)(B).
- A motion filed after a case has been scheduled for oral argument, has been argued, is under submission or has been decided by a panel, must include on the initial page and/or cover the date of argument, submission or decision and, if known, the names of the judges on the panel. 9th Cir. R. 25-4.

Emergency or Urgent Motions

All emergency and urgent motions must conform with the provisions of 9th Cir. R. 27-3. Note that a motion requesting procedural relief (e.g., an extension of time to file a brief) is *not* the type of matter contemplated by 9th Cir. R. 27-3. Circuit Advisory Committee Note to 27-3(3).

Prior to filing an emergency motion, the moving party *must* contact an attorney in the Motions Unit in San Francisco at (415) 355-8020.

When it is absolutely necessary to notify the Court of an emergency outside of standard office hours, the moving party shall call (415) 355-8000. Keep in mind that this line is for true emergencies that cannot wait until the next business day (e.g., an imminent execution or removal from the United States).

Briefing Schedule

The Court sets the briefing schedule at the time the petition is docketed.

Certain motions (e.g., a motion for dismissal) automatically stay the briefing schedule. 9th Cir. R. 27-11.

The opening and answering brief due dates are not subject to the additional time described in Fed. R. App. P. 26(c). 9th Cir. R. 31-2.1. The early filing of petitioner's opening brief does not advance the due date for respondent's answering brief. *Id.*

Extensions of Time to file a Brief

Streamlined Request

Subject to the conditions described at 9th Cir. R. 31-2.2(a), you may request one streamlined extension of up to 30 days from the brief's existing due date. Submit your request via CM/ECF using the "File Streamlined Request to Extend Time to File Brief" event on or before your brief's existing due date. No form or written motion is required.

Written Extension

Requests for subsequent extensions or extensions of more than 30 days will be granted only upon a written motion supported by a showing of diligence and substantial need. This motion shall be filed at least 7 days before the due date for the brief. The motion shall be accompanied by an affidavit or declaration that includes all of the information listed at 9th Cir. R. 31-2.2(b).

The Court will ordinarily adjust the schedule in response to an initial motion. Circuit Advisory Committee Note to Rule 31-2.2. The Court expects that the brief will be filed within the requested period of time. *Id.*

Contents of Briefs and Record

The required components of a brief are set out at Fed. R. App. P. 28 and 32, and 9th Cir. R. 28-2, 32-1 and 32-2.

The content and filing of the record are governed by Fed. R. App. P. 16(a) and 17. If respondent does not file the record or certified list by the specified date, petitioner may move to amend the briefing schedule.

After the electronically submitted brief has been reviewed, the Clerk will request 7 paper copies of the brief that are identical to the electronic version. 9th Cir. R. 31-1. Do not submit paper copies until directed to do so.

Excerpts of Record

The Court requires Excerpts of Record rather than an Appendix. 9th Cir. R. 30-1.1. Please review 9th Cir. R. 17-1.3 through 17-1.6 to see a list of the specific contents and format. For Excerpts that exceed 75 pages, the first volume must comply with 9th Cir. R. 17-1.6 and 30-1.6(a). Excerpts exceeding 300 pages must be filed in multiple volumes. 9th Cir. R. 30-1.6(a).

Respondent may file supplemental Excerpts, and petitioner may file further Excerpts. 9th Cir. R. 17-1.7; 17-1.8; 30-1.7 and 30-1.8. If you are a respondent responding to a pro se brief that did not come with Excerpts, then your Excerpts need only include the contents set out at 9th Cir. R. 30-1.7.

Excerpts must be submitted in PDF format in CM/ECF on the same day the filer submits the brief. The filer shall serve a paper copy of the Excerpts on any party not registered for CM/ECF.

If the Excerpts contain sealed materials, you must submit the sealed documents electronically in a separate volume in a separate transaction from the unsealed volumes, along with a motion to file under seal. 9th Cir. R. 27-13(e). Sealed filings must be served on all parties by mail, or if mutually agreed by email, rather than through CM/ECF noticing.

