4.2.7

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 10

IN THE MATTER OF:	)	ADMINISTRATIVE ORDER ON CONSENT
Canyon Creek, Idaho	)	U.S. EPA, Region 10 CERCLA Docket No. 10-95-0105-CERCLA
Hecla Mining Company	)	

WHEREAS, Hecla Mining Company ("Hecla") has agreed to participate in a cooperative effort with the State of Idaho Department of Environmental Quality ("DEQ") and the State Trustees to address releases of hazardous substances at or from Canyon Creek;

WHEREAS, the United States Environmental Protection Agency ("EPA") contends that Hecla is jointly and severally liable for tailings located in Canyon Creek, and for the release or threatened release of hazardous substances, pollutants, or contaminants resulting from tailings located in Canyon Creek;

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WHEREAS, Hecla is voluntarily participating in this response action and is concerned that its voluntary participation in this effort not subject it to liability under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") or the Resource Conservation and Recovery Act ("RCRA") for releases or threatened releases of hazardous substances, pollutants, or contaminants for which it would not be liable but for its participation in this effort.

THEREFORE, EPA and Hecla are entering into this Administrative Order on Consent ("Order").

I. JURISDICTION AND GENERAL PROVISIONS

1.1 This Administrative Order on Consent ("Order") is issued pursuant to the authority vested in the President of the United States by Section 104, 106(a) and 107 of CERCLA, as amended, 42 U.S.C. §§ 9604, 9606(a), and 9607, and delegated to the Administrator of the EPA by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the EPA Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-C and further delegated to the Superfund Branch Chief. Additional authority is provided by the inherent settlement authority of the Assistant Attorney General.

1.2 Hecla consents and agrees to comply with and be bound by the terms of this Order. EPA and Hecla agree that Hecla's consent to this Order, and its actions in accordance with this Order, shall not in any way constitute or be construed as an

admission of any liability, which Hecla expressly denies, or agreement to legal or factual matters set forth in this Order and are not admissible into evidence, except in a proceeding to enforce this Order, to establish any liability or legal or factual matter.

II. PARTIES BOUND

2.1 This Order applies to and is binding upon EPA and upon Hecla. Any change in ownership or corporate status of Hecla including, but not limited to, any transfer of assets or real or personal property, shall not alter Hecla's responsibilities under this Order. Hecla shall ensure that any Hecla contractors, subcontractors, or representatives involved with performance of Hecla's obligations under this Order receive a copy of this Order and comply with this Order. Hecla shall be responsible for any noncompliance with this Order.

III. DEFINITIONS

3.1 Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Order, the following definitions shall apply:

A. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States;

B. "United States" shall mean the United States of America, its departments, agencies, and instruments;

C. "Trustees" shall mean the Trustees of the Silver Valley Natural Resource Trust Fund, a group of seven trustees composed of state, local, and mining company representatives, that administers the trust fund established for the use and benefit of the State of Idaho as part of the settlement of State of Idaho v. The Bunker Hill Company, et al., No. CIV 83-3161 (D. Idaho), an action brought by the State under the terms of Section 107 of CERCLA, 42 U.S.C. § 9607, to recover damages to natural resources belonging to, managed by, or controlled by the State of Idaho. "Trustees" does not include the individual persons or entities that provide representatives to this group;

D. "State" shall mean the Idaho Department of Health and Welfare, Division of Environmental Quality ("DEQ");

E. "Hecla Mining Company" or "Hecla" means the Delaware corporation of that name and its subsidiaries, including all of the following subsidiary corporations: Lucky Friday Silver-Lead Mines Company; Abot Mining Company; Nine Corporation and Wall Street Mining Company; and the Mine Owners' Association, to the extent of Hecla's interest; provided, however, that the terms "Hecla" and "Hecla Mining Company" shall not include any subsidiary or affiliate, whether listed herein or not, to the extent that such subsidiary is deemed liable for response activities at the Site as a result of activities conducted by such subsidiary or a predecessor of such subsidiary in a capacity

other than as a subsidiary of, and as a result of the subsidiary's or predecessor's independent acts or omissions separate from the liability of, the Delaware corporation. Hecla also is a successor-in-interest by statutory merger to Day Mines, Inc.;

F. "Site" is the area shown on Attachment A to this Order and is located in Shoshone County in northern Idaho. With the exception of the Star Mine Tailings Pond #2, which will be used as a repository for certain materials, no tailings ponds are part of the Site. This and all other attachments to this Order are incorporated herein by reference;

G. "Canyon Creek Project Planning Group" shall mean the group of parties, including EPA, the Trustees, the State, and Hecla, that have been meeting regularly for more than a year to discuss and plan a voluntary response action at the Site;

H. "Canyon Creek Contract" is the agreement between EPA, DEQ, and the Trustees regarding performance of the Work by the Trustees and/or the State and includes attachments thereto. The Canyon Creek Contract and attachments, including the Action Memorandum dated July 28, 1995, the Engineering Evaluation/Cost Analysis ("EE/CA") dated July 21, 1995, and the final approved Work Plan dated June 7, 1995 are Attachment B to this Order; provided, however, that in the event of any conflict between the Canyon Creek Contract and this Order, this Order controls with respect to Hecla's obligations under this Order; and

I. "Work" is the response action as defined by the Canyon Creek Contract and attachments thereto, and Hecla's obligations set forth in Attachments C and D to this Order, excluding any activities relating to residential yards or removal or replacement of soils in residential yards.

IV. FINDINGS OF FACT

4.1 The Site contains mining-related waste that is an actual or potential source of hazardous substances that adversely affect benthic organisms, fish and aquatic plant species in Canyon Creek and the South Fork of the Coeur d'Alene River.

4.2 Pursuant to a settlement between the State and certain mining companies, the Silver Valley Natural Resource Trust Fund was created and is to be used for projects involving the restoration and rehabilitation of the natural resources and environment in the area of the drainage of the Coeur d'Alene River, pursuant to the State of Idaho's responsibilities under CERCLA to restore and replace those natural resources for which it is designated as a trustee under 42 U.S.C. § 9607(f). The Trust Fund may also be used for response, removal, remedial and clean-up actions in this area.

4.3 In preparation for performing a response action at the Site, the Trustees formed the Canyon Creek Project Planning Group, which consists of representatives from the Trustees, the State, EPA, Hecla and other interested parties. Over the past year, this Group has met regularly to plan a voluntary Canyon

Creek response action, to prepare the EE/CA and to delineate the appropriate activities for this action.

4.4 In general terms, this voluntary response action provides for the removal of tailings and other potential source material from the Canyon Creek drainage within the Site, placement of these materials in two on-Site repositories and stabilization and revegetation of the stream channel and flood-plain within the Site.

4.5 Pursuant to the Canyon Creek Contract, the Trustees and/or the State will perform and/or be responsible for the performance of the Work, except for those activities which are to be performed by Hecla as delineated in Attachments C and D.

4.6 With Hecla's agreement, both of the repositories to be constructed under the Work Plan ("Repositories") will be located, and much of the Work will be performed, on land owned by Hecla. Hecla and the Trustees have also agreed that Hecla will provide other assistance to the Work as set forth in Attachments C and D to this Order.

4.7 EPA has reviewed the EE/CA, Work Plan, and Action Memorandum attached to the Canyon Creek Contract, as well as Attachments C and D to this Order, and has determined that these documents, and the Work if performed as required by the Work Plan and Attachments C and D, are consistent with and in accordance with the National Oil and Hazardous Waste Pollution Contingency Plan ("NCP").

4.8 Performance of the Work as provided in the Work Plan is in the public interest because it will immediately address environmental conditions of concern at the Site and is expected to improve water quality and aquatic and riparian habitat on and downstream of the Site.

4.9 One of Hecla's concerns in participating in the planning, funding, and/or performance of this voluntary response action is that its participation in this effort not subject it to liability under CERCLA or other authority, beyond that which may already exist or be alleged, for any materials generated, managed, transported or disposed of during the Work.

4.10 Based on its review of the Canyon Creek Engineering Evaluation/Cost Analysis and the Work Plan for the Work, and EPA's entry into the Canyon Creek Contract with the State and Trustees, and to advance the public interest in securing the performance of the Work, EPA has issued the Action Memorandum and has agreed to enter into this Order with Hecla, which contains certain assurances responsive to Hecla's liability concerns.

4.11 The response action to be performed pursuant to the Canyon Creek Contract and this Order may not be the final response action to address contamination at or from the Site.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

5.1 Based on the Findings of Fact set forth above, the EE/CA, the Work Plan and the Administrative Record supporting this response action, EPA has determined that:

5.2 The Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

5.3 The contaminants found at the Site include "hazardous substance(s)" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

5.4 The conditions described in the Findings of Fact above and the EE/CA constitute an actual or threatened "release" of a hazardous substance from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

5.5 The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

5.6 The actions required by this Order are necessary to protect the public health, welfare, or the environment in accordance with Section 106(a) of CERCLA, and are consistent, and in accordance, with the NCP and CERCLA.

VI. ORDER

6.1 Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby ordered and agreed as follows:

6.2 Subject to the conditions stated in Paragraph 6.3 below, Hecla shall provide funding and/or other assistance to the Trustees as set forth in Attachment C to this Order and shall perform maintenance activities as set forth in Attachment D to this Order.

6.3 All of Hecla's obligations under this Section and Order are conditioned upon the complete and satisfactory performance by the Trustees and/or the State of their obligations for the Work as delineated in the Canyon Creek Contract.

6.4 Prior to completion of the Work, including performance of the maintenance activities set forth in Attachment D, Hecla shall, at least thirty (30) days prior to the conveyance of any interest in real property at the Site, give written notice to the transferee that the property is subject to this Order and written notice to EPA of the proposed conveyance, including the name and address of the transferee. Hecla agrees to require that its successor comply with the immediately preceding sentence and the requirements set forth in Paragraph 6.5 below.

