



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-L

MAR 18 2013

Mr. Grant Loader
GCL Eureka Properties LLC
1070 East 500 South
Pleasant Grove, Utah 84062

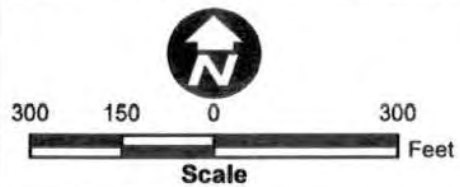
Dear Mr. Loader:

This letter is in reference to property you and GCL Eureka Properties LLC (Respondents) acquired in June 2003 pursuant to a Sheriff's Deed, referred to as parcel XE4848 in Eureka, Utah (Property). Enclosed is a Unilateral Administrative Order (Order) that directs compliance with land use restrictions with respect to the Property. These land use restrictions are as follows:

- a. Respondents shall not allow any excavation, grading, construction, drilling, digging, or any other activity that may destroy or impair the integrity of the cap at the Property, except as authorized specifically and expressly in writing by UDEQ with written concurrence by EPA.
- b. Respondents shall not use the Property for agricultural purposes, including, but not limited to, the grazing, feeding or keeping of any animal for agricultural or commercial purposes.
- c. Respondents shall not use the Property for residential purposes, including, but not limited to, any single family or multi-family residential dwelling, whether permanent or temporary. No playgrounds, parks, schools, daycare centers (whether independent or ancillary to a permitted use), recreational facilities of any type, community centers, hospitals, or adult care centers shall be permitted or allowed.

Also enclosed is an index of documents supporting the decision to issue the Order, and a copy of the "Notice of Environmental Conditions" that the EPA plans to file with the Juab County Recorder.

Pursuant to paragraph 36 of the Order, you may request a conference or submit written comments to EPA within ten days after its receipt on any matter pertinent to the Order. If a conference is not requested or no comments are submitted, the Order is effective ten days after its receipt. If a conference is timely requested or comments are timely submitted, the Order is effective upon notification by EPA. A request for a conference or submission of written comments should be sent to:



**Properties Impacting Response Action Structures
Grant Loader**

Eureka Mills Superfund Site
Eureka, UT

DATE
October 2010

FIGURE

Document ID	SDMS Number
Baseline Human Health Risk Assessment- Eureka Mills	2001045
Consent Decree between Chief Consolidated and U.S.	1034858
Agreement for use of Chief #1 property as repository for soils	1000853
Final Feasibility Study Rerpot OU00-3	2001044
Remedial Action Work Plan	2005696
Remedial Investigation Report for Operable Units 1-4	2000379
Unsigned Environmental Covenant	1190698
Photos showing EPA attempts to hand deliver communications	1185567
Plot map of parcel XE4848	1185565
EPA record of attempt to contact Loader	1190687
Email re: failure to accept certified mail	1190684
Record of communication re: initial access	1190695
Utah Business Search, GCL Eureka Properties LLC	1185566
Commitment for title insurance	1185570
EPA record of conversation with Loader	1190688
Record of Decision for OU 00-03	1101115
Certified mail attempt	1249449

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2013 MAR 19 PM 3: 22

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:
Eureka Mills Superfund Site
Juab County, Utah,

ADMINISTRATIVE ORDER DIRECTING
COMPLIANCE WITH LAND USE
RESTRICTIONS

GCL Eureka Properties LLC
and Grant Loader,
Respondents.

U.S. EPA Region 8
CERCLA Docket No. **CERCLA-08-2013-0002**

Proceeding Under Section 106(a) of the
Comprehensive Environmental Response,
Compensation, and Liability Act, as
amended, 42 U.S.C. § 9606(a)

**ADMINISTRATIVE ORDER DIRECTING COMPLIANCE
WITH LAND USE RESTRICTIONS**

I. INTRODUCTION AND JURISDICTION

1. This Administrative Order Directing Compliance with Land Use Restrictions (Order) is issued to GCL Eureka Properties LLC and Grant Loader (Respondents) by the U.S. Environmental Protection Agency (EPA) under the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9606(a). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580 (52 Fed. Reg. 2926, January 29, 1987), was delegated to EPA Regional Administrators on September 13, 1987, by EPA Delegation No. 14-14-B and was further re-delegated to the Assistant Regional Administrator, Ecosystems Protection and Remediation Program. EPA has notified the State of Utah, Department of Environmental Quality (UDEQ) of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

II. STATEMENT OF PURPOSE

2. This Order directs Respondents to comply with land use restrictions to protect and maintain the remedy selected in the Record of Decision for the Eureka Mills Superfund Site (Site) dated September 30, 2002. This Order supersedes the Administrative Order Docket Number

CERCLA-08-2011-0006 issued March 17, 2011, by EPA to GCL Eureka Properties LLC, which is hereby withdrawn.