After electronic submission, the Court will direct the filer to file 4 separately-bound paper copies of the excerpts of record with white covers.

Mediation Program

Mediation Questionnaires are required in all counseled agency cases except those cases seeking review of a Board of Immigration Appeals decision. 9th Cir. R.

15-2.

The Mediation Questionnaire is available on the Court's website at www.ca9.uscourts.gov under *Forms*. The Mediation Questionnaire should be filed within 7 days of the docketing of the petition. The Mediation Questionnaire is used only to assess settlement potential.

If you are interested in requesting a conference with a mediator, you may call the Mediation Unit at (415) 355-7900, email ca09_mediation@ca9.uscourts.gov or make a written request to the Chief Circuit Mediator. You may request conferences confidentially. More information about the Court's mediation program is available at <http://www.ca9.uscourts.gov/mediation>.

Oral Hearings

Approximately 14 weeks before a case is set for oral hearing, the parties are notified of the hearing dates and locations and are afforded 3 days from the date of those notices to inform the Court of any conflicts. Notices of the actual calendars are then distributed approximately 10 weeks before the hearing date.

The Court will change the date or location of an oral hearing only for good cause, and requests to continue a hearing filed within 14 days of the hearing will be granted only upon a showing of exceptional circumstances. 9th Cir. R. 34-2.

Oral hearing will be conducted in all cases unless all members of the panel agree that the decisional process would not be significantly aided by oral argument. Fed. R. App. P. 34(a)(2).

Oral arguments are live streamed to You Tube and can be accessed on the Court's website.

Ninth Circuit Appellate Lawyer Representatives APPELLATE MENTORING PROGRAM

1. Purpose

The Appellate Mentoring Program is intended to provide mentoring on a voluntary basis to attorneys who are new to federal appellate practice or would benefit from guidance at the appellate level. In addition to general assistance regarding federal appellate practice, the project will provide special focus on two substantive areas of practice - immigration law and habeas corpus petitions. Mentors will be volunteers who have experience in immigration, habeas corpus, and/or appellate practice in general. The project is limited to counseled cases.

2. Coordination, recruitment of volunteer attorneys, disseminating information about the program, and requests for mentoring

Current or former Appellate Lawyer Representatives (ALRs) will serve as coordinators for the Appellate Mentoring Program. The coordinators will recruit volunteer attorneys with appellate expertise, particularly in the project's areas of focus, and will maintain a list of those volunteers. The coordinators will ask the volunteer attorneys to describe their particular strengths in terms of mentoring experience, substantive expertise, and appellate experience, and will maintain a record of this information as well.

The Court will include information about the Appellate Mentoring Program in the case opening materials sent to counsel and will post information about it on the Court's website. Where appropriate in specific cases, the Court may also suggest that counsel seek mentoring on a voluntary basis.

Counsel who desire mentoring should contact the court at mentoring@ca9.uscourts.gov, and staff will notify the program coordinators. The coordinators will match the counsel seeking mentoring with a mentor, taking into account the mentor's particular strengths.

3. The mentoring process

The extent of the mentor's guidance may vary depending on the nature of the case, the mentee's needs, and the mentor's availability. In general, the mentee should initiate contact with the mentor, and the mentee and mentor should determine together how best to proceed. For example, the areas of guidance may range from

basic questions about the mechanics of perfecting an appeal to more sophisticated matters such as effective research, how to access available resources, identification of issues, strategy, appellate motion practice, and feedback on writing.

4. Responsibility/liability statement

The mentee is solely responsible for handling the appeal and any other aspects of the client's case, including all decisions on whether to present an issue, how to present it in briefing and at oral argument, and how to counsel the client. By participating in the program, the mentee agrees that the mentor shall not be liable for any suggestions made. In all events, the mentee is deemed to waive and is estopped from asserting any claim for legal malpractice against the mentor.

The mentor's role is to provide guidance and feedback to the mentee. The mentor will not enter an appearance in the case and is not responsible for handling the case, including determining which issues to raise and how to present them and ensuring that the client is notified of proceedings in the case and receives appropriate counsel. The mentor accepts no professional liability for any advice given.

