MAY 2[illegible]

URFO:DLJ
Docket No. 40-8914
0460BS14090E

Hecla Mining Company
ATTN: Larry A. Drew, Manager
Environmental Affairs
6500 Mineral Drive
Box C-8000
Coeur d'Alene, Idaho 83814-1931

Dear Mr. Drew:

Our office is in receipt of a May 7, 1991, letter from Cerrillos Land Company indicating that they are the owners of minerals in Section 7, Township 13 North, Range 8 West, McKinley County, New Mexico, which were under lease to Hecla Mining Company and associated with the Johnny M Mine. As owners of such minerals, they have indicated that they are unwilling to transfer ownership of the mineral interest in the subject property to the Federal Government. However, they did not address whether or not they were willing to sell the mineral interests to Hecla for subsequent transfer to the government. It is necessary for the licensee to demonstrate a serious effort to obtain such subsurface rights in accordance with 10 CFR 40, Appendix A, Criterion 11C. Also, ownership of mineral interests in the subject property does not necessarily infer ownership of all mineral rights. Please clarify if Cerrillos Land Company holds the entire mineral rights to the subject property. In addition, to the extent that the minerals identified as byproduct material can be severed from other minerals and remain undisrupted and undisturbed in perpetuity, then the question should be addressed: i.e., whether or not the owner of such byproduct material would be willing to transfer severable rights sufficient enough to allow the byproduct material to remain undisrupted and undisturbed in perpetuity.

We have also received a copy of the May 13, 1991, letter from Hecla to the McKinley County Clerk and Recorder. The specified deed annotation fails to indicate that the byproduct material is subject to either an NRC general or specific license under Title 10, Part 40, Code of Federal Regulations, prohibiting the disruption and disturbance of the tailings. Please amend your letter to the County Clerk to state specifically following the existing first paragraph that: "...; however, the tailings will be licensed under Title 10, Part 40, Code of Federal Regulations, and may not be disturbed or penetrated without written authorization from the United States Nuclear Regulatory Commission or successor Federal Agency."

PM:URFO	DD:URFO	RC:RIV	D:URFO:RIV
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In regard to your May 16, 1991, letter addressing NRC verification of the surface cleanup activities, it is our understanding that construction activities are not progressing as quickly as anticipated. You were notified during a telephone conversation on May 20, 1991, that NRC had scheduled a site visit for verification sampling on May 30, 1991. In a telephone conversation between you and Dawn L. Jacoby of my staff on May 23, 1991, you indicated that the cleanup may not be complete by May 30. We will therefore wait for your notification prior to rescheduling the site visit. It is understood that you will notify our office by fax or overnight mail that cleanup activities are completed.

Please contact the project manager for the site, Dawn L. Jacoby, if you have any comments or questions at (303) 231-5815.

Sincerely,

Original Signed By:
R. E. HALL

Ramon E. Hall
Director

cc:
B. Garcia, RCFO, NM
E. Montoya, NMED

bcc:
PDR/DCS
URFO r/f
ABBeach, RIV
WLBrown, RIV
LLOR Branch, LLWM
DJacoby
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