6.5 During performance of the Work, Hecla shall allow EPA access to Hecla-owned or controlled property within the Site for purposes of EPA oversight of the Work. Hecla shall also provide EPA with access to all non-privileged records and

documentation relevant to Hecla's performance of its obligations under this Order.

6.6 Hecla shall preserve all non-privileged documents and information relating to performance of its obligations under this Order for ten (10) years following performance of these obligations. At the end of this ten (10) year period, and thirty (30) days before any document or information is destroyed, Hecla shall notify EPA that such non-privileged documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA. In addition, Hecla shall provide non-privileged documents and information retained under this section at any time before expiration of the ten (10) year period at the written request of EPA.

6.7 Hecla may assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203(b) with respect to part or all of any information submitted to EPA pursuant to this Order, provided such claim is allowed by Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). Analytical and other data specified in Section 104(e)(7)(F) of CERCLA shall not be claimed as confidential by Hecla. If no such claim accompanies the information when it is received by EPA, EPA may make it available to the public without further notice to Hecla.

6.8 Hecla shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations except as provided in Section 121(e)

of CERCLA, 42 U.S.C. § 9621(e), and 40 C.F.R. Section 300.415(i).

6.9 If Hecla's activities at the Site under this Order cause or threaten to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment due to a failure in the approved Work, Hecla shall immediately take all appropriate action in order to prevent, abate, or minimize such release or endangerment caused or threatened by the release. Hecla shall also immediately notify EPA's On-Scene Coordinator ("OSC") for the Site, or, in the event of his/her unavailability, shall notify the EPA Region 10 Duty Officer of the release or threatened release or endangerment. If Hecla fails to respond, EPA may respond to the release or endangerment and reserve the right to pursue cost recovery.

VII. EPA ON-SCENE COORDINATOR/REMEDIAL PROJECT MANAGER

7.1 EPA has appointed Earl Liverman as the On-Scene Coordinator/Remedial Project Manager ("OSC/RPM") for this response action. The OSC/RPM shall be responsible for overseeing the proper and complete implementation of this Order consistent with the NCP.

VIII. REIMBURSEMENT OF COSTS

8.1 Hecla shall reimburse EPA for all response costs incurred by the United States after the effective date of this Order in overseeing Hecla's implementation of the requirements of

this Order. EPA shall submit to Hecla on a periodic basis, a bill for all response costs incurred by the United States with respect to this Order after its effective date. EPA's Superfund Cost Organization Recovery Enhancement System Report or such other summary as certified by EPA shall serve as the basis for the payments.

8.2 Hecla shall, within thirty (30) days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substances Superfund", to the following address:

U.S. Environmental Protection Agency
Superfund Accounting
P.O. Box 360903M
Pittsburgh, Pennsylvania 15251

8.3 Hecla shall simultaneously transmit a copy of the check to EPA, Region 10. Payments shall be designated as "Oversight Costs" - "Canyon Creek - Hecla" and shall reference Hecla's name and address, the EPA site identification number, and the docket number of this Order.

8.4 Interest at the rate established under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), shall begin to accrue upon receipt of the demand on the unpaid balance from the day after the expiration of the thirty (30) day period, notwithstanding any dispute or an objection to any portion of the costs.

8.5 Hecla may dispute all or part of a bill submitted under this Order if Hecla determines that EPA has made an accounting error, that the costs are not related to oversight of

this Order, or that a cost item that is included represents costs that are inconsistent with the NCP.

8.6 If any dispute over costs is resolved before payment is due, the amount due will be adjusted as necessary. If the dispute is not resolved before payment is due, Hecla shall pay the full amount of the uncontested costs into the Hazardous Substances Trust Fund as specified above on or before the due date. Within the same time period, Hecla shall pay the full amount of the contested costs into an interest-bearing escrow account. Hecla shall simultaneously transmit a copy of both checks to the EPA OSC/RPM. Hecla shall ensure that the prevailing party in the dispute shall receive the amount upon which they prevailed from the escrow funds plus interest within thirty (30) days after the dispute is resolved.

IX. DISPUTE RESOLUTION

9.1 The parties to this Order shall attempt to resolve, expeditiously and informally, any disagreement concerning the activities required of Hecla by this Order.

9.2 If Hecla objects to any EPA action taken pursuant to this Order, Hecla shall notify EPA, in writing, of its objections within ten (10) days of such action, unless the objection has been informally resolved. EPA and Hecla shall have twenty (20) days from EPA's receipt of Hecla's written objections to attempt to resolve the dispute through formal negotiations ("Negotiation Period"). The Negotiation Period may be extended

at the sole discretion of EPA. EPA's decision regarding an extension of the Negotiation Period shall not constitute an EPA action subject to dispute resolution or a final agency action giving rise to judicial review.

9.3 Any agreements reached by the parties pursuant to this section shall be in writing, signed by all parties, and shall, upon the signature of all parties, be incorporated into and become an enforceable element of this Order. If the parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the Region 10 level will issue a written decision on the dispute to the Participants, based on the voluntary nature of Hecla's participation under this Order and the cooperative efforts of all involved.

9.4 The decision of EPA pursuant to this Section IX shall be incorporated into and become an enforceable element of this Order upon Hecla's receipt of the EPA decision regarding the dispute. Hecla's obligations under this Order shall not be tolled by submission of any objection for dispute resolution under this section.

9.5 Following resolution of the dispute, as provided by this section, Hecla shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs. No EPA decision made pursuant to this section shall constitute a final agency action giving rise to judicial review.

X. FORCE MAJEURE

10.1 Hecla agrees to perform all requirements under this Order unless the performance is delayed or prevented by a Force Majeure. For purposes of this Order, a Force Majeure is defined as any event arising from causes beyond the control of Hecla, including, but not limited to, their contractors and subcontractors, that delays or prevents performance of any obligation under this Order despite Hecla's best efforts to fulfill the obligation. Force Majeure does not include financial inability to complete, or increased costs of, performance.

10.2 Hecla shall notify EPA orally within twenty-four hours after the event, and in writing within seven days, after Hecla becomes or should have become aware of events which constitute a Force Majeure. Such notice shall: identify the event constituting the Force Majeure; state the measures taken or to be taken to minimize the delay based by the Force Majeure; and estimate the timetable for implementation of the measures. Hecla shall take all reasonable measures to avoid and minimize the delay. Failure to comply with the notice provision of this action shall waive any claim of Force Majeure by Hecla.

10.3 If EPA determines a delay in performance of a requirement under this Order, or a failure to perform such a requirement, is or was attributable to a Force Majeure, the obligation to perform this requirement shall be eliminated or the time period for such performance shall be extended as deemed necessary or appropriate by EPA. Such an extension shall not

alter Hecla's obligation to perform or complete other tasks required by the Order which are not directly affected by the Force Majeure.

XI. PENALTIES

11.1 Violation of any provision of this Order may subject Hecla to civil penalties of up to twenty-five thousand dollars ($ 25,000) per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Hecla may also be subject to punitive damages in an amount up to three (3) times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Hecla violate this Order or any portion hereof, EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606.

XII. ASSURANCE AND RELATED PROVISIONS

12.1 During the pendency of the Work (but excluding maintenance activities as defined in Attachment D), provided that Hecla is proceeding in compliance with this Order and subject to the reservations in Paragraph 12.3 herein, neither EPA nor any person acting on EPA's behalf shall institute or authorize additional proceedings under Section 106 of CERCLA or Section 7003 of RCRA to compel performance of a different

response action at the Site. Further, this Order may not be used to institute or authorize additional proceedings under this Order to compel performance of a different response action at the Site or to require Hecla to perform activities under this Order with respect to the Site other than those identified in Attachments C and D hereto.

12.2 To the extent that Hecla is not otherwise liable for hazardous substances, pollutants, or contaminants that have been released or threaten to be released at or from the Site ("Materials"), neither this Order, its terms, nor any of the following shall be used as a basis for liability under CERCLA Sections 106 and 107(a) or RCRA Section 7003: (a) the agreement of Hecla to perform or finance any aspect of the Work; (b) the performance, financing, planning, or evaluation of any attribute or aspect of the Work; (c) the generation, handling, transportation, or disposal of Materials in accordance with the Work Plan; (d) the presence on property owned or operated by Hecla within the Site, during or following completion of the Work, of Materials that came to be located on such property as a result of the Work.

12.3 Notwithstanding any provision of this Order, EPA shall have the right to institute new proceedings, which are defined as any proceeding not related to this Order, regarding the Site if: (a) EPA determines that conditions at the Site pose an imminent and substantial endangerment; or (b) EPA discovers conditions or new information previously unknown that indicates

that the Work is not protective of human health or the environment.

12.4 The assurances and related provisions in this Section are conditioned upon the complete and satisfactory performance by Hecla of its obligations under this Order. These assurances and other provisions extend only to Hecla and do not extend to any other person. Further, these assurances shall not preclude liability for costs or damages as the result of negligence on the part of Hecla.

XIII. RESERVATION OF RIGHTS

13.1 Except as specifically provided in this Order, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary and as permitted by this Order, or from requiring Hecla in the future to perform additional activities pursuant to CERCLA or any other applicable law. EPA reserves the right to bring an action against Hecla under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of

any unreimbursed response costs incurred by the United States related to this Order.

13.2 The United States reserves, and this Order is without prejudice to, all rights the United States may have against Hecla with respect to liability for damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such a release.

13.3 Except as provided in this Order, nothing in this Order constitutes a satisfaction or release from any claim or cause of action against Hecla or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including, but not limited to, any claims of the United States for costs, damages, and interest under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a).

XIV. OTHER CLAIMS

14.1 By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Hecla. The United States or EPA shall not be deemed a party to any contract entered into by Hecla or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order. Further, EPA does not assume financial and/or management

responsibility for continuation of the response action if one or more of the other project participants withdraws from this action.

14.2 This Order does not constitute a preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2). Hecla waives any claim to payment under Sections 106(b), 111, and 112 of CERCLA, 42 U.S.C. §§ 9606(b), 9611, and 9612, against the United States or the Hazardous Substance Superfund arising out of any action performed under this Order.

