

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
KANSAS CITY, KANSAS 66101

Received by
EPA Region 7
Hearing Clerk

IN THE MATTER OF:)	
)	
The Doe Run Transportation and Haul Routes)	
Southeastern Missouri)	
)	
THE DOE RUN RESOURCES CORPORATION)	
)	Docket No. RCRA-07-2007-0008
Respondent.)	
)	
Proceedings under Section 7003 of the)	
Resource Conservation and Recovery Act,)	
42 U.S.C. § 6900, et seq., as amended.)	
)	

SECOND MODIFICATION OF
ADMINISTRATIVE ORDER ON CONSENT

I. INTRODUCTION

The following sections of the Administrative Order on Consent (“Order” or “AOC”) are being modified in order to enhance the effectiveness of the Work being performed by the Doe Run Resources Corporation, (“Respondent” or “Doe Run”) under the Order. This is the second modification of this Order. The second modification is entered into voluntarily by the United States Environmental Protection Agency (“EPA”) and Respondent. All Paragraphs or subparagraphs not included in this Second Modification shall remain as drafted in the original AOC, or in the First Modification, with one exception. The Effective Date Paragraph at the end of this Modification is intended for this Modification only.

13. Unless otherwise expressly provided herein, terms used in this AOC that are defined in the RCRA statute shall have the meaning assigned to them in that statute. Whenever the terms listed below are used in this AOC the following definitions apply:

“Concentrate” or “Lead-bearing Concentrate” shall mean ore that has been processed at the mill concentrate facilities, and includes lead concentrate, zinc concentrate, and copper concentrate.

“Doe Run Facilities” shall mean Doe Run owned and/or operated mines, mills, concentrators, smelters, and other facilities located in southeastern Missouri where concentrate, ore, or lead-bearing materials are transferred on or off vehicles as identified in Paragraph 64. For purposes of describing obligations at various facilities pursuant to this AOC, the term “Doe Run

Facilities” shall also include Doe Run’s concentrate handling and transportation activities at the SEMO Port located in Scott City, Scott County, Missouri. If Respondent begins transport of lead concentrate to a new Doe Run owned and/or operated facility in Missouri that facility shall be included in the term “Doe Run facilities.” In addition, if Respondent begins transport of lead concentrate to a new facility at the former Herculaneum Smelter location, that facility shall be included in the term “Doe Run facilities,” whether or not the facility that receives the lead concentrate is owned and/or operated by Doe Run.

All other definitions included in the original Order shall still apply.

60. Project Coordinators. Project Coordinators for Respondent and EPA are as follows:

For Respondent: Chris Neaville
 Asset Development Director
 The Doe Run Company
 1801 Park 270 Drive Suite 300
 St. Louis, MO 63146
 (314) 453-7132

For EPA: Dan Gravatt
 RCRA Direct Implementation Section
 U.S. EPA, Region 7
 11201 Renner Boulevard
 Lenexa, KS 66219
 (913) 551-7324
 Gravatt.dan@epa.gov

Respondent shall direct all submissions required by this AOC to EPA’s Project Coordinator. Copies of all submissions required by this AOC shall be sent to Mr. Evan Bryant, Missouri Department of Natural Resources, Hazardous Waste Program, P.O. Box 176, Jefferson City, Missouri 65102-0176. Each Project Coordinator shall be responsible for overseeing the implementation of this AOC. EPA and Respondent have the right to change their respective Project Coordinators. The other party must be notified in writing at least ten (10) days prior to the change. EPA retains the right to disapprove of any Project Coordinator named by Respondent. If EPA disapproves of a selected Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify EPA of that person’s name and qualifications within two (2) working days following EPA’s disapproval. Receipt by Respondent’s Project Coordinator of any notice or communication from EPA relating to this AOC shall constitute receipt by Respondent.

