

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

**IN THE MATTER OF :
TECK ALASKA INCORPORATED**

NPDES Permit AK 003865-3

NPDES Appeal No. 10-04

**TECK ALASKA INCORPORATED'S RESPONSE TO REGION 10's
MOTION TO DISMISS PETITION FOR REVIEW IN PART**

Petitioners filed their Petition on February 16, 2010. Teck Alaska Incorporated ("Teck") is the permittee. By Order dated March 2, 2010, the Board granted Teck leave to respond to the Petition.

By letter dated March 17, 2010, EPA Region 10 withdrew five contested permit conditions pursuant to 40 C.F.R. § 124.19(d).¹ Pursuant to this provision, the Regional Administrator "may . . . withdraw the permit and prepare a new draft permit under § 124.6 addressing the portions so withdrawn."

On March 18, Region 10 filed a Motion to Dismiss Sections II.C.1 and II.C.2 of the Petition and associated claims for relief as moot. Upon such dismissal, Sections II.C.3 and II.C.4 of the Petition will remain pending.

¹ Part I.A.1, Table 1, effluent limitations for lead (monthly average limit), selenium (daily maximum limit), zinc, and weak acid dissociable (WAD) cyanide; and Part I.A.7.a, effluent limitations for Total Dissolved Solids (TDS).

Teck does not oppose Region 10's motion to dismiss Sections II.C.1 and II.C.2 of the Petition as moot.² Teck will file a response to the remaining portions of the Petition on April 5, 2010, as previously directed by the Board.³

DATED: March 31, 2010.

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² Teck understands that the EPA will prepare a new draft permit as to the portions of the 2010 Permit that have been withdrawn, as required by section 124.19(d). Teck reserves all rights with respect to EPA's obligation to prepare a new draft permit as to the portions of the 2010 permit that have been withdrawn, and all rights related to the content of the new draft permit.

³ As Region 10 requested (Motion to Dismiss at pages 5-6), Teck requests that if the Board denies Region 10's Motion to Dismiss, the Board grant Teck at least 15 days from the date of the denial to file a response to Sections II.C.1 and II.C.2 of the Petition.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing TECK ALASKA INCORPORATED'S RESPONSE TO REGION 10's MOTION TO DISMISS PETITION FOR REVIEW IN PART in the matter of TECK ALASKA INCORPORATED, RED DOG MINE, NPDES Appeal No. 10-04, has been filed electronically with the Environmental Appeals Board and was served by United States First Class Mail this day upon the following:

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