III. PARTIES BOUND

3. This Order shall apply to and be binding upon Respondents as well as Respondents' heirs, employees, agents, successors, and assigns.
4. Respondents are jointly and severally liable for carrying out all activities required by this Order. In the event of failure of any Respondent to implement the requirements of this Order, the remaining Respondent shall complete all such requirements.

IV. FINDINGS OF FACT

5. The Site is located in central Utah, approximately 80 miles southwest of Salt Lake City. It encompasses the City of Eureka and adjacent unincorporated areas of Juab County. Gold, silver, and, to a lesser extent, copper and lead mining operations occurred throughout the Site from 1870 until the 1950s, and sporadically thereafter. Located at the heart of the Tintic Mining District, the Site contains both residential and non-residential areas that had been contaminated by heavy metals.
6. The lead, arsenic, antimony, mercury, and thallium were released into the environment by historic mining activities at the Site and are hazardous substances. Exposure to these contaminants can cause negative impacts to the human nervous system, especially in children under age seven.
7. In response to threats posed to human health and the environment due to these releases of hazardous substances, EPA listed the Site on the National Priorities List on September 5, 2002.
8. EPA conducted a time-critical removal action in 2001 and 2002 to address the immediate risks at the Site, initially targeting residential properties where one or more children lived with elevated blood-lead levels. The removal action consisted of excavating contaminated soils from 72 residences, and replacing the excavated areas with clean fill material.
9. On September 30, 2002, EPA issued the Record of Decision for the Site selecting the remedy to address contaminated soils and mine waste piles throughout Eureka that presented unacceptable risk to human health and the environment.
10. The remedy chosen in the Record of Decision provided for excavating contaminated soils on residential properties and replacing them with clean fill materials to serve as a barrier, as well as re-vegetating the impacted areas where necessary. The excavated soils were moved to an

existing waste pile known as the Chief Mine Number 1 Waste Pile. EPA used the Chief Mine Number 1 Waste Pile to construct the 23.7 acre Mine Waste Repository.

11. The Chief Mine Number 1 Waste Pile is located in central Eureka, and was used historically as a mine waste repository. EPA chose this location for the Mine Waste Repository because of its central location, advantageous topography, and because the pile already contained approximately 500,000 cubic yards of contaminated material that otherwise would have required transfer and consolidation.
12. When EPA implemented the Record of Decision, the Chief Mine Number 1 Waste Pile was on land owned by Chief Consolidated Mining Company. Chief Consolidated Mining Company agreed to the use of its property for the Mine Waste Repository and the subsequent capping of the pile in a consent decree entered on January 27, 2005 in United States v. Chief Consolidated Mining Co., U.S. Dist. Ct., Dist. of Utah, 2:04CV00891 BSJ, Jan. 27, 2005.
13. Respondents acquired Parcel XE4848, a 1.3 acre portion of property included within the Mine Waste Repository (Property) following a lien foreclosure sale on June 25, 2003. Respondents obtained a Sheriff's Deed to the Property from the Juab County Sheriff on January 27, 2005, which was amended on February 16, 2005 to correct an error in the description of the Property.
14. EPA completed construction of the Mine Waste Repository and concluded remediation of all contaminated soil and mine waste areas at the Site in October 2010. Pursuant to the terms of the Record of Decision, institutional controls are required to prohibit or control activities that would negate the remedy, such as digging, excavating, disturbing soil, or otherwise exposing contaminated materials.
15. The Mine Waste Repository is capped with a geotextile fabric and 6 inches of rock, which covers mine waste that is contaminated with heavy metals. This cap is the primary safeguard against exposure to contaminated soils. Failure to adhere to the land use restrictions protecting the cap would cause releases of hazardous substances and put residents living near the Property in danger of being exposed to soils laden with lead, arsenic, antimony, mercury, and thallium.
16. In October 2010, EPA and the State repeatedly requested the Respondents to execute an environmental covenant to impose land use restrictions on the Property, to prevent releases of hazardous substances and to protect the integrity of the remedy. The Respondents repeatedly refused.

