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EPA - REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DOCKET NO. CWA-10-2008-0015

HECLA MINING COMPANY
near Mullan, Idaho

CONSENT AGREEMENT AND
FINAL ORDER

Respondent.

I. STATUTORY AUTHORITY

1.1. This Consent Agreement and Final Order ("CAFO") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 309(g)(2)(B) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g)(2)(B), and Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9609.

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part VI of this CAFO to the Regional Administrator of EPA Region 10, who in turn has redelegated this authority to the Regional Judicial Officer.

1.3. Pursuant to Sections 309(g)(1) and 309(g)(2)(B) of the CWA, 33 U.S.C. §§ 1319(g)(1) and 1319(g)(2)(B), and Section 109 of CERCLA, 42 U.S.C. § 9609, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA hereby issues, and Hecla Mining Company ("Respondent") hereby agrees to issuance of, the Final Order contained in Part VI of this CAFO.

1 § 1311, or a condition of an NPDES permit issued pursuant to Section 402 of the CWA, 33
2 U.S.C. § 1342.

3 3.6. Respondent is a corporation and thus is a “person” as defined in Section 502(5) of
4 the CWA, 33 U.S.C. § 1362(5).

5 3.7. Respondent owns and/or operates the Lucky Friday Mine and Mill near Mullan,
6 Idaho (“Facility”). The Facility is a silver, lead and zinc mine.

7 3.8. The receiving water for discharges of pollutants from the Facility is the South
8 Fork Coeur d’Alene River (“River”) and Daisy Creek. The River and Daisy Creek are
9 “navigable waters” as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and are
10 “waters of the United States” as defined in 40 C.F.R. § 122.2.

11 **A. Violation of the Multi-Sector General Permit**

12 3.9. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), specifies that an NPDES permit
13 is required for any storm water discharge “associated with industrial activity.” 40 C.F.R.
14 § 122.26(b)(14)(iii) defines “[s]torm water associated with industrial activity” to include storm
15 water discharges from “[f]acilities classified as Standard Industrial Classifications 10 through 14
16 (mineral industry) including active or inactive mining operations . . . that discharge storm water
17 contaminated by contact with or that has come into contact with, any overburden, raw material,
18 intermediate products, finished produced, byproducts or waste products located on the site of
19 such operations.”

20 3.10. On October 30, 2000, General Permit No. IDR05*### (“Multi-Sector General
21 Permit”) went into effect in the State of Idaho. The Multi-Sector General Permit authorizes
22 discharges of storm water associated with industrial activities, including metal mining operations
23 (Sector G).

1 3.11. On or about January 25, 2001, Respondent obtained coverage under the Multi-
2 Sector General Permit, Tracking No. IDR05A396.

3 3.12. The Multi-Sector General Permit expired on October 30, 2005. Since Respondent
4 submitted a timely Notice of Intent, the Multi-Sector General Permit has been administratively
5 extended. Therefore, until a new permit is issued, Respondent must comply with the expired
6 Multi-Sector General Permit.

7 3.13. Part 4.2.7.2.1.3 of the Multi-Sector General Permit requires permittees to “have a
8 preventive maintenance program which includes timely inspection and maintenance of storm
9 water management devices . . . as well as inspecting, testing, maintaining and repairing facility
10 equipment and systems to avoid breakdowns or failure that may result in discharges of pollutants
11 to surface waters.”

12 3.14. During EPA inspections on June 6, 2006, and November 16, 2006, inspectors
13 observed that storm water best management practices (BMPs) were inadequately maintained at
14 the Daisy Creek bridge crossing near Silver Mountain in violation of Part 4.2.7.2.1.3 of the
15 Multi-Sector General Permit.

16 3.15. Pursuant to 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. Part 19,
17 Respondent is liable for the administrative assessment of civil penalties not to exceed \$11,000
18 per day for each day during which the violation continues, up to a maximum amount of
19 \$157,700.

20 **B. Discharge Without an NPDES Permit**

21 3.16. On or about November 3, 2006, Respondent discharged mine tailings from a mine
22 tailings line near Pond 3 into the River.

23 3.17. On or about May 31, 2007, Respondent discharged sump wastewater from a sump
24 pump at Pond 3 into the River.

