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ENVR. APPEALS BOARD

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TO: Clerk	202-233-0121	Environmental Appeals Board	202-233-0122

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

Client: Hecla Mining Company	Matter: Lucky Friday
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Date: July 28, 2004

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COMMENTS:

Attached is Hecla Mining Company's Motion to Supplement Record.

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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ENVIR. APPEALS BOARD

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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
MOTION TO SUPPLEMENT
RECORD

Hecla Mining Company, Lucky Friday Unit ("Hecla") hereby respectfully requests the Environmental Appeals Board to supplement the record with the revised certification by the State of Idaho pursuant to Section 401 of the Federal Water Pollution Control Act ("Clean Water Act"), issued on July 15 2004 ("revised Section 401 Certification"), attached hereto as Exhibit A.


On September 10, 2003 Hecla filed a Petition for Review and supporting memorandum seeking review of conditions contained in National Pollutant Discharge Elimination System ("NPDES") Permit No. ID-000017-5 (the "Lucky Friday Permit"). On September 16, 2003, the Clerk of the Environmental Appeals Board requested the Environmental Protection Agency ("EPA") to file a certified index of the documents in the administrative record of the permit decision and copies of the portions of the record that pertain to the matters raised by the petition.

EPA filed the Relevant Portions of the Administrative Record on October 30, 2004. Included in the administrative record as Exhibit No. 16 is the Section 401 Certification from the Idaho Department of Environmental Quality ("IDEQ"). See Exhibit No. 16, June 17, 2003 letter to Robert Robichaud at EPA from Gwen Fransen at IDEQ.

On July 15, 2004 IDEQ issued a revised Section 401 Certification for the Lucky Friday Mine. See Exhibit A. The revised Section 401 Certification replaces the previously submitted Section 401 Certification (Exhibit No. 16). Because the previously submitted Section 401 Certification is obsolete and the revised Section 401 certification is relevant to the issues presented in this appeal, Hecla respectfully requests the Environmental Appeals Board to supplement the record with the revised Section 401 Certification.

Respectfully submitted this 28th day of July, 2004.

Steel Rives LLP

By 
Teresa A. Hill
Attorneys for Hecla Mining Company

CERTIFICATE OF SERVICE

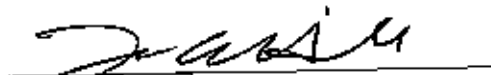
I hereby certify that on this 28th day of July, 2004, I served a copy of the MOTION TO SUPPLEMENT RECORD by facsimile on:

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

Facsimile 206-553-0163

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

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Teresa A. Hill



STATE OF IDAHO
 DEPARTMENT OF
 ENVIRONMENTAL QUALITY

Post-It Fax Note	7671	Date	7/16	# of pages	5
To	Bob Tridle	From	Toni Marlesty		
Co./Dept.		Co.	DEQ		
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Dirk Kempthorne, Governor
 C. Stephen Akred, Director

July 15, 2004

Mr. Robert R. Robichaud
 U.S. Environmental Protection Agency, Region 10
 1200 Sixth Avenue
 Seattle, WA 98101

Re: §401 Certification regarding NPDES Permit No. ID-000017-5
 Hecla Mining Company - Lucky Friday Mine and Mill, Mullan, Idaho

Dear Mr. Robichaud:

The State of Idaho Department of Environmental Quality (DEQ) has reviewed the facts and information presented in the revised draft National Pollutant Discharge and Elimination System (NPDES) permit No. ID-000017-5 for the Hecla Mining Company's Lucky Friday Mine and Mill. This letter will serve as certification by the State of Idaho pursuant to the provisions of Section 401 of the Federal Water Pollution Control Act, (Clean Water Act) as amended, 33 USC Section 1341. If the Lucky Friday Mine and Mill complies with the terms and conditions imposed by this permit and the conditions set forth in this §401 Certification, there is reasonable assurance the discharge will comply with the applicable requirements of Sections 208(e), 301, 302, 303, 306, and 307 of the Clean Water Act, including Idaho Water Quality Standards and Wastewater Treatment Requirements (Water Quality Standards).

