UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
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Phone 800-227-8917
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Approval expires 02/28/2017

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CERTIFIED MAIL
RETURN RECEIPT REQUESTED
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Mr. Andrew Otis, Esq.
Curtis, Mallet-Prevost, Colt & Mosle LLP
101 Park Avenue
New York, NY 10178-0061

Ms. Cathy Laughner, Esq.
Browning Kaleczyc Berry & Hoven P.C.
Attorneys at Law
801 W. Main, Suite 2A
Bozeman, MT 59715-3336

Re: Substantiation Request – CFAC CERCLA Section 104(e) Productions
Columbia Falls Aluminum Reduction Plant Company Site, Flathead County, MT, SSID #A8-82

Dear Mr. Otis and Ms. Laughner:

The U.S. Environmental Protection Agency ("EPA" or "Agency") is seeking to determine the entitlement to confidentiality of information that you submitted to the EPA in Columbia Falls Aluminum Company's November 10, 2014 initial production and January 2, 2015 second production in response to the September 3, 2014 CERCLA Section 104(e) Information Request. You have claimed all of this information as confidential business information ("CBI").

This letter is to notify you that the EPA Region 8 Office of Regional Counsel will be making a final confidentiality determination concerning the information you have claimed as CBI. If you believe that some or all of the information is entitled to confidential treatment, you must make the showings below with specific reference to those portions of the information you consider confidential.

Please be specific by page (including Bates Stamp, if applicable), paragraph, and sentence when identifying and substantiating the information subject to your claim. Where your claim, as originally made or as modified by your response to this letter, does not include all information on a page, please

attach a copy of each such page with brackets around the text that you claim to be CBI. Any information not specifically identified as subject to a confidentiality claim and substantiated as such in your response to this letter may be disclosed without further notice to you. Please note that if a page, document, group or class of documents claimed by you to be CBI contains a significant amount of information which our Office of Regional Counsel determines is not CBI, your CBI claim regarding that page, document, group, or class of documents may be denied.

For each item or class of information that you continue to claim as CBI, please answer the following questions, giving as much detail as possible. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to be entitled to confidential treatment:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.

2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?

3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?

4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.

5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.

7. For each item or category of information claimed as confidential, *explain with specificity* why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.

9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.

10. If you believe any information to be (a) trade secret(s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret(s).

11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Your comments must be postmarked or hand delivered to this office by the 15th working day after your receipt of this letter. You may seek an extension of time to submit your comments to this office, but the request must be made before the end of the 15-day period. Except in extraordinary circumstances, no extension will be approved. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

If you wish to claim any information that you provide in your response to this letter to itself be confidential, you must mark the response "**CONFIDENTIAL**" or with a similar designation, and must bracket all text in the response that you so claim. Information so designated will be disclosed by the EPA only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information provided in your response as confidential, it may be made available to the public without further notice to you.

Should you have any questions concerning this matter, please call me at 206-553-6693.

Sincerely,

Scott Wilder
Enforcement Specialist

cc: Steve Wright, Columbia Falls Aluminum Company (via First Class mail)
Michael Boydston, Esq., EPA R8 Office of Regional Counsel (via email)

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