14.3 No action or decision by EPA pursuant to this Order shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XV. HECLA'S RESERVATION OF RIGHTS

15.1 Nothing in this Order, except as specifically provided in Paragraph 14.2 of this Order, shall be construed as restricting Hecla's right to lawfully challenge or object to any future response actions that may be proposed at or affecting the Site, or as waiving, limiting, or affecting other rights, claims, causes of action, or demands Hecla may have against any person under CERCLA, including with respect to natural resource damages, or other federal, state, or common law.

XVI. CONTRIBUTION PROTECTION

16.1 With regard to claims for contribution against Hecla for matters addressed in this Order, the Parties hereto agree that Hecla is entitled to protection from contribution actions or claims to the extent provided by CERCLA. Nothing in this Order precludes the United States or Hecla from asserting any claims, causes of action or demands against any persons not parties to this Order for indemnification, contribution, or cost recovery.

XVII. INDEMNIFICATION

17.1 Hecla agrees to indemnify, save, and hold harmless the United States, its officials, agents, contractors, subcontractors, employees, and representatives from any and all claims or causes of action: (A) arising from, or on account of, acts or omissions of Hecla, Hecla's officers, heirs, directors, employees, agents, contractors, subcontractors, receivers, trustees, successors, or assigns, in carrying out actions pursuant to this Order; and (B) for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Hecla and any persons for performance of the Work, including claims on account of constructions delays. In addition, Hecla agrees to pay the United States all costs incurred by the United States, including litigation costs arising from or on account of claims made against the United States based on any of the acts or omissions referred to in this paragraph.

XVIII. MODIFICATION

18.1 Any requirement of this Order may be modified, in writing, by mutual agreement of the Parties hereto.

XIX. SEVERABILITY

19.1 If a court issues an order that invalidates any provision of this Order or finds that Hecla has sufficient cause not to comply with one or more provisions of this Order, Hecla shall remain bound to comply with all provisions of this Order not invalidated or determined to be subject to a sufficient cause defense by the court's order.

XX. EFFECTIVE DATE

20.1 This Order may be executed in any number of counterparts, each of which when executed and delivered to EPA shall be deemed to be an original, but such counterparts shall together constitute one and the same document. This Order shall be effective upon signature by EPA and the U.S. Department of Justice.

The undersigned representative of Hecla certifies that he is fully authorized to enter into the terms and conditions of this Order for response action at Canyon Creek and to bind Hecla to this document.

Date: 08/15/95

MICHAEL B. WHITE
Vice President/General Counsel
Hecla Mining Company

This Order for response action at Canyon Creek is so ORDERED and Agreed.

Jane A Moore

Date: Aug 15, 1995

CHUCK CLARKE
Regional Administrator
Region 10
U.S. Environmental Protection Agency

Date: _____

LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

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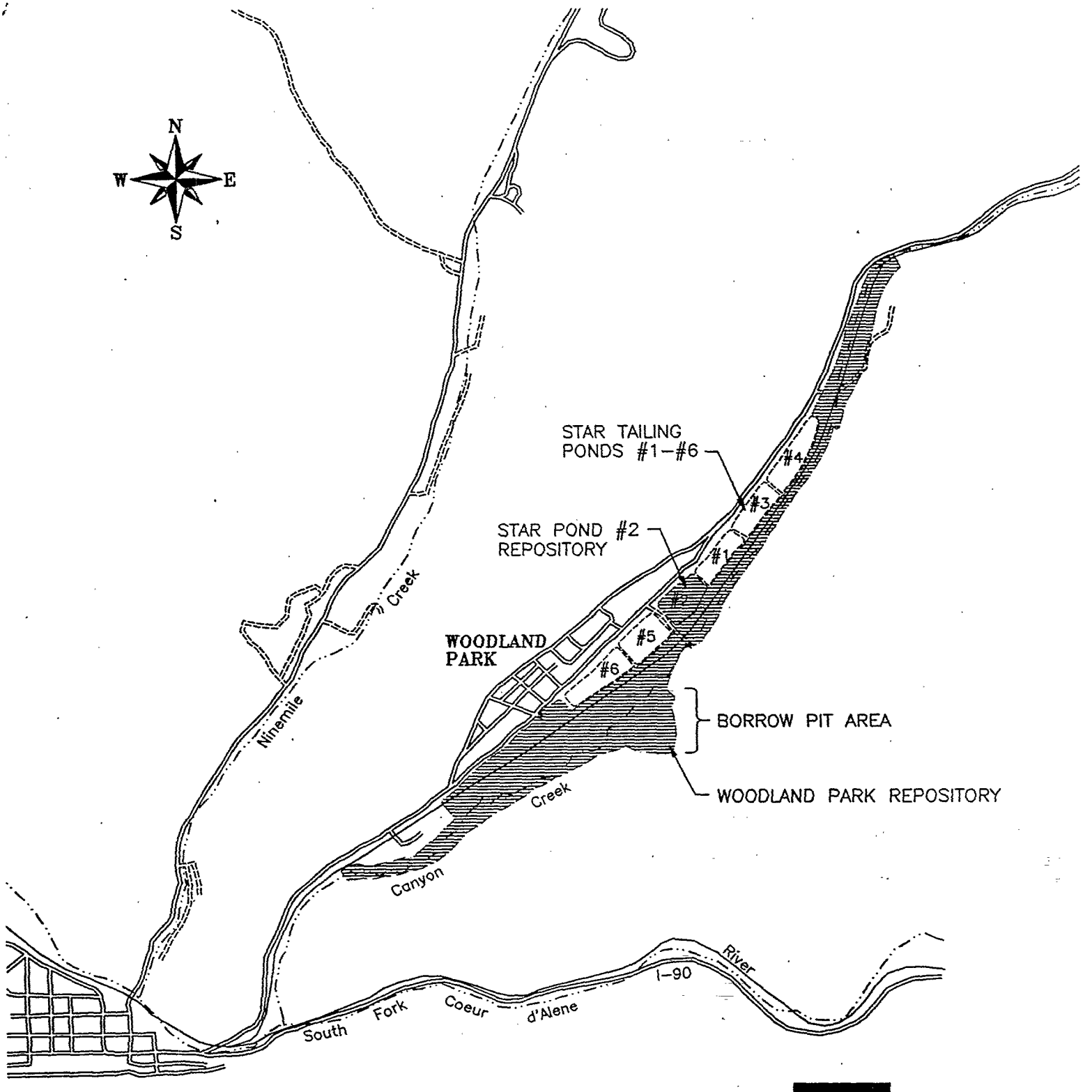
Date: _____

CHUCK CLARKE
Regional Administrator
Region 10
U.S. Environmental Protection Agency

Date: 8/15/95

~~LOIS J. SCHIFFER~~ James F. Simon
Acting
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice



APPROX. SCALE

0 1000'

AREA INCLUDED IN SITE

Hecla MINING COMPANY

SITE MAP
CANYON CREEK – WOODLAND PARK AREA
SHOSHONE COUNTY, IDAHO
ATTACHMENT A
8/10/95

WPARK

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 10

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Canyon Creek, Idaho	)	U.S. EPA, Region 10 CERCLA Docket No. 10-95-0105-CERCLA
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admission of any liability, which Hecla expressly denies, or agreement to legal or factual matters set forth in this Order and are not admissible into evidence, except in a proceeding to enforce this Order, to establish any liability or legal or factual matter.

II. PARTIES BOUND

2.1 This Order applies to and is binding upon EPA and upon Hecla. Any change in ownership or corporate status of Hecla including, but not limited to, any transfer of assets or real or personal property, shall not alter Hecla's responsibilities under this Order. Hecla shall ensure that any Hecla contractors, subcontractors, or representatives involved with performance of Hecla's obligations under this Order receive a copy of this Order and comply with this Order. Hecla shall be responsible for any noncompliance with this Order.

III. DEFINITIONS

3.1 Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Order, the following definitions shall apply:

A. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States;

B. "United States" shall mean the United States of America, its departments, agencies, and instruments;

C. "Trustees" shall mean the Trustees of the Silver Valley Natural Resource Trust Fund, a group of seven trustees composed of state, local, and mining company representatives, that administers the trust fund established for the use and benefit of the State of Idaho as part of the settlement of State of Idaho v. The Bunker Hill Company, et al., No. CIV 83-3161 (D. Idaho), an action brought by the State under the terms of Section 107 of CERCLA, 42 U.S.C. § 9607, to recover damages to natural resources belonging to, managed by, or controlled by the State of Idaho. "Trustees" does not include the individual persons or entities that provide representatives to this group;

D. "State" shall mean the Idaho Department of Health and Welfare, Division of Environmental Quality ("DEQ");

E. "Hecla Mining Company" or "Hecla" means the Delaware corporation of that name and its subsidiaries, including all of the following subsidiary corporations: Lucky Friday Silver-Lead Mines Company; Abot Mining Company; Nine Corporation and Wall Street Mining Company; and the Mine Owners' Association, to the extent of Hecla's interest; provided, however, that the terms "Hecla" and "Hecla Mining Company" shall not include any subsidiary or affiliate, whether listed herein or not, to the extent that such subsidiary is deemed liable for response activities at the Site as a result of activities conducted by such subsidiary or a predecessor of such subsidiary in a capacity

other than as a subsidiary of, and as a result of the subsidiary's or predecessor's independent acts or omissions separate from the liability of, the Delaware corporation. Hecla also is a successor-in-interest by statutory merger to Day Mines, Inc.;

F. "Site" is the area shown on Attachment A to this Order and is located in Shoshone County in northern Idaho. With the exception of the Star Mine Tailings Pond #2, which will be used as a repository for certain materials, no tailings ponds are part of the Site. This and all other attachments to this Order are incorporated herein by reference;

G. "Canyon Creek Project Planning Group" shall mean the group of parties, including EPA, the Trustees, the State, and Hecla, that have been meeting regularly for more than a year to discuss and plan a voluntary response action at the Site;

H. "Canyon Creek Contract" is the agreement between EPA, DEQ, and the Trustees regarding performance of the Work by the Trustees and/or the State and includes attachments thereto. The Canyon Creek Contract and attachments, including the Action Memorandum dated July 28, 1995, the Engineering Evaluation/Cost Analysis ("EE/CA") dated July 21, 1995, and the final approved Work Plan dated June 7, 1995 are Attachment B to this Order; provided, however, that in the event of any conflict between the Canyon Creek Contract and this Order, this Order controls with respect to Hecla's obligations under this Order; and

I. "Work" is the response action as defined by the Canyon Creek Contract and attachments thereto, and Hecla's obligations set forth in Attachments C and D to this Order, excluding any activities relating to residential yards or removal or replacement of soils in residential yards.

