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ENVIRONMENTAL APPEALS BOARD

101 S. Capitol Blvd., Suite 1900
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www.stoel.com

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Name:	Sender's Direct Dial:	Sender's Direct Email:
FROM: Teresa A. Hill	(208) 387-4264	tabill@stoel.com

Client: Hecla Mining Company	Matter: Lucky Friday
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Date: October 27, 2004

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COMMENTS:**Attached is Hecla Mining Company's Status Report.****You will receive the original and the appropriate copies by regular mail.****Thank you,****Sheryl Gillogly, Legal Assistant to Teresa A. Hill**

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ENVIRONMENTAL APPEALS BOARD

Kevin J. Beaton
Teresa A. Hill
STOEL RIVES LLP
101 S. Capitol Blvd., Ste. 1900
Boise, Idaho 83702-5958
Telephone: (208) 389-9000
Facsimile: (208) 389-9040

Attorneys for Hecla Mining Company

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

IN THE MATTER OF)
HECLA MINING COMPANY -)
LUCKY FRIDAY MINE)
NPDES Permit No. ID-000017-5)
_____)

Appeal Number - NPDES 03-10
HECLA MINING COMPANY'S
STATUS REPORT

Hecla Mining Company, Lucky Friday Unit ("Hecla") hereby submits this status report pursuant to the Environmental Appeals Board's ("EAB") October 13, 2004 Remand Order and Order Requiring Status Report ("Remand Order").

I. PROCEDURAL BACKGROUND

On September 10, 2003 Hecla filed a Petition for Review and supporting memorandum seeking review of certain conditions contained in National Pollutant Discharge Elimination System ("NPDES") Permit No. ID-000017-5 (the "Lucky Friday Permit"). The Environmental Protection Agency ("EPA") Region 10 opposed Hecla's request for review of the Region's permitting decision.

On July 28, 2004 Hecla filed a motion to supplement the EAB record to include a revised section 401 certification issued by the state of Idaho on July 15, 2004 ("2004 Certification"). On August 4, 2004 the Board issued an order setting a briefing schedule for arguments regarding this issue. On August 19, 2004 Hecla filed its brief requesting that the EAB remand the five issues on appeal that are affected by the 2004 Certification and direct the Region to consider Hecla's request for incorporation of the revised permit conditions.¹ The Region's responses, filed August 11, 2004 and September 7, 2004, requested that the Board deny the motion to supplement the record with the 2004 Certification and issue a decision on the merits of Hecla's petition for Review.

On October 13, 2004 the EAB issued a decision to remand the five issues and associated Lucky Friday Permit conditions that are potentially affected by the 2004 Certification. *See* Remand Order at 13.² The EAB also requested a status report regarding: (1) Hecla's request for a variance from lead and zinc water quality criteria; and (2) Hecla's argument that it should be granted a compliance schedule or implementation period for compliance with some of the Lucky Friday Permit's sampling and monitoring requirements. Remand Order at 13-14. Specifically, the EAB directed the Region to file a status update on the variance request and to identify when it anticipates making a final decision on Hecla's variance request. *Id.* at 14. The EAB directed Hecla to file a status report on the installation of monitoring and sampling equipment. *Id.* at 15. Hecla timely submits this Status Report pursuant to the EAB's Remand Order.

¹ On August 19, 2004 Hecla sent a request to the Region seeking incorporation of the 2004 Certification into the Lucky Friday permit.

² The five issues remanded include: (1) mercury effluent limits and monitoring; (2) seepage study and hydrological analysis; (3) interim limits; (4) upper limit for pH; and (5) bioassessment monitoring and whole effluent toxicity sampling. *Id.*

II. DISCUSSION

A. Status of Monitoring and Sampling Conditions

The EAB requests a status report of Hecla's efforts to acquire, install and debug the monitoring equipment necessary to comply with the Lucky Friday Permit conditions regarding flow-proportioned composite sampling. In its Petition for Review Hecla sought review of the Region's failure to include a compliance schedule or implementation period for flow-proportioned composite sampling, continuous effluent flow monitoring and in-stream flow monitoring. Petition for Review at 22-23. In the Petition for Review Hecla noted that it "intends to comply with such requirements" but was unable to prior to the effective date of the Lucky Friday Permit and that once Hecla was able to acquire, install and debug the monitoring equipment, it would withdraw the appeal of these conditions. *Id.* at 22.

Since September 2003, to comply with the monitoring and sampling requirements, Hecla has worked diligently to evaluate, select, approve, purchase, receive, install, implement, modify and debug the monitoring and sampling equipment. A highlight of the work necessary to meet the conditions of the Permit includes the following. Hecla has prepared the building sites where the samplers/monitors were to be installed, including preparation of foundations, running power to the sites and evaluating and installing buildings on the sites. Hecla also evaluated and installed the composite samplers, continuous recording flow monitors, purchased a stream flow velocity meter and staff gauges. Numerous problems were encountered in the set-up and programming of the instrumentation. In addition, in August, Hecla made improvements to the samplers and monitoring lines to winterize them and prevent freezing problems encountered last winter. Hecla has taken numerous instream flow readings and rating curves have been developed. Further refinement of the rating curves will occur as subsequent measures are taken.

Based on its work over the past year, as of November 1, 2004, Hecla will have acquired, installed and completed debugging of the necessary monitoring equipment to conduct the flow-proportioned composite sampling, continuous effluent flow monitoring and in-stream flow monitoring. Since Hecla is able to comply with these conditions of the Lucky Friday Permit, Hecla therefore stipulates to the withdrawal and dismissal of its request for review of the Region's failure to include a compliance schedule and implementation period for these monitoring requirements (issue number 5 in Hecla's Petition for Review).

III. CONCLUSION

Hecla timely submits this status report as required by the EAB Remand Order and based on the foregoing, agrees to the withdrawal and dismissal of its request for review of the Region's failure to include a compliance schedule and implementation period for the flow-proportioned composite sampling, continuous effluent flow monitoring and in-stream flow monitoring.

Respectfully submitted this 27th day of October, 2004.

Steel Rives LLP

By 
Teresa A. Hill
Attorneys for Hecla Mining Company

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of October, 2004, I served a copy of the HECLA MINING COMPANY'S STATUS REPORT by mail on:

David Allnut
Assistant Regional Counsel
Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

Kelly Huynh
Acting Manager
NPDES Permits Unit
Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101



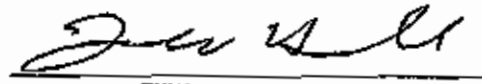
Teresa A. Hill

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of October, 2004, I served a copy of the HECLA MINING COMPANY'S STATUS REPORT by facsimile and regular mail on:

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Region 10
1200 Sixth Avenue
Seattle, Washington 98101



Teresa A. Hill