



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

**MAY 14 2010**

Mr. Robert V. Abbey, Director  
Bureau of Land Management  
U.S. Department of the Interior  
Washington, DC 20240

Dear Mr. Abbey:

Thank you for your letter of April 13, 2010, concerning the Red Devil Mine (RDM) site in Alaska. The Bureau of Land Management (BLM) has made important progress toward EPA's minimum requirements for using an alternative approach to address conditions at the RDM site. Given BLM's understandable concern about budget constraints and competing priorities, your organization's agreement to stipulated penalties under an enforceable agreement for site cleanup is a significant step forward. EPA also recognizes the uncertainty and serious challenge that BLM faces in addressing abandoned mines on public lands.

Further, we are encouraged by our several areas of agreement, which suggest a will to find an acceptable path forward at RDM. For example, we agree on the serious risks at RDM and the immediate need to assess the site's potential impact on Alaska native communities relying on subsistence resources. We also agree that the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) is the applicable cleanup authority, and that using CERCLA will assure proper EPA oversight, as well as provide a mechanism for the EPA Administrator to exercise her remedy selection prerogative. In addition, we both have expressed our commitment to ensure meaningful state involvement, provide consultation for affected local Tribes, and give the public the opportunity for input consistent with CERCLA and the National Contingency Plan.

With this progress, EPA believes that an effective path forward as an alternative to the National Priority List is the bifurcated approach we outlined in our February 23, 2010, letter to you. Under that approach, BLM, with EPA involvement, would cooperatively perform a remedial investigation (RI) and feasibility study (FS) while the appropriate agencies continue to engage on the more complex, long term issues surrounding the cleanup of abandoned mines in general. More specifically, we would enter into an enforceable consent agreement under CERCLA authorities for this phase at RDM, and have developed and enclosed such an agreement for your consideration. This agreement is specifically tailored to unique circumstances at RDM and contains the essential standard legal and implementation conditions that were referenced in EPA's letter of October 1, 2009. As your staff who have signed Federal Facility Agreements for other Department of the Interior sites will recognize, this agreement is considerably shorter than our typical agreement. In addition, as you know, the Superfund law

mandates that federal agencies are subject to all the provisions of the law in the same manner and to the same extent, both procedurally and substantively, as nongovernmental entities. The enclosed agreement provides as much flexibility as is consistent with this statutory requirement. Our joint agreement to these terms will provide the necessary framework for EPA, BLM and the State of Alaska to move forward quickly with needed work. This approach also gives BLM the opportunity to explore options for addressing the larger abandoned mine problem while promptly addressing pressing environmental concerns at the RDM site.

As noted in our February 23 letter, we agree it is also important for BLM to convene an interagency work group on abandoned mines to explore options for inventorying, prioritizing, and defining a path forward for the investigation and cleanup of these sites. EPA stands ready to work with your Agency to begin such an interagency dialogue which will also provide an opportunity for public and stakeholder input.

We would appreciate your response to the proposals outlined in this letter by Monday, May 24, 2010. If you would like to discuss these matters in greater detail or have questions, please contact either Mathy at 202 566-0200 or Cynthia at 202 564-2440.

Sincerely,

Mathy Stanislaus, Assistant Administrator  
Office of Solid Waste and Emergency Response

Cynthia Giles, Assistant Administrator  
Office of Enforcement and Compliance  
Assurance

Enclosure

cc: David Hayes, Deputy Secretary, DOI  
Robert Perciasepe, Deputy Administrator, EPA  
Wilma Lewis, Assistant Secretary for Land and Mineral Management, DOI  
Willie Taylor, Director, Office of Environmental Policy and Compliance, DOI  
Pam Haze, Deputy Assistant Secretary, Policy Management and Budget, DOI  
Ed Roberson, Assistant Director, Renewable Resources and Planning, DOI  
Robert Sussman, Senior Policy Counsel, EPA  
Dennis McLerran, EPA Region 10 Administrator  
Barry Breen, Principal Deputy Assistant Administrator for Solid Waste and Emergency Response, EPA  
Matt Bogoshian, Deputy Assistant Administrator for Enforcement and Compliance Assurance, EPA  
Michelle Pirzadeh, EPA Region 10 Deputy Administrator  
Dan Opalski, Director, EPA Region 10 Office of Environmental Cleanup  
John E. Reeder, Director, Federal Facilities Restoration and Reuse Office, EPA  
David J. Kling, Director, Federal Facilities Enforcement Office, EPA  
Larry Hartig, Commissioner, Alaska Department of Environmental Conservation