1 3.18. On or about June 5, 2007, Respondent discharged sump wastewater from a sump
2 pump at Pond 3 into the River.

3 3.19. The tailings line and sump pump that conveyed the discharge from Pond 3 to the
4 River constitutes "point sources" within the meaning of Section 502(14) of the CWA, 33 U.S.C.
5 § 1362(14), and 40 C.F.R. § 122.2.

6 3.20. By discharging the mine tailings from Pond 3 and sump wastewater into waters of
7 the United States, Respondent engaged in the "discharge of pollutants" from a point source
8 within the meaning of Sections 301(a) and 502(12) of the CWA, 33 U.S.C. §§ 1311(a) and
9 1362(12).

10 3.21. The discharge of mine tailings and sump wastewater was not authorized by an
11 NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. Therefore,
12 Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

13 3.22. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. Part
14 19, Respondent is liable for civil penalties not to exceed \$11,000 per day for each day during
15 which the violation continues, up to a maximum amount of \$157,500.

16 **C. NPDES Permit Violations**

17 3.23. Respondent is authorized to discharge mine tailings, storm water, groundwater,
18 cooling water, and sanitary wastewater from Outfalls 001, 002 and 003 into the River pursuant to
19 the conditions and limitations set forth in NPDES Permit No. ID-000017-5 ("Permit").

20 3.24. When a permittee exceeds an average monthly effluent limit, the permittee is
21 deemed to be in violation of the effluent limits each of the days of the month in which the
22 violation occurred. When a permittee exceeds an average weekly effluent limit, the exceedance
23 is counted as seven violations. When a permittee exceeds a maximum daily effluent limit, the
24 exceedance is counted as one violation.

1 3.25. Section I.A.4.e., Table 5 of the Permit contains an interim maximum daily
2 effluent concentration limit for Outfall 001 for cadmium of 6.0 µg/L. On February 12, 2007,
3 Respondent exceeded the interim maximum daily effluent concentration limit for cadmium. This
4 constitutes one (1) violation.

5 3.26. Section I.A.4.e., Table 5 of the Permit contains an interim average monthly
6 effluent concentration limit for Outfall 001 for cadmium of 2.0 µg/L. Respondent exceeded the
7 interim average monthly effluent concentration limit for cadmium in February 2007 and March
8 2007. This constitutes fifty-nine (59) violations.

9 3.27. Section I.A.1., Table 4 of the Permit contains a maximum daily effluent
10 concentration limit for Outfall 003 for copper of 23 µg/L when the upstream River flow is
11 greater than or equal to 8.0 cubic feet per second ("cfs") but less than 18 cfs. On July 26, 2007,
12 Respondent exceeded the maximum daily effluent concentration limit for copper. This
13 constitutes one (1) violation.

14 3.28. Section I.A.4.e., Table 5 of the Permit contains an interim maximum daily
15 effluent concentration limit for Outfall 003 for zinc of 670 µg/L. On November 9, 2007,
16 November 12, 2007, and November 14, 2007, Respondent exceeded the interim maximum daily
17 effluent concentration limit for zinc. This constitutes three (3) violations.

18 3.29. Section I.A.4.e., Table 5 of the Permit contains an interim maximum daily
19 effluent load limit for Outfall 003 for zinc of 6.29 lb/day. On November 12, 2007, Respondent
20 exceeded the interim maximum daily effluent load limit for zinc. This constitutes one (1)
21 violation.

22 3.30. Section I.A.4.e., Table 5 of the Permit contains an interim average monthly
23 effluent concentration limit for Outfall 003 for zinc of 480 µg/L. Respondent exceeded the
24
25

1 interim average monthly effluent concentration limit for zinc in November 2007. This
2 constitutes thirty (30) violations.

3 3.31. Section I.A.3 of the Permit contains a pH effluent limit for all outfalls of not less
4 than 6.5 standard units but not greater than 9.0 standard units. On January 7, 2008, Respondent
5 exceeded the pH effluent limit. This constitutes one (1) violation.