a. Audits. Respondent has retained an independent third-party environmental contractor to perform audits of its compliance with the provisions of this Order and its SOPs and EPA has approved this contractor, GeoEngineers, to perform these audits. Respondent has provided the wash and inspection SOPs and related materials to the auditor for review, and Respondent certifies that the auditor has been appropriately trained to perform the actual audits. Audits of Respondent's facilities have been ongoing for several years. A full independent third-party audit shall be conducted at each facility a minimum of once every year. The audit shall include a review to evaluate whether the inspections and washing of all lead-bearing vehicles at each of the vehicle wash stations are being conducted pursuant to the requirements of the Order and a report shall be prepared by the auditor and submitted to EPA and Respondent as set forth herein. EPA has approved audit report forms to be used by Respondent, which include, but is not limited to, the wash station being audited, the date and time of the audit, the name of the person conducting the audit, all of the provisions of the SOP for washing and inspecting trucks transporting lead-bearing material that will be audited, all deficiencies noted, recommended corrective actions, the Respondent official to whom the audit report was provided, and the date the audit report was provided to Respondent. Audit reports shall be submitted to EPA within thirty (30) days after receipt of the audit report by Respondent by the auditor. The audit report shall contain a certification by the auditor similar to that found in paragraph 89 of this Order. The audits of each facility shall be random and unannounced, but may require some advance coordination with Respondent to ensure access and that certain facilities that are potentially subject to an audit will be operational on the potential audit dates. If three consecutive annual audits of a facility demonstrate no substantive issues at that facility, the EPA will consider reducing the frequency of audits for that facility.

61. Contractors. Respondent shall perform the Work itself, or retain one or more contractors to perform the Work. Should Respondent retain a contractor to conduct the Work, Respondent shall notify EPA of the name and qualifications of each contractor within fourteen (14) days of the Effective Date of this AOC. Respondent shall also notify EPA of the name and qualifications of any other contractor or subcontractor retained to conduct any portion of the Work under this AOC at least two (2) days prior to commencement of such portion of the Work. EPA retains the right to disapprove of any party Respondent selects to conduct the Work. If EPA disapproves of Respondent's selection, Respondent shall propose a different party to perform the Work and shall notify EPA of the name and qualifications of that party within ten (10) working days of EPA's disapproval.

- a. If Respondent contracts with trucking companies for transportation of lead-bearing materials, the contracts shall specify that the trucks which are currently providing transport services for Respondent, and which are in good standing, shall be parked on the property of the Respondent or the contract trucking company, if feasible. If parking on Respondent's property or a contract trucking company's property is infeasible or unduly burdensome due to issues including, but not limited to, the distance from the driver's home to the respective commercial parking property or the location of the driver's truck maintenance equipment and servicing area, a truck may be parked at an individual residential

property, provided the truck is parked in a designated area which is separate from the residential driveway, away from the residence and which is used solely for truck maintenance and/or parking.

63. This modification serves as a Notice of Completion of Administrative Order on Consent, Docket No. CERCLA-07-2002-0038. The Transportation and Materials Handling Plan(s) ("TMHP") approved pursuant to that Administrative Order on Consent is no longer required and is vacated.