Mixing Zone

The DEQ authorizes, pursuant to the Water Quality Standards IDAPA 58.01.02.060, the use of the following mixing zones:

Parameter	Flow Tier	Mixing Zone
Copper at Outfall 001	< 14 cfs	50%
	> 14cfs to <32 cfs	25%
	>32 to <113 cfs	25%
	> 113 to <194 cfs	25%
	> 194 cfs	25%
Copper at outfall 002 when outfall 001 waste stream is discharged through outfall 002	<8.6 cfs	50%

	> 8.6 to < 20 cfs	50%
	>20 to <69 cfs	25%
	> 69 to <117 cfs	25%
	> 117 cfs	25%

Copper at outfall 002 when the outfall 003 waste stream is discharged through outfall 002	<20 cfs	50%
	> 20 to < 69 cfs	25%
	> 69 to < 117 cfs	25%
	> 117 cfs	25%

Copper at Outfall 003	<18 cfs	50%
	>18 to <63 cfs	50%
	>63 cfs	25%

Mercury at outfalls 001, 002 and 003: 75% for all flow tiers.

pH at outfalls 001, 002 and 003: 25% for pH above 9.0 su

Silver at outfalls 001, 002 and 003: 25% at all flow tiers.

IDEQ also authorizes EPA to utilize a 25% mixing zones for calculating toxicity triggers for WSL testing.

Compliance Schedule

This certification includes authorization of a five-year compliance schedule to meet metals limits set forth within the draft permit pursuant to the Water Quality Standard IDAPA 58.01.02.400.03 for cadmium, lead, zinc, and mercury. The permittee has demonstrated that they can attain the effluent limits for copper and silver therefore, a compliance schedule is not needed or authorized. In an effort to develop a water-recycling program to help reduce metals loading, engineering and design of such systems must first be developed and installed. It is impossible to know or predict with any certainty what type of water treatment may be required until a water-recycling program is implemented. Furthermore, as part of a recycling program, discharge outfalls may be combined complicating the chemical composition of the effluent and thus influencing what type of water treatment system may be needed. Enough time must be allowed for proper testing and analyses of any combined effluent to ensure that a water treatment system, if needed, will enable the Lucky Friday Mine to meet permit limits. The compliance schedule for cadmium, lead, zinc, and mercury shall be as follows:

- 1) Hecla shall design and implement a water recycling system within 24 months (2 years) from the date the permit is issued to achieve permit limits.
- 2) Hecla shall have at the end of 24 months (2 years) an additional 12 months (1 year) for testing and analysis.

- 3) If it is determined that a water treatment system is needed to comply with the limits set forth in the permit. Hecla shall design, build, and implement a water treatment system and comply with permit limits for cadmium, lead, zinc, and mercury on or before permit expiration.
- 4) During the period that the compliance schedule is in effect interim limits shall apply to the outfalls based on the discharge levels reported in the DMRs (Table 1).

Table 1 - Interim Effluent Limitations

Outfall	Parameter	Maximum Daily Limit		Average Monthly Limit	
		ug/l	lb/day	ug/l	lb/day
Outfall 001 and Outfall 002 when the outfall 001 waste stream is discharged through outfall 002	Cadmium ¹ , total recoverable	6.0	0.046	2	0.023
	Lead ¹ , total recoverable	899	5.96	440	3.10
	Mercury ¹ , total	0.2 ²	0.0028 ²	0.2	0.0028
	Zinc ¹ , total recoverable	880	6.53	469	2.54
Outfall 003 and Outfall 002 when the outfall 003 waste stream is discharged through outfall 002	Cadmium ¹ , total recoverable	3	0.043	2	0.022
	Lead ¹ , total recoverable	321	2.76	265	1.43
	Mercury ¹ , total	0.2	0.0038	0.2	0.0038
	Zinc ¹ , total recoverable	670	6.29	480	4.28

Footnotes:
 1. Reporting is required within 24 hours of a maximum daily violation. See Part III.C.
 2. This interim limit applies to the first three flow tiers for outfall 001 (<14 cfs, 14-32 cfs, and 32-113 cfs) and the first four flow tiers for outfall 002 when the outfall 001 waste stream is discharged through outfall 002 (<8.6 cfs, 8.6-20 cfs, 20-69 cfs and 69-117 cfs).