6 3.32. Section IV.E of the Permit states that “[t]he permittee must at all times properly
7 operate and maintain all facilities and systems of treatment and control ... which are installed or
8 used by the permittee to achieve compliance with the conditions of this permit.” On or about
9 April 4, 2007, June 30, 2005, June 19, 2006, June 27, 2006, October 24, 2006, October 25, 2006,
10 October 31, 2006, and June 5, 2007, Respondent reported the flow rate from the outfalls as a
11 flatline of 4.0 cubic feet per second. Respondent failed to properly operate and maintain its flow
12 meter such that the actual flow rate could be read and reported on the discharge monitoring
13 reports. This constitutes eight (8) violations.

14 3.33. Under Section 309(g)(1) of the CWA, 33 U.S.C. §1319(g)(1), EPA may assess an
15 administrative penalty when EPA finds that “any person . . . has violated any permit condition or
16 limitations . . . in a permit issued” pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. The
17 Permit violations alleged for the Facility constitute violations of Section 301(a) of the CWA, 33
18 U.S.C. § 1311(a). Consequently, under Section 309(g)(2)(B) of the CWA, 33 U.S.C.
19 § 1319(g)(2)(B), Respondent is liable for the administrative assessment of civil penalties for
20 violations at the Facility in an amount not to exceed \$11,000 per day for each day during which
21 the violation continues, up to a maximum amount of \$157,500.

22 **D. Failure to Respond to Information Request**

23 3.34. On or about October 5, 2007, EPA issued an information request to Respondent
24 pursuant to Section 308 of the CWA, 33 U.S.C. § 1318.

1 3.35. On or about November 9, 2007, Respondent responded to the information request.

2 3.36. Upon review, EPA found that Respondent failed to adequately respond to EPA's
3 information request.

4 3.37. Under Section 309(g)(1) of the CWA, EPA may assess an administrative penalty
5 when EPA finds that any person has violated Section 308 of the CWA, 33 U.S.C. § 1318.

6 Consequently, under Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), Respondent
7 is liable for the administrative assessment of civil penalties for failing to adequately respond to
8 the information request in an amount not to exceed \$11,000 per day for each day during which
9 the violation continues, up to a maximum amount of \$157,500.

10 **IV. CERCLA ALLEGATIONS**

11 4.1. Paragraphs 3.7 and 3.16 are incorporated as if set forth in this Paragraph.

12 4.2. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires a person in charge of a
13 facility to immediately notify the National Response Center ("NRC") as soon as that person has
14 knowledge of a release of a hazardous substance from the facility in an amount equal to or
15 greater than the reportable quantity ("RQ").

16 4.3. Respondent is a corporation and thus a "person" as defined in Section 101(21) of
17 CERCLA, 42 U.S.C. § 9601(21).

18 4.4. The Lucky Friday Mine is a facility as defined in Section 101(9) of CERCLA, 42
19 U.S.C. § 9601(9), (meaning, among other things, any building, structure, installation, storage
20 container, equipment or any site or area where a hazardous substance has been deposited, stored,
21 disposed of, or placed, or otherwise come to be located).

22 4.5. Under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), "release" means any
23 spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping,
24 leaching, dumping, or disposing into the environment.

1 4.6. Lead is a CERCLA "hazardous substance." 40 C.F.R. Part 302, Table 302.4. The
2 RQ for lead is 10 pounds. *Id.*

3 4.7. The mine tailings released on or about November 3, 2006, contained
4 approximately 194 pounds of lead.

5 4.8. The Facility managers knew of the release on November 3, 2006.

6 4.9. Although Hecla timely notified EPA and the Idaho Department of Environmental
7 Quality within 24 hours of the non-compliance event based on the requirements of the NPDES
8 Permit, Facility managers did not notify the NRC of the release until approximately 27 days after
9 the release was discovered.

10 4.10. Under Section 109 of CERCLA, 42 U.S.C. § 9609, the EPA Administrator may
11 assess a civil penalty of up to \$25,000 per day of violation of CERCLA § 103. The Debt
12 Collections Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 42
13 C.F.R. Part 19, increased these statutory maximum penalties to \$32,500 per day of violation
14 occurring after March 15, 2004.

15 **V. CONSENT AGREEMENT**

16 5.1. For purposes of this proceeding, Respondent admits the jurisdictional allegations
17 contained in this CAFO.

