

STATE OF ALASKA

SEAN PARNELL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION DIVISION OF SPILL PREVENTION AND RESPONSE CONTAMINATED SITES PROGRAM

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File No 2442.38.001

August 19, 2010

Mr. Ted Murphy, Acting Associate State Director
U.S. Bureau of Land Management
222 West 7th Avenue, #13
Anchorage, Alaska 995137504

Re: Remedial Investigation/Feasibility Study Work Plan
Red Devil Mine, Red Devil, Alaska

Dear Mr. Murphy:

Since March, the Alaska Department of Environmental Conservation (DEC) has been working with the Bureau of Land Management (BLM) and their contractor, Ecology & Environment, Inc. (E&E) on an accelerated schedule for the development of a Remedial Investigation/Feasibility Study (RI/FS) work plan for Red Devil Mine. This RI/FS work is a major effort to resolve the many data gaps so we can better understand the potential risks posed by the site and make informed decisions for further investigation and treatment activities. Since this spring, my staff has been working diligently with BLM and BLM's contractor to design an acceptable RI/FS work plan so this important field work can move forward. Unfortunately, the abbreviated RI/FS work plan review schedule is so compressed that DEC has not been provided an acceptable review period and at this time I must inform you that we will not approve the August 18th RI/FS work plan.

DEC participated in a two-day meeting in April and multiple teleconferences with BLM, E&E, and EPA in order to discuss technical issues during the development of the draft work plan. The draft work plan was provided to DEC in early June and the proposed activities were discussed during the June 14th site visit with BLM, E&E, E&E subcontractors, EPA and DEC. DEC provided comments from the Contaminated Sites Program (CSP) project manager, risk assessor, and chemist as well as the Department of Health and Social Services (DHSS) Division of Epidemiology on July 8th.

On July 13th and 26th, DEC met with BLM, E&E, and EPA via teleconference to discuss in general some of the comments on the draft work plan. When asked for a formal response to the comments for review prior to the meetings, BLM/E&E declined stating that they did not want to release multiple iterations of responses. During the meeting on July 26th, BLM/E&E committed to providing a revised work plan and the responses to agency comments on August 3rd. An accelerated agency review was requested so that the contractor could mobilize to Red Devil on August 16th. The revised work plan was not provided to DEC and EPA until Wednesday, August 18th at 1:45pm with a proposed revised mobilization date of Monday, August 23rd. The proposed review period is less than three working days and does not allow for any discussion or necessary corrections based on review comments.

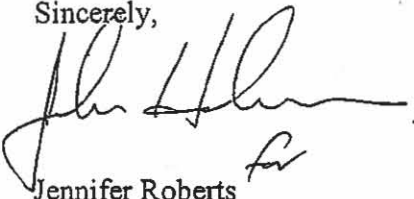
The Comprehensive Environmental Regulation Compensation and Liability Act Section 9621(f) requires that States be provided a *reasonable opportunity to review and comment on the RI/FS and all data and technical documents leading to its issuance*. The August 18th 450-page work plan is significantly different from the draft work plan due to modifications made in response to reviewer comments. We believe that three working days to review a work plan of this magnitude and with such significant revisions does not constitute *reasonable opportunity*. In the interest of developing an acceptable work plan, DEC will identify any remaining issues of concern upon completion of our review and provide those comments to BLM within a 30 day review time period.

DEC has been quite clear about our staff's schedules and workloads regarding review timeframes for this project. During the June 14th site visit and on several subsequent occasions including the July 26th teleconference, the CS project manager informed BLM, E&E and EPA that she would be out of the office from August 23rd – September 3rd. All parties verbally acknowledged that they understood this. In addition, other critical DEC staff members have been clear that they had other high priority projects requiring their attention and would not be able to just drop this other work to handle BLM's work plan and provide comments on a major RI/FS work plan in three days.

As BLM has not provided adequate time for review of the work plan and resolution of several issues of concern, DEC is unable to approve the *RI/FS Work Plan* for the Red Devil Mine, prepared by E&E and dated August 18, 2010. If BLM chooses to proceed with the investigation without an approved work plan, it will be a violation of the Site Cleanup Rules, 18 Alaska Administrative Code 75.325-.990 and BLM will conduct the work at its own risk as the results may not be accepted by DEC and additional actions may be required.

If you have any questions regarding this site, please do not hesitate to contact me at 269-7553.

Sincerely,



Jennifer Roberts
Environmental Program Manager

Cc: Matt Wilkening, EPA
Deb Yamamoto, EPA
Monica Kirk, EPA
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