64. Identification of Mines, Mills and Smelters.

- a. Buick Mine/Mill – HC 1, Box 1390, Highway KK, Boss, MO 65440. Mines lead, zinc, and copper sulfide ores and produces concentrates of the same in the mill.
- b. Brushy Creek Mine/Mill -HC 1, Box 1352, Highway KK, Boss, MO 65440. Mines lead, zinc, and copper sulfide ores and produces concentrates of the same in the mill.
- c. Fletcher Mine/Mill – HC 1, Box 274, Highway TT, Centerville, MO 63633. Mines lead, zinc, and copper sulfide ores and produces concentrates of the same in the mill.
- d. Sweetwater Mine/Mill – Rt. 1, Box 416, Highway B South, Ellington, MO 63638. Mines lead, zinc, and copper sulfide ores and produces concentrates of same in the mill.
- e. Former Glover Smelter -Rt. 1, Box 60, Highway 49 North, Annapolis, MO 63620. Facility currently utilized for storage of concentrates and other lead-bearing material.
- f. Former Herculaneum Smelter – 881 Main Street, Herculaneum, MO 63048. Refines lead and lead alloys. For purposes of this Order only, the Former Herculaneum Smelter does not include the port facility currently operated by Riverview Commerce Park.
- g. #35 Mine (Casteel) – HC 82, Box 526, Highway 32, Bixby, MO 65439. Mine produces lead, zinc, and copper sulfide ores and ships to mills for processing.
- h. #29 Mine - 10774 Wells Road, Highway C, Steelville, MO 65565. Mine produces lead, zinc, and copper sulfide ores and ships to mills for processing.

65. Vehicle Wash Stations

a. As of the date of the Second Modification, Doe Run has installed vehicle wash stations at all existing Doe Run Facilities required to have a vehicle wash station under this AOC. Prior to beginning transport of lead concentrate to a new Doe Run owned and/or operated facility in Missouri, Respondent shall install and begin to operate an enclosed vehicle wash station. The vehicle wash stations shall be designed and built to be fully and safely operational during all seasons of the year, including freezing temperatures; provided, however, that during periods of extreme freezing temperatures (e.g., below 25° Fahrenheit), the schedule for washing trucks may be suspended to minimize hazardous conditions, risks and property damage associated with excessive ice build-up from multiple, high-frequency washings. All vehicle wash stations shall be located at or near the exit of the facility property and have backup wash systems, such as pressure washers, in the event that the primary wash systems are inoperative. Nothing in this AOC or Second Modification shall be construed to require construction of additional vehicle wash stations (except where Respondent begins operation of an additional smelter, mine, mill or concentrator).

b. All vehicle wash stations shall be designed to wash the vehicle's entire undercarriage, entire sides, backs and tailgates, tires and wheels. In the alternative, if the wash station is not designed to wash all of the components listed above, the operator shall wash those omitted components with a manually-operated pressure washer (rated at a minimum pressure of 2200 psi), and will visually inspect each truck and rewash any areas of visible contamination. If a truck hauls Concentrate, Ore, or other lead-bearing material, then before that truck can haul any non-lead bearing material, the truck bed must be washed such that all lead-bearing material is removed from the truck. This will prevent cross-contamination of non lead-bearing materials.

c. Every vehicle leaving a Doe Run facility (1) after loading or unloading Concentrate, Ore, or lead-bearing materials; (2) after entering areas within a Doe Run facility where Concentrate or Ore is loaded, unloaded, or stored; or (3) after entering or crossing unpaved areas within a Doe Run facility utilized by vehicles which have not yet been washed in accordance with this AOC after loading or unloading Concentrate, Ore, or lead-bearing materials; must first be washed in accordance with Paragraph 65 of this AOC and the Vehicle Wash SOP, and then dried utilizing an air pressure blower. If a vehicle, other than a truck hauling Concentrate, Ore or other lead-bearing materials, is subject to the requirements of this Paragraph 65 and does not wish to drive through the constructed truck wash, the requirements of this paragraph may be satisfied by washing the wheels and wheel wells of the vehicle with a manually-operated pressure washer rated at a minimum pressure of 2200 psi.

d. Wash water and other lead-containing material generated at the vehicle wash stations and wash-out areas shall be collected, treated, and discharged/disposed in accordance with all applicable state and federal requirements and permits.

e. The Respondent has created and revised two Standard Operating Procedures

("SOPs"), "Washing and Inspection of Trucks Transporting Concentrate" and "Washing/Inspection of Vehicles Transporting Ore or Lead-Bearing Materials." These SOPs will continue to be implemented. Any further revisions to the SOPs may be implemented 30 days after submitting the revised SOP to EPA in accordance with Paragraph 60. If EPA provides comments on the revised SOP within the 30-day period, the Respondent shall address EPA comments within 30 days after receiving EPA comments.

