



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

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ENVL. APPEALS BOARD

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From: R. David Allnutt
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Date and Time: December 30, 2004 at 9:30am

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

ENVIRONMENTAL APPEALS BOARD

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In the Matter of:

HECLA MINING COMPANY,
LUCKY FRIDAY MINE
NPDES Permit No. ID-000017-5

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) Appeal No. NPDES 03-10
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REGION 10's SECOND STATUS REPORT

In a December 16, 2004 order, the Environmental Appeals Board ("EAB") directed Region 10 of the U.S. Environmental Protection Agency ("Region") to submit a report on the progress of the remand proceedings in the above-referenced matter and to identify when it anticipates issuing its decision on remand and its decision on Petitioner Hecla Mining Company's ("Hecla's") request for a variance. The Region respectfully submits the following Status Report in accordance with this order.

As described in the Region's Brief on Effect of Modified Section 401 Certification, the Region has assigned a permit writer to process Hecla's modification request and this permit writer has already begun compiling the administrative record and drafting the fact sheet and

permit language necessary to propose modifications to the permit. See Region 10's Brief on Effect of Modified Section 401 Certification at pp. 11-12 (September 7, 2004). On November 17, 2004, the Region sent a letter to the Idaho Department of Environmental Quality ("IDEQ") requesting that IDEQ provide additional information related to the increased mixing zones for copper and mercury that Idaho authorized in its revised Section 401 Certification. See Letter from Gearheard to Hardesty (November 17, 2004), attached hereto as Ex. 1. The Region believes that this additional information is necessary to enable the Region to fulfill its obligations under Clean Water Act Section 301(b)(1)(C) and 40 C.F.R. 122.44(d) to ensure that these increased mixing zones are protective of downstream designated uses. IDEQ has not yet submitted additional information in response to this letter, but reports that it anticipates being able to do so in January 2005. The Region believes it would be ready to propose modifications to the permit in response to the EAB's remand order soon after it receives the requested additional information from IDEQ and to issue a final modified permit within two or three months of publication of the draft modified permit.¹

With respect to Hecla's variance request, the Region continues to evaluate and respond to comments on its proposed decision to deny Hecla's request and is not currently aware of any circumstances that would cause significant delay in making its final decision. As described in the Region's October 27, 2004 Status Report to the EAB in this matter, the United States and

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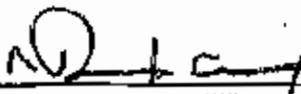
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¹ The precise schedule would depend, of course, on the number and complexity of issues raised by commenters during the public comment period on the draft permit.

Hecla intend to file a joint report with the federal district court for the Western District of Washington on February 15, 2005 that describes the status of this administrative process.

Dated this 29th day of December, 2004.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that the foregoing "Region 10's Second Status Report" was sent to the following persons, in the manner specified, on the date below:

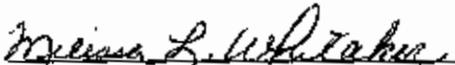
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Dated: 12/29/04


Melissa Whitaker
U.S. EPA