IV. FINDINGS OF FACT

4.1 The Site contains mining-related waste that is an actual or potential source of hazardous substances that adversely affect benthic organisms, fish and aquatic plant species in Canyon Creek and the South Fork of the Coeur d'Alene River.

4.2 Pursuant to a settlement between the State and certain mining companies, the Silver Valley Natural Resource Trust Fund was created and is to be used for projects involving the restoration and rehabilitation of the natural resources and environment in the area of the drainage of the Coeur d'Alene River, pursuant to the State of Idaho's responsibilities under CERCLA to restore and replace those natural resources for which it is designated as a trustee under 42 U.S.C. § 9607(f). The Trust Fund may also be used for response, removal, remedial and clean-up actions in this area.

4.3 In preparation for performing a response action at the Site, the Trustees formed the Canyon Creek Project Planning Group, which consists of representatives from the Trustees, the State, EPA, Hecla and other interested parties. Over the past year, this Group has met regularly to plan a voluntary Canyon

Creek response action, to prepare the EE/CA and to delineate the appropriate activities for this action.

4.4 In general terms, this voluntary response action provides for the removal of tailings and other potential source material from the Canyon Creek drainage within the Site, placement of these materials in two on-Site repositories and stabilization and revegetation of the stream channel and flood-plain within the Site.

4.5 Pursuant to the Canyon Creek Contract, the Trustees and/or the State will perform and/or be responsible for the performance of the Work, except for those activities which are to be performed by Hecla as delineated in Attachments C and D.

4.6 With Hecla's agreement, both of the repositories to be constructed under the Work Plan ("Repositories") will be located, and much of the Work will be performed, on land owned by Hecla. Hecla and the Trustees have also agreed that Hecla will provide other assistance to the Work as set forth in Attachments C and D to this Order.

4.7 EPA has reviewed the EE/CA, Work Plan, and Action Memorandum attached to the Canyon Creek Contract, as well as Attachments C and D to this Order, and has determined that these documents, and the Work if performed as required by the Work Plan and Attachments C and D, are consistent with and in accordance with the National Oil and Hazardous Waste Pollution Contingency Plan ("NCP").

4.8 Performance of the Work as provided in the Work Plan is in the public interest because it will immediately address environmental conditions of concern at the Site and is expected to improve water quality and aquatic and riparian habitat on and downstream of the Site.

4.9 One of Hecla's concerns in participating in the planning, funding, and/or performance of this voluntary response action is that its participation in this effort not subject it to liability under CERCLA or other authority, beyond that which may already exist or be alleged, for any materials generated, managed, transported or disposed of during the Work.

4.10 Based on its review of the Canyon Creek Engineering Evaluation/Cost Analysis and the Work Plan for the Work, and EPA's entry into the Canyon Creek Contract with the State and Trustees, and to advance the public interest in securing the performance of the Work, EPA has issued the Action Memorandum and has agreed to enter into this Order with Hecla, which contains certain assurances responsive to Hecla's liability concerns.

4.11 The response action to be performed pursuant to the Canyon Creek Contract and this Order may not be the final response action to address contamination at or from the Site.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

5.1 Based on the Findings of Fact set forth above, the EE/CA, the Work Plan and the Administrative Record supporting this response action, EPA has determined that:

5.2 The Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

5.3 The contaminants found at the Site include "hazardous substance(s)" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

5.4 The conditions described in the Findings of Fact above and the EE/CA constitute an actual or threatened "release" of a hazardous substance from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

5.5 The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

5.6 The actions required by this Order are necessary to protect the public health, welfare, or the environment in accordance with Section 106(a) of CERCLA, and are consistent, and in accordance, with the NCP and CERCLA.

VI. ORDER

6.1 Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby ordered and agreed as follows:

6.2 Subject to the conditions stated in Paragraph 6.3 below, Hecla shall provide funding and/or other assistance to the Trustees as set forth in Attachment C to this Order and shall perform maintenance activities as set forth in Attachment D to this Order.

6.3 All of Hecla's obligations under this Section and Order are conditioned upon the complete and satisfactory performance by the Trustees and/or the State of their obligations for the Work as delineated in the Canyon Creek Contract.

6.4 Prior to completion of the Work, including performance of the maintenance activities set forth in Attachment D, Hecla shall, at least thirty (30) days prior to the conveyance of any interest in real property at the Site, give written notice to the transferee that the property is subject to this Order and written notice to EPA of the proposed conveyance, including the name and address of the transferee. Hecla agrees to require that its successor comply with the immediately preceding sentence and the requirements set forth in Paragraph 6.5 below.

6.5 During performance of the Work, Hecla shall allow EPA access to Hecla-owned or controlled property within the Site for purposes of EPA oversight of the Work. Hecla shall also provide EPA with access to all non-privileged records and

documentation relevant to Hecla's performance of its obligations under this Order.

6.6 Hecla shall preserve all non-privileged documents and information relating to performance of its obligations under this Order for ten (10) years following performance of these obligations. At the end of this ten (10) year period, and thirty (30) days before any document or information is destroyed, Hecla shall notify EPA that such non-privileged documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA. In addition, Hecla shall provide non-privileged documents and information retained under this section at any time before expiration of the ten (10) year period at the written request of EPA.

6.7 Hecla may assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203(b) with respect to part or all of any information submitted to EPA pursuant to this Order, provided such claim is allowed by Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). Analytical and other data specified in Section 104(e)(7)(F) of CERCLA shall not be claimed as confidential by Hecla. If no such claim accompanies the information when it is received by EPA, EPA may make it available to the public without further notice to Hecla.

6.8 Hecla shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations except as provided in Section 121(e)

of CERCLA, 42 U.S.C. § 9621(e), and 40 C.F.R. Section 300.415(i).

6.9 If Hecla's activities at the Site under this Order cause or threaten to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment due to a failure in the approved Work, Hecla shall immediately take all appropriate action in order to prevent, abate, or minimize such release or endangerment caused or threatened by the release. Hecla shall also immediately notify EPA's On-Scene Coordinator ("OSC") for the Site, or, in the event of his/her unavailability, shall notify the EPA Region 10 Duty Officer of the release or threatened release or endangerment. If Hecla fails to respond, EPA may respond to the release or endangerment and reserve the right to pursue cost recovery.

VII. EPA ON-SCENE COORDINATOR/REMEDIAL PROJECT MANAGER

7.1 EPA has appointed Earl Liverman as the On-Scene Coordinator/Remedial Project Manager ("OSC/RPM") for this response action. The OSC/RPM shall be responsible for overseeing the proper and complete implementation of this Order consistent with the NCP.

VIII. REIMBURSEMENT OF COSTS

8.1 Hecla shall reimburse EPA for all response costs incurred by the United States after the effective date of this Order in overseeing Hecla's implementation of the requirements of

this Order. EPA shall submit to Hecla on a periodic basis, a bill for all response costs incurred by the United States with respect to this Order after its effective date. EPA's Superfund Cost Organization Recovery Enhancement System Report or such other summary as certified by EPA shall serve as the basis for the payments.

8.2 Hecla shall, within thirty (30) days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substances Superfund", to the following address:

U.S. Environmental Protection Agency
Superfund Accounting
P.O. Box 360903M
Pittsburgh, Pennsylvania 15251

8.3 Hecla shall simultaneously transmit a copy of the check to EPA, Region 10. Payments shall be designated as "Oversight Costs" - "Canyon Creek - Hecla" and shall reference Hecla's name and address, the EPA site identification number, and the docket number of this Order.

8.4 Interest at the rate established under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), shall begin to accrue upon receipt of the demand on the unpaid balance from the day after the expiration of the thirty (30) day period, notwithstanding any dispute or an objection to any portion of the costs.

8.5 Hecla may dispute all or part of a bill submitted under this Order if Hecla determines that EPA has made an accounting error, that the costs are not related to oversight of

this Order, or that a cost item that is included represents costs that are inconsistent with the NCP.

8.6 If any dispute over costs is resolved before payment is due, the amount due will be adjusted as necessary. If the dispute is not resolved before payment is due, Hecla shall pay the full amount of the uncontested costs into the Hazardous Substances Trust Fund as specified above on or before the due date. Within the same time period, Hecla shall pay the full amount of the contested costs into an interest-bearing escrow account. Hecla shall simultaneously transmit a copy of both checks to the EPA OSC/RPM. Hecla shall ensure that the prevailing party in the dispute shall receive the amount upon which they prevailed from the escrow funds plus interest within thirty (30) days after the dispute is resolved.

IX. DISPUTE RESOLUTION

9.1 The parties to this Order shall attempt to resolve, expeditiously and informally, any disagreement concerning the activities required of Hecla by this Order.

9.2 If Hecla objects to any EPA action taken pursuant to this Order, Hecla shall notify EPA, in writing, of its objections within ten (10) days of such action, unless the objection has been informally resolved. EPA and Hecla shall have twenty (20) days from EPA's receipt of Hecla's written objections to attempt to resolve the dispute through formal negotiations ("Negotiation Period"). The Negotiation Period may be extended

at the sole discretion of EPA. EPA's decision regarding an extension of the Negotiation Period shall not constitute an EPA action subject to dispute resolution or a final agency action giving rise to judicial review.

