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May 12, 2015

Via E-mail

Scott Wilder
Enforcement Specialist
United States Environmental Protection Agency
Region 8
1595 Wynkoop St.
Denver, CO 80202-1129
Wilder.scott@epa.gov

RE: Request for Additional Time to Respond to Substantiation Request
CFAC CERCLA Section 104(e) Productions
Columbia Falls Aluminum Reduction Plant Company Site, Flathead County, MT
SSID #A8-82

Dear Mr. Wilder:

I am writing in response to your letter, dated April 17, 2015 and received April 21, 2015, that requests my client, Columbia Falls Aluminum Company ("CFAC"), substantiate its claim that documents it produced in response to the Environmental Protection Agency's ("EPA") CERCLA Section 104(e) information request contain confidential business information ("CBI"). Thank you for returning my phone call on this matter today.

After an initial review of the documents produced and the applicable statutes and regulations defining CBI, CFAC will not make a further CBI claim for documents identified with control numbers: Confidential 104(e) CFAC 7:6683 to 7:9330. Those documents contain data on site conditions which were previously submitted to the Montana Department of Environmental Quality. Those documents may be removed from CBI categorization. CFAC added control numbers to all of the documents prior to their production.

Many of the other documents CFAC produced are entitled to classification as CBI under law. To substantiate its claims of CBI, considering the large number of documents CFAC provided in response to EPA's Section 104(e) request, CFAC requests an enlargement of time to facilitate a thorough review of the remaining documents so that it may respond to the questions posed in your April 17, 2015 letter.

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Under CERCLA Section 104(e)(7)(E), 42 U.S.C. § 9604(e)(7)(E), CFAC may claim information is entitled to protection as CBI upon a showing of each of the following:

(i) CFAC has not disclosed the information to any other person, other than an employee of the federal, state, or local government or a person bound by a confidentiality agreement, and has taken and continue to take reasonable measures to protect the confidentiality of the information;
(ii) The information is not required to be disclosed or made available to the public under any other federal or state law; and
(iii)Disclosure of the information is likely to cause substantial harm to the competitive position of CFAC.

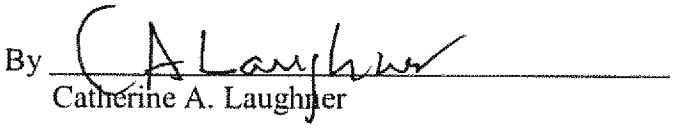
The documents produced by CFAC to EPA to date include, but are not limited to, contracts between CFAC and various vendors and information about vendors, including winning and losing bids; correspondence; and inter-company memoranda.

The response time period allowed by EPA's April 17, 2015 letter does not give CFAC sufficient time for an in-depth review to be able to respond to EPA's April 17, 2015 questions about the remaining documents containing CBI. EPA's September 3, 2015 did not include this instruction. Review will take a substantial amount of time considering the volume of documents at issue. Therefore, CFAC requests an extension of time, up to and including July 31, 2015 to complete its review and respond.

Please contact me if you have questions.

Sincerely,

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

By 
Catherine A. Laughner

Attorney for Columbia Falls Aluminum Company

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