

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
ENVIRONMENTAL APPEALS BOARD

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In the Matter of: ) Appeal No. NPDES 19-01  
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HECLA LIMITED LUCKY FRIDAY )  
MINE, LUCKY FRIDAY UNIT )  
 )  
NPDES Permit No. ID0000175 )  
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**JOINT MOTION FOR STAY OF PROCEEDINGS**

The United States Environmental Protection Agency (“EPA”) Region 10 (“Region 10”) and Hecla Limited Lucky Friday Mine (“Hecla”) jointly move for a stay of the proceedings in the above-captioned matter.

On July 22, 2019, Hecla filed a Petition for Review (“EAB Petition”) with the Environmental Appeals Board (“EAB”) that challenged certain conditions in the National Pollutant Discharge Elimination System (“NPDES”) Permit issued to Hecla by Region 10. The Petition raised the following issues with respect to the Permit:

- (1) Establishment of biotic ligand model (“BLM”) based copper effluent limits;
- (2) Application of the same effluent limits to Outfalls 001 and 002; and
- (3) Failure to establish flow-tiered effluent limits in the Permit.

On July 26, 2019, Hecla filed a Petition to Initiate Contested Case and Request to Stay 401 Certification (“401 Certification Petition”) with the State of Idaho Board of Environmental Quality that challenged the Idaho Department of Environmental Quality’s (“IDEQ’s”) Clean Water Act Section 401 Certification (“401 Certification”). *See* Attachment A. The 401 Certification Petition contains the same or similar issues as the EAB Petition. Specifically, the 401 Certification Petition raised the following issues with respect to the Certification:

- (1) Erroneously certifying that the BLM-based copper effluent limits in the absence of site-specific data;
- (2) Failure to establish a compliance schedule for the BLM-based copper effluent limits for Outfall 003;
- (3) Failure to authorize flow-tiered effluent limits in the 401 Certification; and,
- (4) Erroneously authorizing the same effluent limits for Outfalls 001 and 002.

*See* Attachment A.

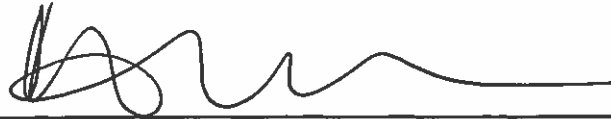
On July 30, 2019, IDEQ and Hecla entered into a Stipulation to Stay Contested Case (“Stipulation”) that stayed the 401 Certification Petition proceedings to allow the parties to engage in settlement discussions. *See* Attachment B. IDEQ and Hecla agreed to stay the 401 Certification Petition proceedings until October 15, 2019. *Id.*

Since the conditions in the 401 Certification affect the effluent limits and conditions in the NPDES Permit, the parties believe that the 401 Certification Petition proceedings should be resolved before the EAB Petition proceeds. During the pendency of the requested stay of the EAB Petition proceedings, pursuant to 40 CFR § 124.16(a)(2), the contested permit conditions would be stayed. *See* Attachment C. As such, the parties request that the EAB stay the EAB Petition proceedings until the 401 Certification Petition proceedings are resolved either through settlement or litigation. The parties further propose to submit a Status Report on November 1,

2019 to inform the EAB on whether IDEQ and Hecla were able to resolve the 401 Certification Petition proceedings through settlement.

DATED: August 15, 2019


On behalf of Region 10:



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**CERTIFICATE OF SERVICE**

I certify that the foregoing "Joint Motion for Stay of Proceedings" was sent to the following persons, in the manner specified, on the date below:

By electronic filing to:

U.S. Environmental Protection Agency  
Clerk of the Environmental Appeals Board  
1200 Pennsylvania Avenue, NW  
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DATED: August 15, 2019



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