9.3 Any agreements reached by the parties pursuant to this section shall be in writing, signed by all parties, and shall, upon the signature of all parties, be incorporated into and become an enforceable element of this Order. If the parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the Region 10 level will issue a written decision on the dispute to the Participants, based on the voluntary nature of Hecla's participation under this Order and the cooperative efforts of all involved.

9.4 The decision of EPA pursuant to this Section IX shall be incorporated into and become an enforceable element of this Order upon Hecla's receipt of the EPA decision regarding the dispute. Hecla's obligations under this Order shall not be tolled by submission of any objection for dispute resolution under this section.

9.5 Following resolution of the dispute, as provided by this section, Hecla shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs. No EPA decision made pursuant to this section shall constitute a final agency action giving rise to judicial review.

X. FORCE MAJEURE

10.1 Hecla agrees to perform all requirements under this Order unless the performance is delayed or prevented by a Force Majeure. For purposes of this Order, a Force Majeure is defined as any event arising from causes beyond the control of Hecla, including, but not limited to, their contractors and subcontractors, that delays or prevents performance of any obligation under this Order despite Hecla's best efforts to fulfill the obligation. Force Majeure does not include financial inability to complete, or increased costs of, performance.

10.2 Hecla shall notify EPA orally within twenty-four hours after the event, and in writing within seven days, after Hecla becomes or should have become aware of events which constitute a Force Majeure. Such notice shall: identify the event constituting the Force Majeure; state the measures taken or to be taken to minimize the delay based by the Force Majeure; and estimate the timetable for implementation of the measures. Hecla shall take all reasonable measures to avoid and minimize the delay. Failure to comply with the notice provision of this action shall waive any claim of Force Majeure by Hecla.

10.3 If EPA determines a delay in performance of a requirement under this Order, or a failure to perform such a requirement, is or was attributable to a Force Majeure, the obligation to perform this requirement shall be eliminated or the time period for such performance shall be extended as deemed necessary or appropriate by EPA. Such an extension shall not

alter Hecla's obligation to perform or complete other tasks required by the Order which are not directly affected by the Force Majeure.

XI. PENALTIES

11.1 Violation of any provision of this Order may subject Hecla to civil penalties of up to twenty-five thousand dollars ($ 25,000) per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Hecla may also be subject to punitive damages in an amount up to three (3) times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Hecla violate this Order or any portion hereof, EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606.

XII. ASSURANCE AND RELATED PROVISIONS

12.1 During the pendency of the Work (but excluding maintenance activities as defined in Attachment D), provided that Hecla is proceeding in compliance with this Order and subject to the reservations in Paragraph 12.3 herein, neither EPA nor any person acting on EPA's behalf shall institute or authorize additional proceedings under Section 106 of CERCLA or Section 7003 of RCRA to compel performance of a different

response action at the Site. Further, this Order may not be used to institute or authorize additional proceedings under this Order to compel performance of a different response action at the Site or to require Hecla to perform activities under this Order with respect to the Site other than those identified in Attachments C and D hereto.

12.2 To the extent that Hecla is not otherwise liable for hazardous substances, pollutants, or contaminants that have been released or threaten to be released at or from the Site ("Materials"), neither this Order, its terms, nor any of the following shall be used as a basis for liability under CERCLA Sections 106 and 107(a) or RCRA Section 7003: (a) the agreement of Hecla to perform or finance any aspect of the Work; (b) the performance, financing, planning, or evaluation of any attribute or aspect of the Work; (c) the generation, handling, transportation, or disposal of Materials in accordance with the Work Plan; (d) the presence on property owned or operated by Hecla within the Site, during or following completion of the Work, of Materials that came to be located on such property as a result of the Work.

12.3 Notwithstanding any provision of this Order, EPA shall have the right to institute new proceedings, which are defined as any proceeding not related to this Order, regarding the Site if: (a) EPA determines that conditions at the Site pose an imminent and substantial endangerment; or (b) EPA discovers conditions or new information previously unknown that indicates

that the Work is not protective of human health or the environment.

12.4 The assurances and related provisions in this Section are conditioned upon the complete and satisfactory performance by Hecla of its obligations under this Order. These assurances and other provisions extend only to Hecla and do not extend to any other person. Further, these assurances shall not preclude liability for costs or damages as the result of negligence on the part of Hecla.

XIII. RESERVATION OF RIGHTS

13.1 Except as specifically provided in this Order, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary and as permitted by this Order, or from requiring Hecla in the future to perform additional activities pursuant to CERCLA or any other applicable law. EPA reserves the right to bring an action against Hecla under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of

any unreimbursed response costs incurred by the United States related to this Order.

13.2 The United States reserves, and this Order is without prejudice to, all rights the United States may have against Hecla with respect to liability for damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such a release.

13.3 Except as provided in this Order, nothing in this Order constitutes a satisfaction or release from any claim or cause of action against Hecla or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including, but not limited to, any claims of the United States for costs, damages, and interest under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a).

XIV. OTHER CLAIMS

14.1 By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Hecla. The United States or EPA shall not be deemed a party to any contract entered into by Hecla or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order. Further, EPA does not assume financial and/or management

responsibility for continuation of the response action if one or more of the other project participants withdraws from this action.

14.2 This Order does not constitute a preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2). Hecla waives any claim to payment under Sections 106(b), 111, and 112 of CERCLA, 42 U.S.C. §§ 9606(b), 9611, and 9612, against the United States or the Hazardous Substance Superfund arising out of any action performed under this Order.

14.3 No action or decision by EPA pursuant to this Order shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XV. HECLA'S RESERVATION OF RIGHTS

15.1 Nothing in this Order, except as specifically provided in Paragraph 14.2 of this Order, shall be construed as restricting Hecla's right to lawfully challenge or object to any future response actions that may be proposed at or affecting the Site, or as waiving, limiting, or affecting other rights, claims, causes of action, or demands Hecla may have against any person under CERCLA, including with respect to natural resource damages, or other federal, state, or common law.

XVI. CONTRIBUTION PROTECTION

16.1 With regard to claims for contribution against Hecla for matters addressed in this Order, the Parties hereto agree that Hecla is entitled to protection from contribution actions or claims to the extent provided by CERCLA. Nothing in this Order precludes the United States or Hecla from asserting any claims, causes of action or demands against any persons not parties to this Order for indemnification, contribution, or cost recovery.

XVII. INDEMNIFICATION

17.1 Hecla agrees to indemnify, save, and hold harmless the United States, its officials, agents, contractors, subcontractors, employees, and representatives from any and all claims or causes of action: (A) arising from, or on account of, acts or omissions of Hecla, Hecla's officers, heirs, directors, employees, agents, contractors, subcontractors, receivers, trustees, successors, or assigns, in carrying out actions pursuant to this Order; and (B) for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Hecla and any persons for performance of the Work, including claims on account of constructions delays. In addition, Hecla agrees to pay the United States all costs incurred by the United States, including litigation costs arising from or on account of claims made against the United States based on any of the acts or omissions referred to in this paragraph.

XVIII. MODIFICATION

18.1 Any requirement of this Order may be modified, in writing, by mutual agreement of the Parties hereto.

XIX. SEVERABILITY

19.1 If a court issues an order that invalidates any provision of this Order or finds that Hecla has sufficient cause not to comply with one or more provisions of this Order, Hecla shall remain bound to comply with all provisions of this Order not invalidated or determined to be subject to a sufficient cause defense by the court's order.

XX. EFFECTIVE DATE

20.1 This Order may be executed in any number of counterparts, each of which when executed and delivered to EPA shall be deemed to be an original, but such counterparts shall together constitute one and the same document. This Order shall be effective upon signature by EPA and the U.S. Department of Justice.

The undersigned representative of Hecla certifies that he is fully authorized to enter into the terms and conditions of this Order for response action at Canyon Creek and to bind Hecla to this document.

Date: 08/15/95

MICHAEL B. WHITE
Vice President/General Counsel
Hecla Mining Company

This Order for response action at Canyon Creek is so ORDERED and Agreed.

Jane A Moore

Date: Aug 15, 1995

for CHUCK CLARKE
Regional Administrator
Region 10
U.S. Environmental Protection Agency