18 5.2. Respondent expressly waives any right to contest the allegations and to appeal the
19 Final Order set forth in Part VI, below.

20 5.3. Respondent neither admits nor denies the specific factual allegations contained in
21 Parts III and IV of this CAFO.

22 5.4. As required under Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), and
23 Section 109(a)(3) of CERCLA, 42 U.S.C. § 9609(a)(3), EPA has taken into account the nature,
24 circumstances, extent and gravity of the alleged violations, as well as the Respondent's economic
25

1 benefit of noncompliance, ability to pay, Respondent's agreement to perform a Supplemental
2 Environmental Project ("SEP"), and such other matters as justice may require. After considering
3 all of these factors, EPA has determined and Respondent agrees that an appropriate penalty to
4 settle this action is in the amount of Eighty-Five Thousand Dollars (\$85,000). Seventy-Five
5 Thousand Dollars (\$75,000) of the penalty settles the CWA violations, and Ten-Thousand
6 Dollars (\$10,000) of the penalty settles the CERCLA violation.

7 5.5. Respondent consents to issuance of the Final Order set forth in Part VI, below,
8 agrees to pay the total civil penalty set forth in Paragraph 5.4, above, within thirty (30) days of
9 the effective date of this Final Order, and agrees to the performance of the SEP described herein.

10 5.6. Payments under this CAFO shall be made by cashier's checks or certified checks.
11 The check for the \$75,000 payment to resolve the CWA violations shall be payable to the order
12 of "Treasurer, United States of America." The check for the \$10,000 payment to resolve the
13 CERCLA violation shall be payable to the order of "EPA Hazardous Substances Superfund."
14 Both checks shall be delivered to the following address:

15 U.S. Environmental Protection Agency
16 Region 10
17 Fines and Penalties
18 Cincinnati Finance Center
19 PO Box 979077
20 St. Louis, MO 63197-9000

21 Respondent shall note on the check the title and docket number of this action.

22 5.7. Respondent shall serve photocopies of the checks described in Paragraph 5.6,
23 above, on the Regional Hearing Clerk and the EPA Region 10 Office of Environmental Cleanup
24 at the following addresses:
25

1 Regional Hearing Clerk
2 U.S. Environmental Protection Agency
3 Region 10
4 1200 Sixth Avenue, Suite 900, ORC-158
5 Seattle, WA 98101

6 U.S. Environmental Protection Agency, Region 10
7 Office of Environmental Cleanup
8 Attn: Suzanne Powers
9 300 Desmond Dr. S.E., Suite 102
10 Lacey, WA 98503

11 5.8. If Respondent fails to pay the penalty assessed by this CAFO in full by the due
12 date set forth in Paragraph 5.5, above, the entire unpaid balance of penalty and accrued interest
13 shall become immediately due and owing. If Respondent fails to pay the penalty assessed,
14 Respondent may be subject to a civil action to collect the assessed penalty under the CWA and
15 CERCLA, together with interest, fees, costs, and additional penalties described below. In any
16 collection action, the validity, amount, and appropriateness of the CWA penalty amount shall not
17 be subject to review.

18 5.9. If Respondent fails to pay any portion of the penalty assessed by this CAFO in
19 full by the due date set forth in Paragraph 5.5, above, Respondent shall be responsible for
20 payment of the amounts described below:

- 21 a. Interest. Any unpaid portion of the assessed penalty shall bear interest at a rate
22 established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717(a)(1) from
23 the effective date of the Final Order set forth in Part VI, below, provided,
24 however, that no interest shall be payable on any portion of the assessed penalty
25 that is paid within thirty (30) days of the effective date of the Final Order.
- b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge
of \$15 shall be paid if any portion of the assessed penalty is more than 30 days
past due.

1 c. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to Section
2 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), if Respondent fails to pay the
3 penalty as set forth in Paragraph 5.6 on a timely basis, for that part attributable to
4 the CWA violations, Respondent shall pay (in addition to any assessed penalty
5 and interest) attorneys fees and costs for collection proceedings and a quarterly
6 nonpayment penalty for each quarter during which such failure to pay persists.
7 Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of
8 the aggregate amount of Respondent's penalties and nonpayment penalties which
9 are unpaid as of the beginning of such quarter. Pursuant to 31 U.S.C.
10 § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any
11 portion of the assessed penalty for the CERCLA violation that is more than 90
12 days past due, which nonpayment penalty shall be calculated as of the date the
13 underlying penalty first becomes past due.