5. Confidentiality statement

The mentee alone will have contact with the client, and the mentee must maintain client confidences, as appropriate, with respect to non-public information.



United States Court of Appeals
for the Ninth Circuit

P.O. Box 31478
Billings, Montana 59107-1478

CHAMBERS OF
SIDNEY R. THOMAS
CHIEF JUDGE

December 1, 2014

TEL: (406) 373-3200
FAX: (406) 373-3250

Dear Counsel:

I want to take this opportunity to introduce you to the Court's mediation program. The court offers you and your clients professional mediation services, at no cost, to help resolve disputes quickly and efficiently and to explore the development of more satisfactory results than can be achieved from continued litigation. Each year the mediators facilitate the resolution of hundreds of cases, from the most basic contract and tort actions to the most complex cases involving multiple parties, numerous pieces of litigation and important issues of public policy.

The eight circuit mediators, all of whom work exclusively for the court, are highly experienced attorneys from a variety of practices; all have extensive training and experience in negotiation, appellate mediation, and Ninth Circuit practice and procedure. Although the mediators are court employees, the Court has adopted strict confidentiality rules and practices to ensure that what goes on in mediation stays in mediation. *See* Circuit Rule 33-1.

The first step in the mediation process is case selection. To assist the mediators in the case selection process, appellants/petitioners must file a completed Mediation Questionnaire within 7 days of the docketing of the case. *See* Circuit Rules 3-4, and 15-2. Appellees may also fill out and file a questionnaire. The questionnaire with filing instructions accompanies this letter and is also available at www.ca9.uscourts.gov/mediation/forms.php. All counsel are also invited to submit, by e-mail to ca09_mediation@ca9.uscourts.gov, additional, confidential information that might assist the mediators in the case selection process.

Page 2

In most cases, the mediator will schedule a settlement assessment conference, with counsel only, to determine whether the case is suitable for mediation. Please be assured that participation in the mediation program will not slow down disposition of your appeal. Mediation discussions are not limited to the issues on appeal. The discussions can involve other cases and may include individuals who are not parties to the litigation, if doing so enables the parties to reach a global settlement.

Further information about the mediation program may be found on the court's website: www.ca9.uscourts.gov/mediation/. Please address questions directly to the Mediation Unit at 415-355-7900 or ca09mediation@ca9.uscourts.gov.

Our mediators do a terrific job. I hope you'll give them the opportunity to work on your case.

Sincerely,



Sidney R. Thomas
Chief Circuit Judge

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office
Phone (415) 355-7900 Fax (415) 355-8566
<http://www.ca9.uscourts.gov/mediation>

MEDIATION QUESTIONNAIRE

This form is available in a fillable version at http://cdn.ca9.uscourts.gov/datastore/uploads/forms/Mediation_Questionnaire.pdf.

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are *not* confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s):	<input type="text"/>
District Court/Agency Case Number(s):	<input type="text"/>
District Court/Agency Location:	<input type="text"/>
Case Name:	<input type="text"/> v. <input type="text"/>
If District Court, docket entry number(s) of order(s) appealed from:	<input type="text"/>
Name of party/parties submitting this form:	<input type="text"/>

Briefly describe the dispute that gave rise to this lawsuit.

Briefly describe the result below and the main issues on appeal.

(Continue to next page)

Describe any proceedings remaining below or any related proceedings in other tribunals.

Provide any other thoughts you would like to bring to the attention of the mediator.

*Any party may provide additional information **in confidence** directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Provide the case name and Ninth Circuit case number in your message. Additional information might include level of interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.*

CERTIFICATION OF COUNSEL

I certify that:

- a current service list with telephone and fax numbers and email addresses is attached (see 9th Circuit Rule 3-2).
- I understand that failure to provide the Court with a completed form and service list may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

How to File: Complete the form and then convert the filled-in form to a static PDF (File > Print > PDF Printer or any PDF Creator). To file, log into Appellate ECF and select File Mediation Questionnaire. (*Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system.*)

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

TOWN OF FLORENCE, a political
subdivision of the State of Arizona;
SWVP-GTIS MR, LLC, a Delaware
Limited Liability Company,

Petitioners,

vs.