Date: _____

LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

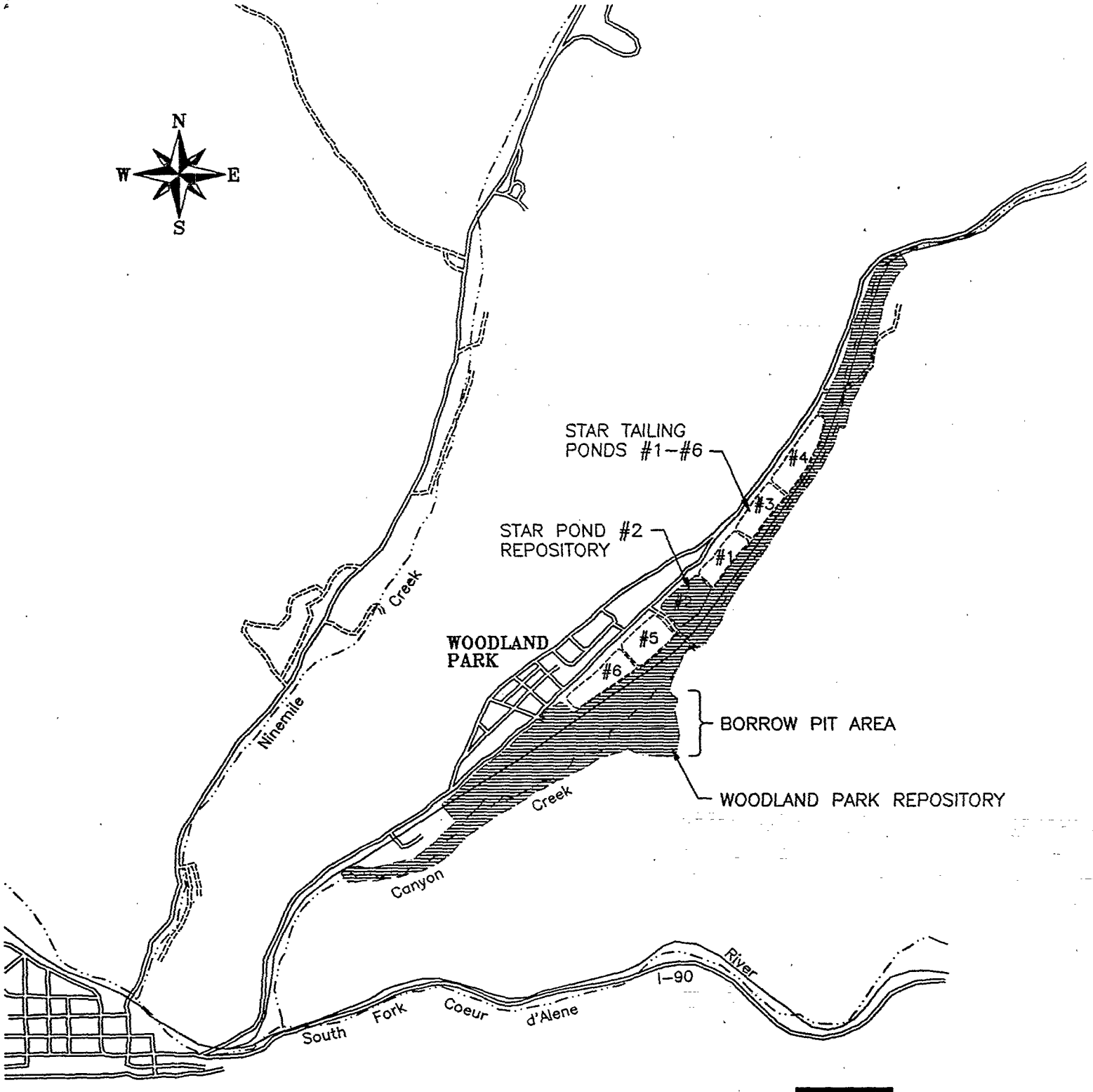
This Order for response action at Canyon Creek is so ORDERED and Agreed.

Date: _____

CHUCK CLARKE
Regional Administrator
Region 10
U.S. Environmental Protection Agency

Date: 8/15/95

~~LOIS J. SCHIFFER~~ James F. Simon
Acting
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice



Hecla
MINING COMPANY

APPROX. SCALE
0 1000'

AREA INCLUDED
IN SITE

SITE MAP
CANYON CREEK – WOODLAND PARK AREA
SHOSHONE COUNTY, IDAHO
ATTACHMENT A
8/10/95

WPARK

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 10

IN THE MATTER OF:	)	ADMINISTRATIVE ORDER ON CONSENT
Canyon Creek, Idaho	)	U.S. EPA, Region 10 CERCLA Docket No. 10-95-0105-CERCLA
Hecla Mining Company	)	

WHEREAS, Hecla Mining Company ("Hecla") has agreed to participate in a cooperative effort with the State of Idaho Department of Environmental Quality ("DEQ") and the State Trustees to address releases of hazardous substances at or from Canyon Creek;

WHEREAS, the United States Environmental Protection Agency ("EPA") contends that Hecla is jointly and severally liable for tailings located in Canyon Creek, and for the release or threatened release of hazardous substances, pollutants, or contaminants resulting from tailings located in Canyon Creek;

WHEREAS, Hecla is voluntarily participating in this response action and is concerned that its voluntary participation in this effort not subject it to liability under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") or the Resource Conservation and Recovery Act ("RCRA") for releases or threatened releases of hazardous substances, pollutants, or contaminants for which it would not be liable but for its participation in this effort.

THEREFORE, EPA and Hecla are entering into this Administrative Order on Consent ("Order").

I. JURISDICTION AND GENERAL PROVISIONS

1.1 This Administrative Order on Consent ("Order") is issued pursuant to the authority vested in the President of the United States by Section 104, 106(a) and 107 of CERCLA, as amended, 42 U.S.C. §§ 9604, 9606(a), and 9607, and delegated to the Administrator of the EPA by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the EPA Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-C and further delegated to the Superfund Branch Chief. Additional authority is provided by the inherent settlement authority of the Assistant Attorney General.

1.2 Hecla consents and agrees to comply with and be bound by the terms of this Order. EPA and Hecla agree that Hecla's consent to this Order, and its actions in accordance with this Order, shall not in any way constitute or be construed as an

admission of any liability, which Hecla expressly denies, or agreement to legal or factual matters set forth in this Order and are not admissible into evidence, except in a proceeding to enforce this Order, to establish any liability or legal or factual matter.

II. PARTIES BOUND

2.1 This Order applies to and is binding upon EPA and upon Hecla. Any change in ownership or corporate status of Hecla including, but not limited to, any transfer of assets or real or personal property, shall not alter Hecla's responsibilities under this Order. Hecla shall ensure that any Hecla contractors, subcontractors, or representatives involved with performance of Hecla's obligations under this Order receive a copy of this Order and comply with this Order. Hecla shall be responsible for any noncompliance with this Order.

III. DEFINITIONS

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A. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States;

B. "United States" shall mean the United States of America, its departments, agencies, and instruments;

C. "Trustees" shall mean the Trustees of the Silver Valley Natural Resource Trust Fund, a group of seven trustees composed of state, local, and mining company representatives, that administers the trust fund established for the use and benefit of the State of Idaho as part of the settlement of State of Idaho v. The Bunker Hill Company, et al., No. CIV 83-3161 (D. Idaho), an action brought by the State under the terms of Section 107 of CERCLA, 42 U.S.C. § 9607, to recover damages to natural resources belonging to, managed by, or controlled by the State of Idaho. "Trustees" does not include the individual persons or entities that provide representatives to this group;

D. "State" shall mean the Idaho Department of Health and Welfare, Division of Environmental Quality ("DEQ");

E. "Hecla Mining Company" or "Hecla" means the Delaware corporation of that name and its subsidiaries, including all of the following subsidiary corporations: Lucky Friday Silver-Lead Mines Company; Abot Mining Company; Nine Corporation and Wall Street Mining Company; and the Mine Owners' Association, to the extent of Hecla's interest; provided, however, that the terms "Hecla" and "Hecla Mining Company" shall not include any subsidiary or affiliate, whether listed herein or not, to the extent that such subsidiary is deemed liable for response activities at the Site as a result of activities conducted by such subsidiary or a predecessor of such subsidiary in a capacity

other than as a subsidiary of, and as a result of the subsidiary's or predecessor's independent acts or omissions separate from the liability of, the Delaware corporation. Hecla also is a successor-in-interest by statutory merger to Day Mines, Inc.;

F. "Site" is the area shown on Attachment A to this Order and is located in Shoshone County in northern Idaho. With the exception of the Star Mine Tailings Pond #2, which will be used as a repository for certain materials, no tailings ponds are part of the Site. This and all other attachments to this Order are incorporated herein by reference;

G. "Canyon Creek Project Planning Group" shall mean the group of parties, including EPA, the Trustees, the State, and Hecla, that have been meeting regularly for more than a year to discuss and plan a voluntary response action at the Site;

H. "Canyon Creek Contract" is the agreement between EPA, DEQ, and the Trustees regarding performance of the Work by the Trustees and/or the State and includes attachments thereto. The Canyon Creek Contract and attachments, including the Action Memorandum dated July 28, 1995, the Engineering Evaluation/Cost Analysis ("EE/CA") dated July 21, 1995, and the final approved Work Plan dated June 7, 1995 are Attachment B to this Order; provided, however, that in the event of any conflict between the Canyon Creek Contract and this Order, this Order controls with respect to Hecla's obligations under this Order; and

I. "Work" is the response action as defined by the Canyon Creek Contract and attachments thereto, and Hecla's obligations set forth in Attachments C and D to this Order, excluding any activities relating to residential yards or removal or replacement of soils in residential yards.

IV. FINDINGS OF FACT

4.1 The Site contains mining-related waste that is an actual or potential source of hazardous substances that adversely affect benthic organisms, fish and aquatic plant species in Canyon Creek and the South Fork of the Coeur d'Alene River.

4.2 Pursuant to a settlement between the State and certain mining companies, the Silver Valley Natural Resource Trust Fund was created and is to be used for projects involving the restoration and rehabilitation of the natural resources and environment in the area of the drainage of the Coeur d'Alene River, pursuant to the State of Idaho's responsibilities under CERCLA to restore and replace those natural resources for which it is designated as a trustee under 42 U.S.C. § 9607(f). The Trust Fund may also be used for response, removal, remedial and clean-up actions in this area.

4.3 In preparation for performing a response action at the Site, the Trustees formed the Canyon Creek Project Planning Group, which consists of representatives from the Trustees, the State, EPA, Hecla and other interested parties. Over the past year, this Group has met regularly to plan a voluntary Canyon

Creek response action, to prepare the EE/CA and to delineate the appropriate activities for this action.

4.4 In general terms, this voluntary response action provides for the removal of tailings and other potential source material from the Canyon Creek drainage within the Site, placement of these materials in two on-Site repositories and stabilization and revegetation of the stream channel and flood-plain within the Site.

4.5 Pursuant to the Canyon Creek Contract, the Trustees and/or the State will perform and/or be responsible for the performance of the Work, except for those activities which are to be performed by Hecla as delineated in Attachments C and D.

4.6 With Hecla's agreement, both of the repositories to be constructed under the Work Plan ("Repositories") will be located, and much of the Work will be performed, on land owned by Hecla. Hecla and the Trustees have also agreed that Hecla will provide other assistance to the Work as set forth in Attachments C and D to this Order.

