Kim

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Certified Mail Number: 7010 1060 0002 0234 7588
Return Receipt Requested

Masashi Oka, CEO
MUFG Union Bank, NA
400 California St.
San Francisco, CA 94104

Re: Information Request Letter for the Carson River Mercury Superfund Site
Lyon, Storey, Washoe and Churchill Counties, Nevada

Dear Mr. Oka:

The United States Environmental Protection Agency ("EPA") is spending public funds to investigate and respond to actual or threatened releases of hazardous substances, pollutants, and contaminants at the Carson River Mercury Superfund Site ("Site") located in Lyon, Storey, Washoe and Churchill counties, and Carson City, Nevada. EPA is currently researching past ownership and operations at various mill sites within the geographic area of the Superfund site and believes that you may have information that can assist EPA in this effort, with respect to former mining-related mills and mill sites that were either owned and/or operated by MUFG Union Bank, NA's predecessor company, the Bank of California. EPA requests your assistance in answering the questions contained in Enclosure B. Definitions and instructions on how to respond to the questions are provided in Enclosure A.

Under Section 104(e) of CERCLA, 42 U.S.C. §9604(e), EPA has broad information-gathering authority which allows EPA to require persons to furnish information or documents relating to:

(A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.

(B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.

(C) Information relating to the ability of a person to pay for or perform a cleanup.

Although we expect that you will respond to our information request voluntarily, please note that your compliance with this information request is mandated by law. Failure to respond fully and truthfully may result in an enforcement action by EPA pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. §9604(e)(5). This statutory provision authorizes EPA to seek the imposition of penalties of up to $37,500 per day of noncompliance. Also, although we don't expect this to be an issue, please note that provision of false, fictitious, or fraudulent statements

or representations may subject you to criminal penalties under 18 U.S.C. §1001. The information you provide may be used by EPA in administrative, civil, or criminal proceedings.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures outlined in Enclosure A, including the requirement for supporting its claim for confidentiality.

This request for information is not subject to review by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act because it is not an "information collection request" within the meaning of 44 U.S.C. §§3502(3), 3507, 3512, and 3518(c)(1). See also, 5 C.F.R. §§1320.3(c), 1320.4, and 1320.6(a).

We encourage you to give this matter your immediate attention and request that you provide a complete and truthful response to this information request within thirty (30) calendar days of your receipt of this letter. Please note that if the volume of potentially responsive materials is extensive, you have the option of making potentially responsive materials available to EPA to conduct its review and copying of relevant documents on site rather than reviewing and supplying them yourself in a written response.

Your response should include the appropriate name, address, and telephone number of the person to whom EPA should direct future correspondence in regard to this information request. Your response to the information request should be directed to:

Kim Muratore, Case Developer (SFD-7-5)
U.S. EPA, Region 9
75 Hawthorne St.
San Francisco, CA 94105

If you have any questions regarding this letter, please contact Ms. Muratore at (415) 972-3121 or you may send her an email at muratore.kim@epa.gov. Questions regarding the Site's cleanup status should be directed to the Remedial Project Manager, Andrew Bain, at (415) 972-3167 or bain.andrew@epa.gov. Questions regarding legal matters can be directed to Janet Magnuson at (415) 972-3887 or magnuson.janet@epa.gov. Thank you for your prompt attention to this matter.

Sincerely,

Kathi Moore

Kathi Moore, Manager
Case Development Cost Recovery Section
Superfund Division

Enclosures (2)

ENCLOSURE A: INSTRUCTIONS AND DEFINITIONS

Instructions:

1. Answer Every Question Completely. A separate response must be made to each of the questions set forth in this information request. For each question contained in this letter, if information responsive to this information request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.

2. Number Each Answer. When answering the questions in Enclosure B, please precede each answer with the corresponding number of the question and subpart to which it responds.

3. Number Each Document. For each document produced in response to this information request, indicate on the document, or in some other reasonable manner, the number of the question to which it corresponds.

4. Provide the Best Information Available. Provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available will be considered non-compliance with this information request.

5. Identify Sources of Answer. For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.

6. Continuing Obligation to Provide/Correct Information. If additional information or documents responsive to this information request become known or available to you after you respond to this information request, EPA hereby requests pursuant to CERCLA Section 104(e) that you supplement your response to EPA.

