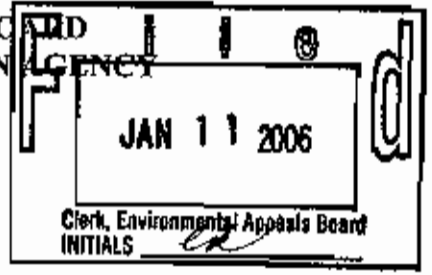


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



_____)
In re: _____)
Hecla Mining Company, Lucky Friday Mine _____)
NPDES Permit No. ID-000017-5 _____)
_____)

NPDES Appeal No. 03-10

ORDER REQUIRING STATUS REPORT/BRIEF

Hecla Mining Company, Lucky Friday Unit ("Hecla") filed a timely petition seeking review of certain conditions of the Clean Water Act ("CWA") National Pollution Discharge Elimination System ("NPDES") permit, dated August 12, 2003 (the "Permit"), issued to it by U.S. EPA Region 10 ("Region"). Among other things, Hecla argued that the Region erred by issuing the Permit without completing action on Hecla's request for a variance from lead and zinc water quality criteria, and Hecla argued that it should have been granted a compliance schedule for certain monitoring requirements set forth in the Permit. The Region opposed Hecla's request for review.

Subsequently, the State of Idaho issued a revised section 401 certification on July 15, 2004 (hereinafter "2004 Certification"), and Hecla filed a request with the Region, pursuant to 40 C.F.R. §§ 122.62, 124.5 and 124.55, seeking "incorporation" of the 2004 Certification "into" the Permit. On October 13, 2004, we remanded five issues raised in Hecla's Petition that may be affected by Hecla's request for modification of the Permit, along with the associated Permit conditions. We also directed the Region to provide status reports regarding the status of the remand proceedings and the Region's action on Hecla's variance request.

In November 2003, Hecla and the Region filed a stipulated motion by which Hecla requested to withdraw its request that we review the method detection limit for zinc set forth in Part LD of the Permit. We granted partial withdrawal of Hecla's Petition on this issue in November 2003. Later, in October, 2004, Hecla indicated its desire to withdraw its appeal regarding the question of a compliance schedule or implementation period for flow-proportioned composite sampling, continuous effluent flow monitoring, and in-stream flow monitoring, and, in November 2004, we granted a partial dismissal of Hecla's Petition on that issue.


Through its status reports, the Region has informed the Board that, in March 2005, the Region denied Hecla's variance request and that Hecla has not challenged that denial. The Region has also informed the Board that it completed processing Hecla's request for a modification of the Permit and issued its decision on December 28, 2005.

Upon consideration of the foregoing, we hereby direct Hecla to file, on or before Wednesday, February 1, 2006, a status report or brief identifying any issues raised in its Petition that have not been rendered moot by subsequent events and that Hecla desires to pursue further on appeal. Hecla's report or brief shall also identify the extent to which its arguments regarding those issues remain the same as set forth in its Petition or are changed as a result of subsequent events.

So ordered.

Dated: 1/11/06

ENVIRONMENTAL APPEALS BOARD

By: 

Edward E. Reich
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Requiring Status Report/Brief, in the matter of Hecla Mining Company, NPDES Appeal No. 03-10, were sent to the following persons in the manner indicated:

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Dated: JAN 11 2006


Annette Duncan
Secretary