V. DEFINITIONS

17. Unless otherwise expressly provided herein, terms used in this Order that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to

them in the statute or its implementing regulations. Whenever terms listed below are used in this Order or in the documents attached to this Order or incorporated by reference into this Order, the following definitions shall apply:

- A. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.
- B. "Day" shall mean a calendar day unless expressly stated to be a working day.
"Working day" shall mean a day other than a Saturday, Sunday, or Federal Holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the end of the next working day.
- C. "EPA" shall mean the United States Environmental Protection Agency.
- D. "Mine Waste Repository" shall mean the 23.7 acre mine waste repository capped with an engineered barrier to prevent exposure to mine waste in accordance with the Record of Decision.
- E. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral.
- F. "Property" shall mean real property, approximately 1.356 acres in size and known as Parcel XE4848, or as Lot 17, Block 6, Plat A of the Eureka City Survey, Juab County, Utah, as depicted on Attachment A hereto, and included within the Mine Waste Repository.
- G. "Record of Decision" shall mean the Record of Decision issued by EPA on September 30, 2002, with the concurrence of the State, and all attachments thereto.
- H. "Respondents" shall mean GCL Eureka Properties LLC, a Utah domestic limited liability company, and Grant Loader, individually and as the registered agent of GCL Eureka Properties LLC.
- I. "Section" shall mean a portion of this Order identified by a Roman numeral.
- J. "Site" shall mean the Eureka Mills Superfund Site, located in Eureka, Juab County, Utah.
- K. "State" shall mean the State of Utah, including the Utah Department of Environmental Quality (UDEQ).

L. "United States" shall mean the United States of America.

VI. CONCLUSIONS OF LAW AND DETERMINATIONS

18. The Property is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
19. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
20. Each Respondent is a "liable party" as defined by Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is subject to this Order under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a). Respondents are the owners and operators of the facility as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a), 42 U.S.C. § 9607(a)(1).
21. The contaminants found at the Site, as identified in the Findings of Fact above, including lead, arsenic, antimony, mercury, and thallium are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
22. The conditions described in Paragraphs 14 through 16 constitute a threatened "release" of a hazardous substance from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).
23. The conditions at the Site may constitute an imminent and substantial endangerment to public health or welfare or the environment.
24. The actions required by this Order are necessary to protect the public health, welfare, or the environment, and are consistent with the National Contingency Plan, 40 C.F.R. Part 300 and CERCLA.

VII. ORDER

25. Based on the foregoing Findings of Fact, Conclusions of Law and Determinations, and the Administrative Record, Respondents are hereby ordered to comply with the following land use restrictions for so long as they retain an ownership interest in the Property or until they execute an environmental covenant containing land use restrictions necessary to prevent future releases of hazardous substances from the Property in a form acceptable to EPA and UDEQ:
 - a. Respondents shall not allow any excavation, grading, construction, drilling, digging, or any other activity that may destroy or impair the integrity of the cap at

the Property, except as authorized specifically and expressly in writing by UDEQ with written concurrence by EPA.

- b. Respondents shall not use the Property for agricultural purposes, including, but not limited to, the grazing, feeding or keeping of any animal for agricultural or commercial purposes.
- c. Respondents shall not use the Property for residential purposes, including, but not limited to, any single family or multi-family residential dwelling, whether permanent or temporary. No playgrounds, parks, schools, daycare centers (whether independent or ancillary to a permitted use), recreational facilities of any type, community centers, hospitals, or adult care centers shall be permitted or allowed.

Respondents are hereby further ordered to provide EPA and its officers, employees, agents, contractors, and other representatives, full and unrestricted access at all reasonable times to the Property for the purpose of performing operation and maintenance activities at the Mine Waste Pile. Respondent shall not interfere with EPA's exercise of its access authorities pursuant to 42 U.S.C. § 9604(e) and 40 C.F.R. § 300.400(d), and shall not interfere with or otherwise limit any activity conducted at the Property pursuant to this Order by EPA, its officers, employees, agents, contractors, or other representatives. Any such interference shall be deemed a violation of this Order.

