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ENVIR. APPEALS BOARD

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July 28, 2004

US MAIL

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board (MC 1103B)
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington D.C. 20460-0001

**Re: In the Matter of Hecla Mining Company - Lucky Friday Mine
NPDES Permitt No. ID-000017-S**

Dear Clerk:

Enclosed is the follow up original of the Motion to Supplement Record, along with five copies.
This Motion was fax filed with the Environmental Appeals Board on July 28, 2004.

Thank you for your assistance in this matter.

Very truly yours,

Teresa A. Hill

Oregon
Washington
California
Utah
Idaho

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ENVIR. APPEALS BOARD

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Boise, Idaho 83702-5958
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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)	Appeal Number - NPDES 03-10
HECLA MINING COMPANY -)	MOTION TO SUPPLEMENT
LUCKY FRIDAY MINE)	RECORD
NPDES Permit No. ID-000017-5)	
_____)	

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.

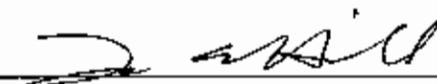
EPA filed the Relevant Portions of the Administrative Record on October 30, 2004. Included in the administrative record as Exhibit No. 16 is the Section 401 Certification from the Idaho Department of Environmental Quality ("IDEQ"). See Exhibit No. 16, June 17, 2003 letter to Robert Robichaud at EPA from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

Stoel Rives LLP

By


Teresa A. Hill

Attorneys for Hecla Mining Company

CERTIFICATE OF SERVICE

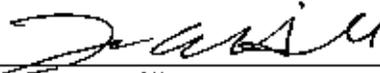
I hereby certify that on this 28th day of July, 2004, I served a copy of the MOTION TO SUPPLEMENT RECORD by facsimile on:

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
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

Facsimile 206-553-0165



Teresa A. Hill



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

Post-It Fax Note 7871		Date 7/16	# of pages 5
To Bob Middle	From Terri Handley		
Co./Dept.	Co. DEQ		
Phone #	Phone #		
Fax #	Fax #		

1410 North Hillen • Boise, Idaho 83708-1255 • (208) 373-0502

Dirk Kempthorne, Governor
C. Stephen Allred, 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 WET 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 analyses.

- 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).

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.G.
 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.

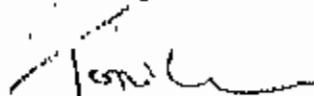
Bioassessment Monitoring

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

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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 Franscn, DEQ-CDA
- Patty McGrath, EPA
- Doug Conde, DEQ-AG
- Don Essig, DEQ-SO
- Ed Tulloch, DEQ-CDA