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY, SCOTT PRUITT,
Administrator, United States
Environmental Protection Agency,
ALEXIS STRAUSS, Acting Regional
Administrator, United States
Environmental Protection Agency
Region 9,

Respondents.

Docket No. _____

PETITION FOR REVIEW

Pursuant to 42 U.S.C. § 300j-7(a) and Rule 15 of the Federal Rules of Appellate Procedure, Petitioners, the Town of Florence and SWVP-GTIS MR, LLC (collectively “Petitioners”) hereby petition the Court for review of an Underground Injection Control Aquifer Exemption (the “Aquifer Exemption”) issued on May 1, 1997 by EPA Region 9 for EPA Permit No. AZ396000001, a copy of which is attached as Exhibit 1, based upon grounds arising after the expiration of the 45-day period. (Section 300j-7.)

DATED: November 22, 2017

s/ Jessica L. Beckwith

Ronnie P. Hawks
James L. Csontos
Jessica L. Beckwith
JENNINGS, HAUG &
CUNNINGHAM, L.L.P.
Attorneys for Petitioner SWVP-GTIS
MR, LLC

s/ Barbara U. Rodriguez-Pashkowski

Barbara U. Rodriguez-Pashkowski
GUST ROSENFELD, P.L.C.
Attorneys for the Petitioner Town of
Florence

CERTIFICATE OF SERVICE

On November 22, 2017, pursuant to Rules 3(d) and 15(c)(1) of the Federal Rules of Appellate Procedure, a copy of the foregoing was mailed by First Class Mail, postage prepaid to the following persons who were admitted to participate in the agency proceedings:

Bradley J. Glass
D. Lee Decker
Gallagher & Kennedy PA
2575 E. Camelback Road
Suite 1100
Phoenix, AZ 85016
Counsel for Florence Copper, Inc.

Rita Maguire
Maguire, Pearce & Storey, PLLC
2999 N. 44th Street, Suite 650
Phoenix, AZ 85018
Counsel for Florence Copper, Inc.

George A. Tsiolis
351 Lydecker Street
Englewood, NJ 07631
Counsel for Florence Copper, Inc.

John L. Anderson
2631 N. Presidential Drive
Florence, AZ 85132

Linus Everling
Thomas L. Murphy
Gila River Indian Community
525 W. Gu u Ki
P. O. Box 97
Sacaton, AZ 85147

Merrill C. Godfrey
Ian A. Shavitz
Michael-Corey Hinton
Akin Gump Strauss Hauer & Feld, LLP
1333 New Hampshire Avenue
N.W. Washington, D.C. 20036-1564
Counsel for Gila River Indian
Community

Pursuant to Rule 15(c) of the Federal Rules of Appellate Procedure, the Circuit Clerk will cause, on November 22, 2017 a copy of the Petition for Review to be served on each of the following:

Alexa Engelman
Office of Regional Counsel
U.S. EPA Region 9
75 Hawthorne Street
San Francisco, CA 94105

Dustin Minor
Office of Regional Counsel
U.S. EPA Region 9
75 Hawthorne Street
San Francisco, CA 94105

Alexis Strauss
Acting Regional Administrator
U.S. EPA Region 9
75 Hawthorne Street
San Francisco, CA 94105

Scott Pruitt
U.S. Environmental Protection Agency
Office of the Administrator
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Mail Code 1101A
Washington, D.C. 20460

s/ Jessica L. Beckwith

Ronnie P. Hawks
James L. Csontos
Jessica L. Beckwith
JENNINGS, HAUG &
CUNNINGHAM, L.L.P.
Attorneys for Petitioner SWVP-GTIS
MR, LLC