f. The Vehicle Wash Clearance Goal was established and implemented and those requirements are no longer necessary.

g. Respondent's West Fork facility shall be excluded from the requirements of Paragraph 65.a., b. and c. as long as bulk lead concentrate delivery to the West Fork facility is limited to 16 tons per 24 hour day. Every vehicle leaving the West Fork demonstration facility after unloading concentrate shall first have its sides, back, tailgate, tires, wheels, and wheel wells washed using a manually-operated pressure washer rated at a minimum pressure of 2200 psi.

66. Roadway and Street Cleaning.

a. At Respondent's #29, #35 (Casteel), Buick, Brushy Creek, Fletcher, and Sweetwater Facilities, Respondent shall thoroughly sweep with a regenerative air sweeper, or a device of comparable efficiency, all of the areas traveled by the Concentrate and Ore trucks leading from the exit side of the vehicle wash station to the exit of the facility at the juncture of the public highway or county road at least once each day that transport of Concentrate and/or Ore to or from the facility occurs. At Respondent's Glover and SEMO Port facilities, Respondent shall thoroughly sweep with a regenerative air sweeper, or a device of comparable efficiency, all of the areas traveled by the Concentrate trucks leading from the exit side of the vehicle wash station to the exit of the facility at the juncture of the public highway or county road at least once each week that transport of Concentrate and/or Ore to or from the facility occurs. In addition, the interior roads from the loading or unloading area to the wash station within the Respondent's facilities that are traveled by Concentrate trucks shall be swept at least once per week. During periods when freezing temperatures may form snow, ice or hazardous conditions, street cleaning operations may be suspended.

67. Enclosure of Materials During Transit.

a. Under the First Modification of this Order, 100% of contract carrier trucks used for bulk transport of Concentrate, Ore, or lead-bearing materials generated at and transported to and from Doe Run facilities on public roadways and streets were equipped with high density polyethylene bedliners (Concentrate trucks only), seals on tailgates, permanently sealed grain doors (if grain doors exist on the truck), tail gate locks and tail gate security bolts (with wing nuts, if applicable). These features shall continue under this Modification.

h. Trucks transporting Concentrate, Ore or lead-bearing materials to and from Doe Run Facilities shall be tarped while in transit on public streets and roadways, when they are loaded and when they are empty, unless removed from dedicated service as provided in

subparagraph d. In addition, under the First Modification of this Order, all trucks transporting Concentrate were equipped with bonnets to reduce the air flow over the leading edge of the tarp. The requirements of this paragraph shall continue under this Modification.

69. Residential Property, Street and Road Edge Sampling and Transportation Study.

a. Respondent has performed all the necessary residential property sampling in Herculaneum, and street and road edge sampling along the Concentrate or Ore haul routes leading from the Doe Run facilities required by this Order. Some of those activities are covered by other agreements and all of these activities can be discontinued under this Order. In addition, Respondent conducted a Handling and Transportation Study as required by the First Modification to this Order and that task is complete. The requirements of this paragraph have been met.

70. Monthly Monitoring Reporting

a. Monthly monitoring shall continue as required by the First Modification of the Order. The monthly monitoring can be combined with other required monitoring activities. Under this Order the Respondent shall submit a monthly monitoring report (paper copy and electronic copy) for activities occurring during the previous month which includes, but is not limited to, analytical data collected pursuant to this AOC, details of equipment failures at the vehicle wash stations and loading and unloading stations; schedules for repairs of broken equipment; details of any spill or leak incidents and the resulting cleanup; if necessary, progress on construction of a new vehicle wash station; details on operation of the street sweeper; and details on any changes to the mode of transportation of concentrate, ore, or lead-bearing materials by Respondent.