14 5.10. Respondent shall implement and complete the SEP within 90 days of the effective
15 date of this CAFO, in accordance with all provisions described in this Consent Agreement.
16 Respondent agrees that the SEP is intended to improve emergency management by allowing a
17 more immediate and effective response in the event of an emergency.

18 5.11. Respondent shall purchase and arrange for delivery of the equipment listed at
19 Attachment A to the Shoshone County Fire District #3 for use in fighting fires, including
20 wild/forest fires. This equipment will protect public safety and reduce the potential of sediment
21 transport to local receiving waters.

22 5.12. Respondent's deadline to perform the SEP shall be excused or extended if such
23 performance is prevented or delayed solely by events which constitute a Force Majeure event. A
24 Force Majeure event is defined as any event arising from causes beyond the reasonable control
25

1 of Respondent, including its employees, agents, consultants, and contracts, which could not be
2 overcome by due diligence and which delays or prevents the performance of the SEP within the
3 specified time period. A Force Majeure event does not include, inter alia, increased costs of
4 performance, changed economic circumstances, changed labor relations, normal precipitation or
5 climate events, changed circumstances arising out of the sale, lease, or other transfer or
6 conveyance of title or ownership or possession of a site, or failure to obtain federal, state, or local
7 permits.

8 5.13. The cost to Respondent of implementing the SEP shall be not less than \$17,000 in
9 accordance with the specifications set forth in Paragraph 5.11. Respondent shall include
10 documentation of the expenditures made in connection with the SEP as part of the SEP
11 Completion Report.

12 5.14. Respondent hereby certifies that, as of the date of this Consent Agreement,
13 Respondent is not required to perform or develop the SEP by any federal, state, or local law or
14 regulation; nor is Respondent required to perform or develop the SEP by any other agreement,
15 under a grant, or as injunctive relief in any other case. Respondent further certifies that it has not
16 received, and is not presently negotiating to receive, credit in any other enforcement action for
17 the SEP. For Federal income tax purposes, Hecla Mining Company agrees that it will neither
18 capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the
19 SEP.

20 5.15. Respondent shall submit a SEP Completion Report to EPA within 90 days of the
21 effective date of the CAFO. The SEP Completion Report shall contain the following
22 information:

- 23 a. A description of the SEP as implemented;
- 24
- 25

- 1 b. Itemized costs, documented by copies of purchase orders and receipts or cancelled
2 checks;
- 3 c. Certification that the SEP has been fully implemented pursuant to the provisions
4 of this CAFO;
- 5 d. A description of any operating problems encountered and the solutions thereto;
6 and
- 7 e. A description of the environmental and public health benefits resulting from
8 implementation of the SEP.

9 5.16. Respondent agrees that failure to submit the SEP Completion Report required by
10 Paragraph 5.15, above, shall be deemed a violation of this CAFO and Respondent shall become
11 liable for stipulated penalties pursuant to this CAFO.

12 5.17. Unless otherwise instructed in writing by EPA, Respondent shall submit all
13 notices and reports required by this CAFO by first class mail, overnight mail, or hand delivery
14 to:

15 Suzanne Powers
16 U.S. Environmental Protection Agency, Region 10
17 Washington Operations Office
18 300 Desmond Drive SE, Suite 102
19 Lacey, WA 98503

20 5.18. Respondent agrees that EPA may inspect Respondent's records related to the SEP
21 at any reasonable time in order to confirm that the SEP is being undertaken in conformity with
22 the representations made herein.