EXHIBIT 1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

• ORIG PERMIT
COPY Aquifer
Permit

UNDERGROUND INJECTION CONTROL AQUIFER EXEMPTION
FOR
EPA PERMIT #AZ396000001

In compliance with provisions of the Safe Drinking Water Act, as amended, (42 USC 300f-300j-9, commonly known as the SDWA) and attendant regulations incorporated by the U.S. Environmental Protection Agency under Title 40 of the Code of Federal Regulations (CFR), the zone located:

- (1) in the subsurface interval of approximately 400 feet to 1600 feet below ground surface (bgs); and
- (2) below the upper aquifer exemption boundary which is 200 feet above the oxide zone, or the base of the Middle Fine-Grained Unit (MFGU), whichever is further below ground surface; and
- (3) above the lower aquifer exemption boundary which is the base of the reactive interval amenable to copper leach solutions, encompassing the oxide zone, which contains an economical amount of copper, and copper in the sulfide zone that is leachable; and
- (4) laterally within 500 feet of the mine zone boundary delineated in Appendix A of EPA Permit #AZ396000001, and within the line connecting the following coordinate system points:

From a point (point 1) in the southwest of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 748028.6 and easting 646937.7

To a point (point 2) in the southeast of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 748042.1 and easting 648619.5

To a point (point 3) in the southeast of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona

Coordinate system Northing 747656.9 and easting 648617.4

To a point (point 4) in the southeast of the northeast of Section 28,
Range 9 East, Township 4 North of the GS & R meridian at Arizona
Coordinate system Northing 747675.3 and easting 650811.6

To a point (point 5) in the southeast of the northeast of Section 28,
Range 9 East, Township 4 North of the GS & R meridian at Arizona
Coordinate system Northing 747216.3 easting 650662.8

To a point (point 6) in the southeast of the northeast of Section 28,
Range 9 East, Township 4 North of the GS & R meridian at Arizona
Coordinate system Northing 747230.7 and easting 651548.8

To a point (point 7) in the southeast of the southeast of Section 28,
Range 9 East, Township 4 North of the GS & R meridian at Arizona
Coordinate system Northing 745379.4 and easting 651309.7

To a point (point 8) in the southeast of the southeast of Section 28,
Range 9 East, Township 4 North of the GS & R meridian at Arizona
Coordinate system Northing 745369.4 and easting 651019.1

To a point (point 9) in the northeast of the northeast of Section 33,
Range 9 East, Township 4 North of the GS & R meridian at Arizona
Coordinate system Northing 743926.7 and easting 650758.8

To a point (point 10) in the northwest of the northeast of Section 33,
Range 9 East, Township 4 North of the GS & R meridian at Arizona
Coordinate system Northing 743922.9 and easting 649898.8

To a point (point 11) in the northwest of the northeast of Section 33,
Range 9 East, Township 4 North of the GS & R meridian at Arizona
Coordinate system Northing 743543.9 and easting 649897.6

To a point (point 12) in the northwest of the northwest of Section 33,
Range 9 East, Township 4 North of the GS & R meridian at Arizona
Coordinate system Northing 743520.7 and easting 647281.7

To a point (point 13) in the southwest of the southwest of Section 28,
Range 9 East, Township 4 North of the GS & R meridian at Arizona
Coordinate system Northing 744512.8 and easting 649939.6

To a point (point 14) in the southwest of the southwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 745392.3 and easting 646862.4

To a point (point 15) in the southwest of the southwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 745391.8 and easting 646552.4

To a point (point 16) in the southwest of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 747466.7 and easting 646824.3

To a point (point 17) in the southwest of the northwest of Section 28, Range 9 East, Township 4 North of the GS & R meridian at Arizona Coordinate system Northing 747468.8 and easting 646938.8

is exempted as an underground source of drinking water (USDW).

This aquifer exemption is granted in conjunction with the Class III Underground Injection Control permit issued to BHP Copper, for the injection of an acidic solution for the purpose of copper production at the Florence In-Situ Project, Pinal County, Arizona.

This aquifer exemption has no expiration date.

Signed this 1st day of May, 1997.



Alexis Strauss, Acting Director
Water Division, EPA Region 9