



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, WA 98101

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ENVIRONMENTAL APPEALS BOARD

Reply To  
Attn Of: OWW-130

NOV 28 2004

Mike Dexter, Unit Manager  
Hecla Mining Company  
Lucky Friday Mine  
P.O. Box 31  
Mullan, Idaho 83846-0031

Re: Notification of Remanded and Withdrawn Permit Conditions, Hecla Mining Company,  
Lucky Friday Mine NPDES Permit No. ID-000017-5, Issued August 12, 2003

Dear Mr. Dexter:

On October 13, 2004, the Environmental Appeals Board ("EAB") issued an order that remanded certain conditions of the above-referenced National Pollutant Discharge Elimination System ("NPDES") permit "to allow the Region to incorporate any changes it determines are appropriate" in light of Idaho's decision to revise its Clean Water Act ("CWA") Section 401 certification of the permit. This letter is written to provide notification, in accordance with 40 C.F.R. § 124.19(d), of those portions of the permit that the Region considers either remanded or withdrawn and that the Region intends to address through a remand and modification proceeding in the near future. The letter also identifies certain additional modifications that the Region intends to propose during this remand and modification proceeding.

Remanded Conditions

The EAB's remand order specifically identified "five issues (and associated Permit conditions)" that the EAB was remanding to the Region for further consideration. The Region interprets the EAB's order to have remanded the following permit conditions:

1. The final effluent limitations for mercury specified in Tables 1, 2, 3, and 4 of the permit;
2. The seepage study and hydrological analysis required by Part I.C. of the permit;
3. The compliance schedules and interim effluent limitations specified in Part I.A.4. and Table 5 of the permit;
4. The final upper effluent limitation for pH specified in Part I.A.3. of the permit;  
and

5. The whole effluent toxicity testing requirements of Part I.B. of the permit and the bioassessment monitoring requirements of Part I.D.3. of the permit.

#### Withdrawn Conditions

Because the EAB's remand order did not identify all of the permit conditions potentially affected by Idaho's revised CWA Section 401 certification, the Region has decided to voluntarily withdraw one additional set of permit conditions which it intends to address during a permit modification proceeding to run concurrently with the remand proceedings ordered by the EAB. These withdrawn permit conditions are:

1. The final effluent limitations for copper specified in Tables 1, 2, 3, and 4 of the permit.

#### Additional Permit Modifications

The Region intends to propose three additional permit modifications during the remand and modification proceeding described above to address certain new information received by the Region after the August 12, 2003 issuance of the permit. These additional permit modifications are:

1. A new requirement to submit the design of the water recycling system to the Idaho Department of Environmental Quality, as specified in the revised CWA Section 401 certification;
2. A revised method detection limit for zinc of 10 ug/l in Table 7 of the permit, as previously requested by Hecla and approved by the Region<sup>1</sup>; and
3. New final effluent limitations for total suspended solids that are expressed in terms of loading in Tables 1, 2, 3, and 4 of the permit, as required by 40 C.F.R. § 122.44(d)(1)(vii)(B) and the sediment TMDL for the South Fork Coeur d'Alene River approved by the Region on August 21, 2003.

#### Effective Conditions

With the exception of those additional conditions identified as stayed in the Region's October 1, 2003 letter to you, the remainder of the August 12, 2003 NPDES permit's conditions are uncontested and severable from the remanded and withdrawn conditions, and, pursuant to 40 C.F.R. §§ 124.16(a)(2) and 124.19(d), remain fully effective and enforceable. In addition,

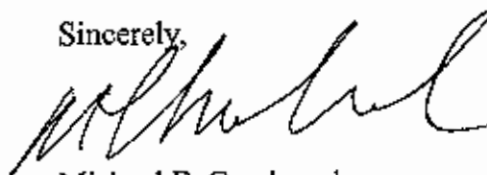
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<sup>1</sup> By letter dated October 31, 2003, the Region approved Hecla's request to use an EPA-approved test method with a method detection limit equivalent to or less than 10 ug/l when monitoring for zinc under the permit. This modification would simply incorporate this approved change into the language of the permit itself.

pursuant to 40 C.F.R. § 124.16(c)(2), Hecla must comply with the monitoring requirements and effluent limitations for cadmium, lead, zinc, copper, mercury, silver, outfall flow, and pH (upper limit) contained in its existing NPDES permit. Furthermore, until final agency action under 40 C.F.R. § 124.19(f), Hecla is only authorized to discharge pollutants from those outfall(s) identified in its existing permit.

Please feel free to contact Patty McGrath at (206) 553-0979 should you have questions regarding this letter.

Sincerely,



Michael F. Gcarheard  
Director  
Office of Water & Watersheds

cc: Environmental Appeals Board  
Kevin J. Beaton, Steel Rives LLP  
Dave Holland, Hecla  
Bob Trindle, Hecla  
John Galbavy, Hecla  
Ed Tulloch, IDEQ Coeur d'Alene Office  
Darren Brandt, IDEQ Coeur d'Alene Office  
Justin Hayes, Idaho Conservation League

