



Department of Toxic Substances Control

Edwin F. Lowry, Director
10151 Croydon Way, Suite 3
Sacramento, California 95827-2106



Gray Davis
Governor

Winston H. Hickox
Agency Secretary
California Environmental
Protection Agency
July 3, 2000

Mr. Robert C. Erdmann
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TERMINATION OF LAVA CAP MINE VOLUNTARY CLEANUP AGREEMENT DOCKET # HSA 96/97-025

Dear Mr. Erdmann:

On November 25, 1996, the Department of Toxic Substances Control (DTSC) entered into a Voluntary Cleanup Agreement (VCA) with your client, Mr. Steve Elder. The purpose of the VCA was for DTSC to review all available information on the inactive Lava Cap Mine Site (Site), identify Site characterization data gaps, research viable alternatives for returning the Site to productive use, and make a determination on the regulatory restrictions of using Site mine wastes. In addition, you sent two letters to DTSC, one dated September 8, 1997, outlining three proposals for using mine waste from the Site, and the other letter dated November 17, 1998, requesting DTSC to provide you with a summary of work done as it relates to the VCA.

The events surrounding the catastrophic failure of the log dam on or around December 31, 1996, and subsequent listing of the Site on the U.S. Environmental Protection Agency's (U.S. EPA) National Priority List, make it inappropriate for DTSC to continue any further work on the VCA. Pursuant to Paragraph 3.18 of the VCA, Docket # HSA 96/97-025, DTSC is hereby providing notice that DTSC has elected to terminate the VCA.

While DTSC has elected to terminate the VCA, under its terms your client is still responsible for all DTSC costs associated with the VCA up until the date of this letter. DTSC will provide you with a final accounting of these costs, which may result in a net debit or credit.

The following paragraphs summarize the work DTSC has performed to date and provides DTSC's position on Site mine wastes:

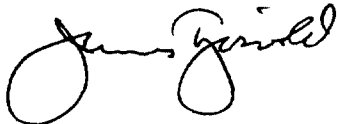
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DTSC reviewed all available Site files and documents as well as collected samples of mine wastes as part of the 1997 tailings release investigation. The costs associated with the tailings release investigation were not charged against the VCA.

DTSC determined that the Site mine wastes generally contain arsenic levels exceeding U.S. EPA's cancer and non-cancer health based criteria for both residential and commercial land use. U.S. EPA, as the lead agency for this NPL site, has the primary responsibility for establishing investigation and remediation requirements. The U.S. EPA Project Manager, Ms. Michelle Schutz, should be contacted if you wish to consider potential uses of Site mine wastes.

If you have any questions regarding this decision, you may contact Mr. Dan Ziarkowski, Project Manager, at (916) 255-3689 or Ms. Orchid Kwei, Staff Attorney, at (916) 327-1200.

Sincerely,



James L. Tjosvold, P.E., Chief
Northern California-Central Cleanup Operations Branch

cc: Mr. Steve Elder
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