103. Respondent shall preserve all documents and information, including raw data, relating to the work performed under this AOC, or relating to any solid waste or hazardous waste found at the Site, for a 10 year period following the creation of the document or information under this AOC.

108. This Second Modification shall resolve all claims for oversight costs incurred by EPA after January 1, 2021. Respondent shall not be responsible for oversight costs incurred by EPA after January 1, 2021.

114. Stipulated Penalty Amounts.

- a. A stipulated penalty of \$500 per violation per day shall accrue for any noncompliance identified below:
- i. Failure to submit any deliverables required by this AOC, other than submission of the monthly monitoring report.
 - ii. Failure to conduct roadway and street cleaning as required by this AOC.

- iii. Failure to implement and perform truck inspection and wash procedures in accordance with Paragraph 67.b and 65.c, respectively; provided, however, that stipulated penalties shall not apply to minor or reasonable deviations from the standard procedures.
 - iv. Failure to conduct audits pursuant to the time frames and conditions in paragraph 60.a.
- b. A stipulated penalty of \$10,000 per violation shall accrue for any noncompliance identified below:
 - i. Failure to construct vehicle wash stations in accordance with Paragraph 65.a and b. in a timely and adequate manner.
- c. A stipulated penalty of \$100 per violation per day shall accrue for any noncompliance identified below:
 - i. Failure to submit a written monthly monitoring report in a timely or adequate manner.
 - ii. Any other violation of the AOC other than those milestones identified in 114.a, 114.b, 114.c, or 114.d.
- d. A stipulated penalty of \$1,000 per violation shall accrue for any noncompliance identified below:
 - i. Any truck driver obtaining a load of lead-bearing material in a truck that was previously rejected for "bad order" ("BO") defect(s) which were not corrected prior to obtaining another load of lead-bearing material.
 - iii. An observed release of lead-bearing material from a truck to publicly accessible streets, roads, residential yards or other areas located outside of Doe Run property. The term "observed release" means direct evidence of lead-bearing material discharged from a truck to publicly accessible streets, roads, residential yards or other areas located outside of Doe Run property. This term specifically excludes the following events and conditions: (a) truck accidents resulting in spills or discharges of lead-bearing materials (see Spill Response Plan paragraph 68 of AOC); (b) staining on the exterior of the trailer that has not resulted in a discharge or release of lead-bearing material from the truck to publicly accessible streets, roads, residential yards or other areas located outside of Doe Run property; and (3) sampling conducted pursuant to this Order or any other Unilateral Order or Administrative Order on Consent that indicates the presence of lead or other metals with no direct or recorded evidence of a discharge of lead-bearing material from a truck hauling Respondent's lead-bearing materials.

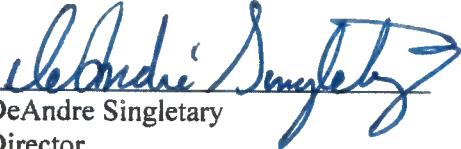
122. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this AOC. Based on all the information currently known by EPA, the EPA agrees this second

modification resolves any claims for stipulated penalties that could have been asserted for any allegation of a failure to comply with a requirement of this AOC that occurred prior to the date of this second modification.

III. EFFECTIVE DATE


The effective date of this Modification shall be the date on which EPA signs the Modification. The undersigned representative of Respondent certifies that s/he is fully authorized to enter into the terms and conditions of this Modification and to bind the Respondent to this document. Respondent agrees not to contest the validity or terms of this Modification, or the procedures underlying or relating to it in any action brought by the United States, including EPA, to enforce its terms or seek penalties for its violations. Respondent retains its rights to assert claims against any third parties with respect to this site.

IT IS SO ORDERED AND AGREED.


DeAndre Singletary
Director
Land, Chemical, and Redevelopment Division
United States Environmental Protection Agency
Region 7

10/6/2021
Date

For The Doe Run Resources Corporation:


Michael Montgomery
Vice President
Environment, Health and Safety

9/23/21
Date