7. Scope of Request. The scope of this request includes all information and documents independently developed or obtained by research by you, your attorneys and consultants or any of their agents, consultants or employees.

8. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§9604(e)(7)(E) and (F), and Section 3007(b) of RCRA, 42 U.S.C. §6927(b), and 40 C.F.R. §2.203(b). If you make a claim of confidentiality for any of the information it submits to EPA, it must prove that claim. For each document or response you claim as confidential, you must separately address the following points:

   (a) Clearly identify the portions of the information alleged to be entitled to confidential treatment;

   (b) Identify the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);

(c) Identify measures taken by you to guard against the undesired disclosure of the information to others;

(d) Explain the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;

(e) Provide pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and

(f) State whether you assert that disclosure of the information would likely result in substantial harmful effects to your competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

(g) To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all nonconfidential information, including any redacted versions of documents, are in one envelope and all materials for which you desire confidential treatment are in another envelope.

(h) All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that the information is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

9. Disclosure to EPA's Authorized Representatives. Information that you submit in response to this information request may be disclosed by EPA to authorized representatives of the United States pursuant to 40 C.F.R. §2.310(h) even if you assert that all or part of it is confidential business information. The authorized representatives of EPA to which EPA may disclose information contained in your response are as follows:

Toeroek & Associates, Inc.
EPA Contract Number BPA-11-W-001

SAIC (subcontractor under Toeroek & Associates, Inc.)
BPA-11-W-001

Any subsequent additions or changes in EPA contractors who may have access to your response to this information request will be published in the Federal Register.

This information may be made available to these authorized representatives of EPA for any of the following reasons: to assist with document handling, inventory, and indexing; or to assist with document review and analysis for verification of completeness; or to provide expert technical review of the contents of the response. Pursuant to 40 C.F.R. §2.310(h), you may submit comments on EPA's potential disclosure of any confidential information to its authorized representatives within the thirty (30) calendar day period in which the response is due.

10. Objections to Questions. If you have objections to some or all of the questions contained in the information request, you are still required to respond to each of the questions.

Definitions Applicable to Enclosure B, Information Request:

1. Any reference to you should be interpreted to include, but not be limited to, all owners, officers, managers, employees, contractors, assigns, agents, trustees, predecessors, successors, subsidiaries, operating divisions, affiliates and branches.

2. The term "person" shall include any individual, firm, unincorporated association, partnership, corporation, trust, joint venture, or other entity.

3. The term "waste" or "wastes" shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants, whether solid, liquid or sludge.

4. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of RCRA.

5. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA, and includes any mixtures of such hazardous substances with any other substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances.

6. The term "release" has the same definition as that contained in Section 101(22) of CERCLA, and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers and other closed receptacles containing any hazardous substance or pollutant or contaminant.

7. The term "pollutant or contaminant" shall have the same definition as that contained in Section 101(33) of CERCLA and include any mixtures of such pollutants and contaminants with any other substance including petroleum products.

8. The term "materials" shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site including, but not limited to, all hazardous substances, pollutants or contaminants.

9. The term "documents" includes any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or

control or known by you to exist, including originals, all prior drafts, and all non-identical copies.

ENCLOSURE B: INFORMATION REQUEST

1. Please provide copies of any documents relating to the Bank of California's involvement with mines and mills (both in a general sense and also specific to a given mine or mill) in the Comstock region (including but not limited to what are the currently named counties of Storey, Lyon, Washoe and Churchill, plus Carson City [formerly known as Ormsby County]) from the period of 1864 to 1872. Such documents include, but are not limited to mortgages, deeds, Board of Directors meeting minutes and resolutions, and correspondence.

2. Please provide copies of any correspondence between William Ralston and William Sharon from the period of 1864 to 1872.

3. Please provide copies of any correspondence between Darius Ogden Mills (D.O. Mills) and William Ralston or William Sharon during the period of time from 1864-1872.

4. Please provide copies of any documents relating to the Bank of California and its involvement with the Union Mill & Mining Company during the period of time from 1864-1872.

5. Please provide a copy of any contract or partnership agreement made between William Ralston and William Sharon between 1864-1872.