4.7 EPA has reviewed the EE/CA, Work Plan, and Action Memorandum attached to the Canyon Creek Contract, as well as Attachments C and D to this Order, and has determined that these documents, and the Work if performed as required by the Work Plan and Attachments C and D, are consistent with and in accordance with the National Oil and Hazardous Waste Pollution Contingency Plan ("NCP").

4.8 Performance of the Work as provided in the Work Plan is in the public interest because it will immediately address environmental conditions of concern at the Site and is expected to improve water quality and aquatic and riparian habitat on and downstream of the Site.

4.9 One of Hecla's concerns in participating in the planning, funding, and/or performance of this voluntary response action is that its participation in this effort not subject it to liability under CERCLA or other authority, beyond that which may already exist or be alleged, for any materials generated, managed, transported or disposed of during the Work.

4.10 Based on its review of the Canyon Creek Engineering Evaluation/Cost Analysis and the Work Plan for the Work, and EPA's entry into the Canyon Creek Contract with the State and Trustees, and to advance the public interest in securing the performance of the Work, EPA has issued the Action Memorandum and has agreed to enter into this Order with Hecla, which contains certain assurances responsive to Hecla's liability concerns.

4.11 The response action to be performed pursuant to the Canyon Creek Contract and this Order may not be the final response action to address contamination at or from the Site.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

5.1 Based on the Findings of Fact set forth above, the EE/CA, the Work Plan and the Administrative Record supporting this response action, EPA has determined that:

5.2 The Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

5.3 The contaminants found at the Site include "hazardous substance(s)" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

5.4 The conditions described in the Findings of Fact above and the EE/CA constitute an actual or threatened "release" of a hazardous substance from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

5.5 The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

5.6 The actions required by this Order are necessary to protect the public health, welfare, or the environment in accordance with Section 106(a) of CERCLA, and are consistent, and in accordance, with the NCP and CERCLA.

VI. ORDER

6.1 Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby ordered and agreed as follows:

6.2 Subject to the conditions stated in Paragraph 6.3 below, Hecla shall provide funding and/or other assistance to the Trustees as set forth in Attachment C to this Order and shall perform maintenance activities as set forth in Attachment D to this Order.

6.3 All of Hecla's obligations under this Section and Order are conditioned upon the complete and satisfactory performance by the Trustees and/or the State of their obligations for the Work as delineated in the Canyon Creek Contract.

6.4 Prior to completion of the Work, including performance of the maintenance activities set forth in Attachment D, Hecla shall, at least thirty (30) days prior to the conveyance of any interest in real property at the Site, give written notice to the transferee that the property is subject to this Order and written notice to EPA of the proposed conveyance, including the name and address of the transferee. Hecla agrees to require that its successor comply with the immediately preceding sentence and the requirements set forth in Paragraph 6.5 below.

6.5 During performance of the Work, Hecla shall allow EPA access to Hecla-owned or controlled property within the Site for purposes of EPA oversight of the Work. Hecla shall also provide EPA with access to all non-privileged records and

documentation relevant to Hecla's performance of its obligations under this Order.

6.6 Hecla shall preserve all non-privileged documents and information relating to performance of its obligations under this Order for ten (10) years following performance of these obligations. At the end of this ten (10) year period, and thirty (30) days before any document or information is destroyed, Hecla shall notify EPA that such non-privileged documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA. In addition, Hecla shall provide non-privileged documents and information retained under this section at any time before expiration of the ten (10) year period at the written request of EPA.

6.7 Hecla may assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203(b) with respect to part or all of any information submitted to EPA pursuant to this Order, provided such claim is allowed by Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). Analytical and other data specified in Section 104(e)(7)(F) of CERCLA shall not be claimed as confidential by Hecla. If no such claim accompanies the information when it is received by EPA, EPA may make it available to the public without further notice to Hecla.

6.8 Hecla shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations except as provided in Section 121(e)

of CERCLA, 42 U.S.C. § 9621(e), and 40 C.F.R. Section 300.415(i).

6.9 If Hecla's activities at the Site under this Order cause or threaten to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment due to a failure in the approved Work, Hecla shall immediately take all appropriate action in order to prevent, abate, or minimize such release or endangerment caused or threatened by the release. Hecla shall also immediately notify EPA's On-Scene Coordinator ("OSC") for the Site, or, in the event of his/her unavailability, shall notify the EPA Region 10 Duty Officer of the release or threatened release or endangerment. If Hecla fails to respond, EPA may respond to the release or endangerment and reserve the right to pursue cost recovery.

VII. EPA ON-SCENE COORDINATOR/REMEDIAL PROJECT MANAGER

7.1 EPA has appointed Earl Liverman as the On-Scene Coordinator/Remedial Project Manager ("OSC/RPM") for this response action. The OSC/RPM shall be responsible for overseeing the proper and complete implementation of this Order consistent with the NCP.

VIII. REIMBURSEMENT OF COSTS

8.1 Hecla shall reimburse EPA for all response costs incurred by the United States after the effective date of this Order in overseeing Hecla's implementation of the requirements of

this Order. EPA shall submit to Hecla on a periodic basis, a bill for all response costs incurred by the United States with respect to this Order after its effective date. EPA's Superfund Cost Organization Recovery Enhancement System Report or such other summary as certified by EPA shall serve as the basis for the payments.

8.2 Hecla shall, within thirty (30) days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substances Superfund", to the following address:

U.S. Environmental Protection Agency
Superfund Accounting
P.O. Box 360903M
Pittsburgh, Pennsylvania 15251

8.3 Hecla shall simultaneously transmit a copy of the check to EPA, Region 10. Payments shall be designated as "Oversight Costs" - "Canyon Creek - Hecla" and shall reference Hecla's name and address, the EPA site identification number, and the docket number of this Order.

8.4 Interest at the rate established under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), shall begin to accrue upon receipt of the demand on the unpaid balance from the day after the expiration of the thirty (30) day period, notwithstanding any dispute or an objection to any portion of the costs.

8.5 Hecla may dispute all or part of a bill submitted under this Order if Hecla determines that EPA has made an accounting error, that the costs are not related to oversight of

this Order, or that a cost item that is included represents costs that are inconsistent with the NCP.

8.6 If any dispute over costs is resolved before payment is due, the amount due will be adjusted as necessary. If the dispute is not resolved before payment is due, Hecla shall pay the full amount of the uncontested costs into the Hazardous Substances Trust Fund as specified above on or before the due date. Within the same time period, Hecla shall pay the full amount of the contested costs into an interest-bearing escrow account. Hecla shall simultaneously transmit a copy of both checks to the EPA OSC/RPM. Hecla shall ensure that the prevailing party in the dispute shall receive the amount upon which they prevailed from the escrow funds plus interest within thirty (30) days after the dispute is resolved.

IX. DISPUTE RESOLUTION

9.1 The parties to this Order shall attempt to resolve, expeditiously and informally, any disagreement concerning the activities required of Hecla by this Order.

9.2 If Hecla objects to any EPA action taken pursuant to this Order, Hecla shall notify EPA, in writing, of its objections within ten (10) days of such action, unless the objection has been informally resolved. EPA and Hecla shall have twenty (20) days from EPA's receipt of Hecla's written objections to attempt to resolve the dispute through formal negotiations ("Negotiation Period"). The Negotiation Period may be extended

at the sole discretion of EPA. EPA's decision regarding an extension of the Negotiation Period shall not constitute an EPA action subject to dispute resolution or a final agency action giving rise to judicial review.

9.3 Any agreements reached by the parties pursuant to this section shall be in writing, signed by all parties, and shall, upon the signature of all parties, be incorporated into and become an enforceable element of this Order. If the parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the Region 10 level will issue a written decision on the dispute to the Participants, based on the voluntary nature of Hecla's participation under this Order and the cooperative efforts of all involved.

9.4 The decision of EPA pursuant to this Section IX shall be incorporated into and become an enforceable element of this Order upon Hecla's receipt of the EPA decision regarding the dispute. Hecla's obligations under this Order shall not be tolled by submission of any objection for dispute resolution under this section.

9.5 Following resolution of the dispute, as provided by this section, Hecla shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs. No EPA decision made pursuant to this section shall constitute a final agency action giving rise to judicial review.

X. FORCE MAJEURE

10.1 Hecla agrees to perform all requirements under this Order unless the performance is delayed or prevented by a Force Majeure. For purposes of this Order, a Force Majeure is defined as any event arising from causes beyond the control of Hecla, including, but not limited to, their contractors and subcontractors, that delays or prevents performance of any obligation under this Order despite Hecla's best efforts to fulfill the obligation. Force Majeure does not include financial inability to complete, or increased costs of, performance.

10.2 Hecla shall notify EPA orally within twenty-four hours after the event, and in writing within seven days, after Hecla becomes or should have become aware of events which constitute a Force Majeure. Such notice shall: identify the event constituting the Force Majeure; state the measures taken or to be taken to minimize the delay based by the Force Majeure; and estimate the timetable for implementation of the measures. Hecla shall take all reasonable measures to avoid and minimize the delay. Failure to comply with the notice provision of this action shall waive any claim of Force Majeure by Hecla.

10.3 If EPA determines a delay in performance of a requirement under this Order, or a failure to perform such a requirement, is or was attributable to a Force Majeure, the obligation to perform this requirement shall be eliminated or the time period for such performance shall be extended as deemed necessary or appropriate by EPA. Such an extension shall not

alter Hecla's obligation to perform or complete other tasks required by the Order which are not directly affected by the Force Majeure.

XI. PENALTIES

11.1 Violation of any provision of this Order may subject Hecla to civil penalties of up to twenty-five thousand dollars ($ 25,000) per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Hecla may also be subject to punitive damages in an amount up to three (3) times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Hecla violate this Order or any portion hereof, EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606.