For the compliance schedule above, Hecla shall, prior to implementing the water recycling system, provide the design of the system to IDEQ for comment. In addition, Hecla shall submit written progress status reports to EPA and DEQ in accordance with section I.A.4.f of the permit. The progress reports shall include the results of Hecla's testing and analysis used to determine the need for a water treatment system.

Bioassessment Monitoring

In order to ensure compliance with the Water Quality Standards, the permit shall include the requirement that Hecla conduct annual instream bioassessment using a sample design that will allow DEQ to make a determination as to the impact of the discharges to the beneficial use. This will likely involved biomonitoring immediately upstream of the discharge, within the mixing zone and just outside the mixing zones for outfalls 001 and 003, beginning in 2007. Hecla shall coordinate the sample design with the Coeur d'Alene Office of DEQ. If effluent is discharged from outfall 002 for six (6) months or longer, monitoring shall be required directly downstream of outfall 002. In the event that discharge effluent is combined to one outfall, annual monitoring

will be required directly downstream of the combined outfall and the abandoned outfall for comparison. Bioassessment monitoring shall be consistent with the most recent DEQ Beneficial Use Reconnaissance Project workplan for wadable streams. Copies of the field forms, macroinvertebrate identification and enumeration, as well as fish taxa and abundance shall be provided to DEQ by January 31 of the following year.

Flow Tiers

The permit establishes multiple flow tiers. Effluent limits are calculated from the minimum upstream flow of each tier. These flow tiers will allow effluent limits to be increased while maintaining Idaho Water Quality Standards.

Hardness Used to Calculate Limits

The state water quality criteria for cadmium, copper, lead, silver, and zinc are based upon hardness. Where a mixing zone has not been authorized (cadmium, lead, and zinc), EPA calculated the limits based upon the effluent hardness. Where a mixing zone was authorized (copper and silver), EPA calculated the limits based upon hardness at the edge of the mixing zone. We certify that these conditions are consistent with Idaho's water quality standards.

IDEQ Notification

Idaho DEQ requests that EPA require the permittee to notify DEQ in conjunction with EPA in all areas where notification is required. We also request that the timeline for EPA notification apply to the state as well.

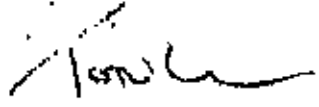
Other Comments

As a general comment, DEQ supports any steps that can be taken to make the all of the permit monitoring requirements less expensive. Consistent with this general comment, DEQ supports the position that the whole effluent toxicity testing should only be required starting in 2007 once Hecla completes its implementation, testing and analysis of the water recycling program. Similarly, the seepage study should be required after implementation of the water recycling program in 2007. DEQ believes that the discharge to the South Fork of the CDA River, if any, resulting from seepage from Hecla's tailings ponds is appropriately covered by this NPDES permit. If, however, the seepage study required by the permit demonstrates the need to the modify the permit, DEQ reserves its right to amend this certification to determine whether the seepage is causing or contributing to a violation of Water Quality Standards.

This certification is conditioned upon the requirement that any material modification of the permit or the permitted activities, including without limitation, any modifications of the permit to reflect new or modified TMDLs, waste load allocations, site-specific criteria, variances, or other new information, shall first be provided to the DEQ for review to determine compliance with state Water Quality Standards and to provide additional certification pursuant to §401. The DEQ is willing to consider pollutant trading pursuant to IDAPA 58.01.02.054.06.

This section 401 certification and associated conditions may be appealed by submitting to DEQ a petition to initiate a contested case, pursuant to Idaho Code § 39-107(5) and the Rules of Administrative Procedure Before the DEQ Board IDAPA 58.01.23, within 35 days of the date of this letter.

Sincerely,



Toni Hardesty
Director

- c: Gwen Franson, DEQ-CDA
- Patty McGrath, EPA
- Doug Conde, DEQ-AG
- Don Essig, DEQ-SO
- Ed Tulloch, DEQ-CDA