- 26. Respondents, or Respondents' agents, heirs, successors and assigns shall notify EPA and UDEQ in writing at least thirty (30) days prior to the conveyance of any interest in the Property, and shall, prior to the transfer, notify the other parties involved in the conveyance the provisions of this Order.
- 27. Respondents, or Respondents' agents, heirs, successors and assigns shall notify EPA and UDEQ in writing at least thirty (30) days prior leasing any portion of the Property, and shall, prior to entering the lease, notify the other parties involved in the lease the provisions of this Order.
- 28. Any notices or other communication required pursuant to this Order shall be in writing and submitted via U.S. mail at the addresses provided below unless EPA provides written notice of a different address to:

Remedial Project Manager- Eureka Mills Site
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop St.
Denver, CO 80202-1129

And

Project Manager, Eureka Mills Site
Division of Environmental Response and Remediation
Department of Environmental Quality
P.O. Box 144840
Salt Lake City, Utah 84114-4840

29. Notwithstanding any provision of this Order, the United States and the State retain all access authorities and rights, including enforcement authorities related thereto, under CERCLA and any other applicable statute or regulations.

VIII. ENFORCEMENT

30. Violation of any provision of this Order may subject Respondents to civil penalties of up to \$37,500 per violation per day, as provided in Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), and the Civil Monetary Penalty Inflation Adjustment Rule, 73 Fed. Reg. 75340, 40 C.F.R. Part 19.4, or such greater amount as adjusted in the future. Respondents may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Nothing herein shall preclude EPA from taking any additional enforcement actions, and/or other actions it may deem necessary for any purpose, including the prevention or abatement of a threat to the public health, welfare, or the environment arising from conditions at the Site, and recovery of the costs thereof.
31. Nothing in this Order constitutes a waiver, bar, release, or satisfaction of or a defense to any cause of action which EPA now has or may have in the future against Respondents, or against any entity which is not a party to this Order.
32. Nothing in this Order shall affect in any manner the right of EPA to issue any other orders to take any other administrative or civil action against Respondents or any other parties under CERCLA which relates to this Site or any other Site.
33. Nothing in this Order shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person for any liability it may have arising out of, or relating in any way to, the Site.
34. Nothing in this Order constitutes a decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. §9611(a)(2).

IX. ADMINISTRATIVE RECORD

35. EPA has compiled an Administrative Record containing the documents that form the basis for the issuance of this Order. The Administrative Record is available for review by appointment at EPA Region 8 Headquarters, 1595 Wynkoop, Denver, CO 80202.

X. OPPORTUNITY TO CONFER

36. Within ten (10) days after receipt of this Order, Respondents may request a conference with EPA on any matter pertinent to this Order, including its applicability, the factual findings and determinations upon which it is based, the appropriateness of any actions the Respondents are ordered to take, or any other relevant and material issues or contentions which Respondents may have regarding this Order. Respondents may appear in person or by an attorney or other representative at the conference. Respondents may also submit written comments or statement of position on any matter pertinent to this Order within ten (10) days after receipt of this Order. EPA will deem Respondents to have waived their right to a conference or to submit written comments if they fail to request the conference or submit written comments with the specified time period. Any request for a conference or written comments or statements should be submitted by U.S mail or email to:

Amelia Piggott
Enforcement Attorney
1595 Wynkoop St.
Denver, CO 80202
piggott.amelia@epa.gov
Phone (303) 312-6410

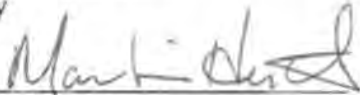
XI. EFFECTIVE DATE AND COMPUTATION OF TIME

37. This Order shall be effective ten (10) business days after its receipt by Respondents unless a conference is timely requested as provided above. If a conference is timely requested, then at the conclusion of the conference or after the conference, if EPA determines that no modification of the Order is necessary, the Order shall become effective immediately upon notification by EPA of such determination. If modification of the Order is determined by EPA to be necessary, the Order shall become effective upon notification by EPA of such modification. Any EPA notification under this paragraph may, at EPA's discretion, be provided to Respondents by facsimile, electronic mail, or oral communication; provided that if EPA does use such a form of notification, it will also confirm such notification by first class, certified or express mail to

Respondents or their legal counsel. Any amendment or modification of this Order by EPA shall be made or confirmed in writing.

SO ORDERED.

By



Martin Hestmark
Assistant Regional Administrator
Office of Ecosystem Protection and Remediation
Region 8
U.S. Environmental Protection Agency

3/14/13
Date