XII. ASSURANCE AND RELATED PROVISIONS

12.1 During the pendency of the Work (but excluding maintenance activities as defined in Attachment D), provided that Hecla is proceeding in compliance with this Order and subject to the reservations in Paragraph 12.3 herein, neither EPA nor any person acting on EPA's behalf shall institute or authorize additional proceedings under Section 106 of CERCLA or Section 7003 of RCRA to compel performance of a different

response action at the Site. Further, this Order may not be used to institute or authorize additional proceedings under this Order to compel performance of a different response action at the Site or to require Hecla to perform activities under this Order with respect to the Site other than those identified in Attachments C and D hereto.

12.2 To the extent that Hecla is not otherwise liable for hazardous substances, pollutants, or contaminants that have been released or threaten to be released at or from the Site ("Materials"), neither this Order, its terms, nor any of the following shall be used as a basis for liability under CERCLA Sections 106 and 107(a) or RCRA Section 7003: (a) the agreement of Hecla to perform or finance any aspect of the Work; (b) the performance, financing, planning, or evaluation of any attribute or aspect of the Work; (c) the generation, handling, transportation, or disposal of Materials in accordance with the Work Plan; (d) the presence on property owned or operated by Hecla within the Site, during or following completion of the Work, of Materials that came to be located on such property as a result of the Work.

12.3 Notwithstanding any provision of this Order, EPA shall have the right to institute new proceedings, which are defined as any proceeding not related to this Order, regarding the Site if: (a) EPA determines that conditions at the Site pose an imminent and substantial endangerment; or (b) EPA discovers conditions or new information previously unknown that indicates

that the Work is not protective of human health or the environment.

12.4 The assurances and related provisions in this Section are conditioned upon the complete and satisfactory performance by Hecla of its obligations under this Order. These assurances and other provisions extend only to Hecla and do not extend to any other person. Further, these assurances shall not preclude liability for costs or damages as the result of negligence on the part of Hecla.

XIII. RESERVATION OF RIGHTS

13.1 Except as specifically provided in this Order, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary and as permitted by this Order, or from requiring Hecla in the future to perform additional activities pursuant to CERCLA or any other applicable law. EPA reserves the right to bring an action against Hecla under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of

any unreimbursed response costs incurred by the United States related to this Order.

13.2 The United States reserves, and this Order is without prejudice to, all rights the United States may have against Hecla with respect to liability for damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such a release.

13.3 Except as provided in this Order, nothing in this Order constitutes a satisfaction or release from any claim or cause of action against Hecla or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including, but not limited to, any claims of the United States for costs, damages, and interest under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a).

XIV. OTHER CLAIMS

14.1 By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Hecla. The United States or EPA shall not be deemed a party to any contract entered into by Hecla or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order. Further, EPA does not assume financial and/or management

responsibility for continuation of the response action if one or more of the other project participants withdraws from this action.

14.2 This Order does not constitute a preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2). Hecla waives any claim to payment under Sections 106(b), 111, and 112 of CERCLA, 42 U.S.C. §§ 9606(b), 9611, and 9612, against the United States or the Hazardous Substance Superfund arising out of any action performed under this Order.

14.3 No action or decision by EPA pursuant to this Order shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XV. HECLA'S RESERVATION OF RIGHTS

15.1 Nothing in this Order, except as specifically provided in Paragraph 14.2 of this Order, shall be construed as restricting Hecla's right to lawfully challenge or object to any future response actions that may be proposed at or affecting the Site, or as waiving, limiting, or affecting other rights, claims, causes of action, or demands Hecla may have against any person under CERCLA, including with respect to natural resource damages, or other federal, state, or common law.

XVI. CONTRIBUTION PROTECTION

16.1 With regard to claims for contribution against Hecla for matters addressed in this Order, the Parties hereto agree that Hecla is entitled to protection from contribution actions or claims to the extent provided by CERCLA. Nothing in this Order precludes the United States or Hecla from asserting any claims, causes of action or demands against any persons not parties to this Order for indemnification, contribution, or cost recovery.

XVII. INDEMNIFICATION

17.1 Hecla agrees to indemnify, save, and hold harmless the United States, its officials, agents, contractors, subcontractors, employees, and representatives from any and all claims or causes of action: (A) arising from, or on account of, acts or omissions of Hecla, Hecla's officers, heirs, directors, employees, agents, contractors, subcontractors, receivers, trustees, successors, or assigns, in carrying out actions pursuant to this Order; and (B) for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Hecla and any persons for performance of the Work, including claims on account of constructions delays. In addition, Hecla agrees to pay the United States all costs incurred by the United States, including litigation costs arising from or on account of claims made against the United States based on any of the acts or omissions referred to in this paragraph.

XVIII. MODIFICATION

18.1 Any requirement of this Order may be modified, in writing, by mutual agreement of the Parties hereto.

XIX. SEVERABILITY

19.1 If a court issues an order that invalidates any provision of this Order or finds that Hecla has sufficient cause not to comply with one or more provisions of this Order, Hecla shall remain bound to comply with all provisions of this Order not invalidated or determined to be subject to a sufficient cause defense by the court's order.

XX. EFFECTIVE DATE

20.1 This Order may be executed in any number of counterparts, each of which when executed and delivered to EPA shall be deemed to be an original, but such counterparts shall together constitute one and the same document. This Order shall be effective upon signature by EPA and the U.S. Department of Justice.

The undersigned representative of Hecla certifies that he is fully authorized to enter into the terms and conditions of this Order for response action at Canyon Creek and to bind Hecla to this document.

Date: 08/15/95

MICHAEL B. WHITE
Vice President/General Counsel
Hecla Mining Company

This Order for response action at Canyon Creek is so ORDERED and Agreed.

Jane D Moore

Date: Aug 15, 1995

CHUCK CLARKE
Regional Administrator
Region 10
U.S. Environmental Protection Agency

Date: _____

LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

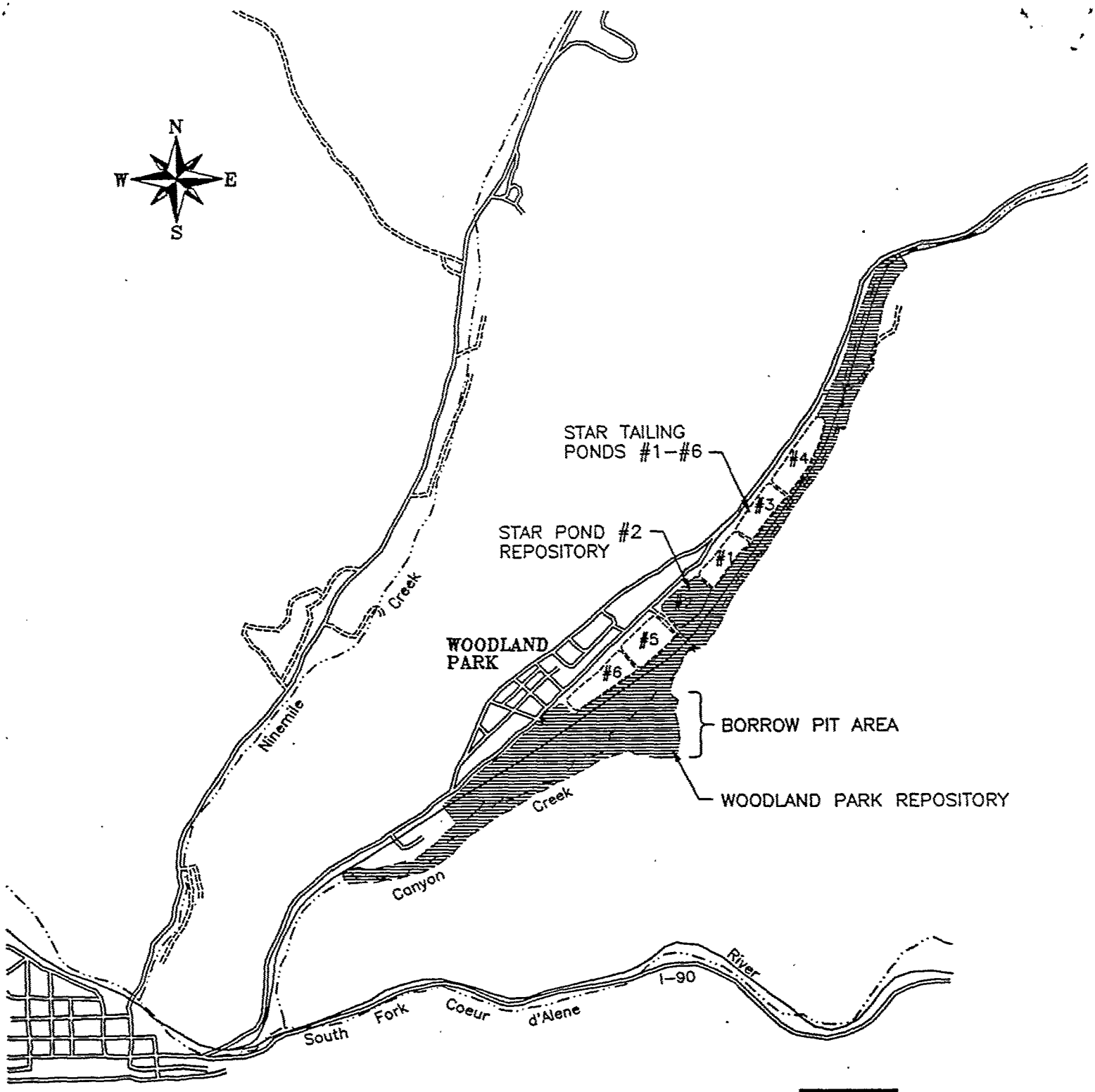
This Order for response action at Canyon Creek is so ORDERED and Agreed.

Date: _____

CHUCK CLARKE
Regional Administrator
Region 10
U.S. Environmental Protection Agency

Date: 8/15/95

~~LOIS J. SCHIFFER~~ James F. Simon
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice



APPROX. SCALE

0 1000'

AREA INCLUDED IN SITE

Hecla MINING COMPANY

SITE MAP
CANYON CREEK – WOODLAND PARK AREA
SHOSHONE COUNTY, IDAHO
ATTACHMENT A
8/10/95