23 5.19. Respondent shall maintain legible copies of documentation of the underlying data
24 for documents or reports submitted to EPA pursuant to this CAFO until the SEP Completion
25 Report is accepted pursuant to Paragraph 5.20, and Respondent shall provide the documentation
of any such underlying data to EPA within 15 days of a written request for such information. In

1 all documents or reports including, without limitation, the SEP Completion Report submitted to
2 EPA pursuant to this CAFO, Respondent shall, by a corporate officer, sign and certify under
3 penalty of law that the information contained in such a document or report is true, accurate, and
4 not misleading by signing the following statement:

5 I certify under penalty of law that I have examined and am familiar with
6 the information submitted in this document and all attachments and that, based
7 on my inquiry of those individuals immediately responsible for obtaining the
8 information, I believe that the information is true, accurate, and complete. I am
9 aware that there are significant penalties for submitting false information, including
10 the possibility of fines and imprisonment.

11 5.20. Following receipt of the SEP Completion Report described in Paragraph 5.15
12 above, EPA will do one of the following: (i) accept the Report; (ii) reject the Report, notify
13 Respondent, in writing, of deficiencies in the Report and provide Respondent an additional 30
14 days in which to correct any deficiencies; or (iii) reject the Report and seek stipulated penalties
15 in accordance with Paragraph 5.22.

16 5.21. In the event the SEP is not completed as contemplated by this CAFO and this
17 failure was not caused solely by events which constitute a Force Majeure as defined by
18 Paragraph 5.12, above, then stipulated penalties shall be due and payable by Respondent to EPA
19 in accordance with Paragraph 5.22, below. Schedules herein may be extended based upon
20 mutual written agreement of the parties.

21 5.22. In the event that Respondent fails to comply with any of the terms or provisions of
22 this CAFO relating to the performance of the SEP described in the preceding and/or to the extent
23 that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in
24 this CAFO, Respondent shall be liable for stipulated penalties according to the provisions set
25 forth below:

1 a. For a SEP which has not been completed satisfactorily pursuant to this CAFO,
2 Respondent shall pay a stipulated penalty to the United States in the amount of
3 \$17,000, less the amount actually expended.

4 b. For failure to submit the SEP Completion Report as required by Paragraph 5.15
5 above, Respondent shall pay a stipulated penalty in the amount \$100.00 for each
6 day after the report is due until the report is received by EPA, not to exceed
7 \$2,500.00.

8 5.23. Stipulated penalties under Paragraph 5.22, above, shall begin to accrue on the day
9 after performance is due, and shall continue to accrue through the final day of satisfactory
10 completion of the activity, subject to the maximum set forth in Paragraph 5.22(b), above.

11 5.24. Respondent shall pay stipulated penalties within 15 days of receipt of a written
12 demand by EPA for such penalties. Payment shall be in accordance with the provisions of
13 Paragraph 5.6, above. Interest and late charges shall be paid as stated in Paragraph 5.9, above.

14 5.25. Except as provided in Paragraph 5.31, below, nothing in the CAFO shall be
15 construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other
16 remedies or sanctions available by virtue of Respondent's violation of this agreement or of the
17 statutes and regulations upon which this agreement is based, or for Respondent's violation of any
18 applicable provision of law.

19 5.26. Any public statement, oral or written, in print, film, or other media, made by
20 Respondent making reference to the SEP shall include the following language: "This project
21 was undertaken in connection with the settlement of an administrative enforcement action taken
22 by the U.S. Environmental Protection Agency under the Comprehensive Environmental
23 Response, Compensation and Liability Act."

1 5.27. This CAFO shall not relieve Respondent of its obligation to comply with all
2 applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or
3 determination of, any issue related to any federal, state, or local permit, nor shall it be construed
4 to constitute EPA approval of the equipment or technology purchased by Respondent in
5 connection with the SEP under the terms of this CAFO.

6 5.28. Respondent represents that it is duly authorized to execute this CAFO and that the
7 party signing this CAFO on its behalf is duly authorized to bind Respondent to the terms of this
8 CAFO. This CAFO may be executed in multiple counterparts, each of which shall be deemed to
9 have the same force and effect as an original. A facsimile signature shall be treated as an
10 original.

11 5.29. Except as otherwise provided by statute, each party shall bear its own costs in
12 bringing or defending this action.

13 5.30. The provisions of this CAFO shall bind Respondent and its agents, servants,
14 employees, successors, and assigns.

