UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

[seq Text_Box * Arabic \r0]

Ref: 8ENF-L

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ronald W. Clayton, President
CoCa Mines, Inc.
6500 North Mineral Drive, Suite 200
Coeur d'Alene, ID 83815-9408

Re: General Notice of Superfund Liability
Nelson Tunnel/Commodore Waste Rock Pile
Superfund Site, Mineral County, Colorado

Dear Mr. Clayton:

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal "Superfund" law, the U.S. Environmental Protection Agency (EPA) is responsible for responding to the release or threat of release of hazardous substances, pollutants, or contaminants into the environment and for cleaning up or otherwise addressing any contamination that has already occurred. The EPA has documented that such releases have occurred at the Commodore Waste Rock Pile (CWRP) portion of the Nelson Tunnel/Commodore Waste Rock Pile Site (Site) located in Mineral County, Colorado. The EPA has spent public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the CWRP. Based on information presently available, the EPA has determined that you may be responsible under CERCLA for cleanup of the CWRP or costs the EPA has incurred in cleaning up the CWRP.

Explanation of Potential Liability

Under CERCLA, specifically Sections 106(a) and 107(a), potentially responsible parties (PRPs) may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for costs incurred by the EPA in cleaning up a site, unless the PRP can show divisibility or any of the limited statutory defenses. PRPs include current and former owners and operators of a site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Based on its investigation, the EPA believes that you may be liable under Section 107(a) of CERCLA with respect to the CWRP portion of the Site, as the successor to CoCa Mines, Inc., an owner/operator at the time hazardous substances were disposed of at the Site.

To date, the EPA has taken several response actions at the CWRP under the authority of the Superfund Program. The Site was listed on the National Priorities List on September 3, 2008. The EPA conducted a time-critical removal action to address actual or threatened releases of hazardous substances from the CWRP. The Removal Action involved an engineered reconstruction which would function to contain the creek from the point of the historic downstream to well below the CWRP. This engineered containment of the creek also serves to protect the pile from further erosion and migration of contaminated waste rock via the creek into the city of Creede, Colorado, and down into the Rio Grande River. Generally, the removal included temporarily diverting Willow Creek flow around the construction area in the creek channel; clearing out the damaged old wooden creek diversion flume, old metal pipe, metal, and other debris from the channel; lining the upper section of the channel with a geo-membrane to prevent infiltration of creek water into the top of the CWRP; re-grading the waste rock pile slope to achieve a stable 2:1 slope; re-grading the lower channel along the toe of the pile to stabilize the slope; constructing grouted rip-rap drop structures in the channel for dissipation of energy in the flowing water, and lining the lower section of the channel with a grouted rock to stabilize the channel around the CWRP. The CWRP removal costs are approximately $5,920,660.49. Please find enclosed a cost summary for the CWRP.

The EPA is currently undergoing a remedial investigation/feasibility study (RI/FS) for the Nelson Tunnel portion of the Site. Once the RI/FS is completed, the EPA will begin remedial design and remedial action (RD/RA) on the Nelson Tunnel portion of the Site.

Information to Assist You

The EPA would like to encourage communication among you, other PRPs, and the EPA regarding the Site. To assist you in this effort, enclosed is the list of names and addresses of the PRPs to whom this letter has been sent.

The EPA has established Administrative Records that contain documents that serve as the basis for the EPA's selection of cleanup actions for the Site. The Administrative Records are located at:

Creede Town Hall
Meeting Room
2223 North Main Street
Creede, CO 81130
Attn: Gwen Nelson, WCRC

and

EPA Region 8 Superfund Records Center
1595 Wynkoop Street
Denver, CO 80202

and are available to you and the public for inspection and comment.

Please give these matters your immediate attention. If you have any questions regarding this letter, please contact Laurianne Jackson, Site Attorney, at (303) 312-6950. Thank you for your prompt attention to this matter.

Sincerely,

Kelcey Land, Director
RCRA/CERCLA Technical Enforcement Program

Andrea Madigan, Supervisory Attorney
Legal Enforcement Program

Enclosures

cc: Laurianne Jackson, 8ENF-L
Jeral Ellington, DOJ
Sharon Abendschan, 8ENF-RC
Jason King, CO Attorney General's Office
Michael Clary, Hecla Limited

Addresses:

Jason King
State of Colorado
Division of Law
1525 Sherman Street-7th Floor
Denver, CO 80203

Jerry Ellington
Department of Justice
999 18th Street, Suite 370
Denver, CO 80202

Michael Clary
Hecla Limited (f/k/a Hecla Mining Company)
6500 North Mineral Drive, Suite 200
Coeur d'Alene, ID 83815-9408