15 5.31. Compliance with all the terms and conditions of this CAFO shall result in full
16 settlement and satisfaction of all claims for penalties alleged in sections III and IV above.

17 5.32. The above provisions are STIPULATED AND AGREED upon by Respondent
18 and EPA.

19
20 DATED:

HECLA MINING COMPANY:

21
22 September 10, 2008

Mike D. Dexter

Signature

Print Name: Mike D. Dexter

Title: V.P. General Manager

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CONSENT AGREEMENT AND FINAL ORDER - 17
DOCKET NO. CWA-10-2008-0132

U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-1037

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DATED:

9.17.08

U.S. ENVIRONMENTAL PROTECTION AGENCY:



Stephanie L. Mairs
Assistant Regional Counsel

DATED:

9/16/08



Courtney Hamamoto
Assistant Regional Counsel

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VI. FINAL ORDER

6.1 The terms of the foregoing Consent Agreement are hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the foregoing terms of the settlement.

6.2 This CAFO shall constitute a settlement by EPA of all claims for civil penalties pursuant to the CWA and CERCLA for the violations alleged in Parts III and IV, above. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CWA and CERCLA, applicable CWA and CERCLA regulations, and/or any permits issued thereunder.

6.3 In accordance with Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the Idaho Department of Environmental Quality has been given the opportunity to consult with EPA regarding the assessment of the administrative civil penalty against Respondent.

6.4 Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), EPA has published public notice of its intent to assess an administrative penalty against Respondent and to invite public comment in accordance with 40 C.F.R. § 22.45. More than forty (40) days have elapsed since the issuance of this public notice, and EPA has received no petition to set aside the Consent Agreement contained herein.

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6.5 This Final Order shall become effective upon filing.

SO ORDERED this 18th day of November, 2008.



RICHARD G. McALLISTER
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

ATTACHMENT A

Hecla Mining Company Supplemental Environmental Project

Hecla Mining Company will purchase and arrange for delivery of the equipment listed below to the Shoshone County Fire District #3, for use in fighting wild/forest fires.

Vigilant Pumper System (to be installed on an existing truck)	\$9,947.00
5 ea. USFS Pulaski Axe @ \$86.85 ea.	\$434.25
4 ea. Fire Shelters w/ case @ \$340.00 ea.	\$1,360.00
1 – 8 hp Wick – 250 Pump	\$2,203.65
500 ft. of 1” Fire Hose @ \$1.25/ft.	\$625.00
3 ea. 1” NH x 1 ½” Wye Control Valves @ \$146.50 ea.	\$439.50
4 ea. 1” NPJH Combo Nozzle @ \$16.40 ea.	\$65.60
2 ea. 1 ½” NST Dual Gallonage Combo Nozzle @ \$90.50 ea.	\$181.00
1 ea. Portable SnapTank Complete 3,000 gallon	\$1,818.00
TOTAL	\$17,074.00

Certificate of Service

The undersigned certifies that the original and a copy of the attached Consent Agreement and Final Order **In the Matter of: Hecla Mining Company Company, Docket No.: CWA-10-2009-0015**, was filed with the Regional Hearing Clerk.

On November 20, 2008, the undersigned certifies that a true and correct copy of the document was delivered to:

Courtney Hamamoto
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Mail Stop ORC-158
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/~~return~~ receipt on November 20, 2008, to:

Mike Dexter
General Manager
Hecla Lucky Friday Mine
P.O. Box 31
Mullan, Idaho 83846

Kevin Beaton
Stoel Rives
101 S. Capitol Boulevard, Suite 1900
Boise, Idaho 83702

Dated: 11/20/08

By: Shawn Eng
U.S. EPA, Region 10

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7001 2510 0003 7204 7300

[Redacted area]

Postage	\$	Postmark Here <i>11/20/08</i>
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		

To **Kevin Beaton**
 Ser **Steel Rives**
 Str or f **101 S. Capitol Boulevard, Suite 1900**
 Cit **Boise, ID 83702**

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7001 2510 0003 7204 7294

[Redacted area]

Postage	\$	Postmark Here <i>11/20/08</i>
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		

Mike Dexter, General Manager
Hecla Lucky Friday Mine
P.O. Box 31
Mullan, ID 83846