



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

URGENT LEGAL MATTER
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

September 17, 2001

Dan Vornberg
Vice President of Environmental Affairs
Doe Run Resources Corporation
Suite 300
1801 Park 270 Drive
St. Louis, Missouri 63146

Re: Notification of Need for Additional Work to Address Emergency Conditions
Administrative Order on Consent
Docket No. RCRA-7-2000-0018, CERCLA 7-2000-0029

Dear Mr. Vornberg,

EPA hereby notifies The Doe Run Resources Corporation ("Doe Run"), pursuant to Section XXV of the Administrative Order on Consent for Doe Run's lead smelter in Herculaneum Missouri, Docket No. RCRA-7-2000-0018, CERCLA 7-2000-0029 ("Order"), of the need for additional work to address emergency conditions caused by the release of hazardous substances from Doe Run's facility in Herculaneum. We have previously advised you, by correspondence dated August 31, 2001, that extremely high levels of lead contamination have recently been discovered along the transportation routes serving Doe Run's Herculaneum smelter. In response to that letter, Doe Run has taken initial steps to reduce the contamination levels in the roadways and to improve work practices so that vehicles traveling to and from the smelter do not cause any additional contamination. We appreciate your efforts in these areas.

We are now notifying you that additional actions need to be promptly taken to evaluate and address contamination that has resulted from transportation practices at the Doe Run facility. Analytical results from sampling performed by EPA show that the high levels of lead are not limited to the roadways themselves. Lead levels of immediate concern have also been found in residential yards directly along and in close proximity to the transportation routes, at a play area at the old Dunklin elementary school, and at Bates Park.

Because of the high levels of contamination that have been found in recent sampling, EPA has determined, after consultation with the Missouri Department of Natural Resources (MDNR), the Missouri Department of Health (MDOH), and the Agency for Toxic Substances and Disease Registry (ATSDR), that the existing schedule and approach for characterizing soil contamination in the community needs to be changed and expedited. The existing approach and schedule is set forth in Section I of the Statement of Work for the Order (Appendix A to the Order). Under the Statement of Work, Doe Run is required to develop and submit to EPA for review and approval a Community Soil Cleanup Plan, that would provide for Doe Run implementation of a phased program of characterization and cleanup of contaminated soils in the community. The phased program and the schedule contained in the Statement of Work was based on the assumption that the primary source of soil contamination in the community was historical deposition of airborne contaminants from production processes at the smelter. Under the existing phased program, sampling of soils in the community that have been impacted by smelter operations was scheduled to take as long as three years. Now, with the discovery of the high levels of contamination resulting from transportation activities at the facility, EPA has determined that the existing approach needs to be substantially changed and accelerated.

EPA has determined, following consultation with MDNR, MDOH, and ATSDR, that all soils in the community of Herculaneum potentially impacted by contaminants from transportation activities at the smelter need to be immediately characterized. Enclosed with this letter is a Quality Assurance Project Plan (QAPP) which is a specific plan for expedited soil characterization in the community. The QAPP contains specific details as to the manner in which sampling is to be conducted at each yard. It also specifies a risk-based priority scheme for implementation of the sampling program, so that priority is given to residences where children with elevated blood levels reside, areas where significant numbers of children face potential exposure, and areas directly adjacent to the transportation routes. We hereby request, pursuant to Section XXV of the Order, that you perform the necessary soil characterization by implementing the soil sampling activities described in the enclosed QAPP. If you perform this work, all the soil sampling activities described in the enclosed QAPP, including delivery of final results to EPA, shall be completed within 60 days of your receipt of this letter.

In addition to the expedited sampling, EPA has also determined, following consultation with MDNR, MDOH, and ATSDR, that as a result of the additional risks presented by the contamination in the community from your transportation practices, immediate cleanup is necessary for contaminated residential soils where children reside who have been identified as having blood lead levels above 10 micrograms per deciliter. As described above and in the QAPP, such residences shall be the first priority for sampling. If the results of the sampling show that soils at those residences contain lead at concentrations greater than 400 ppm, those soils shall be excavated and removed in accordance with the performance standards for soil cleanups set forth in the Statement of Work. The sampling and subsequent cleanup of such residences shall be completed within thirty days of your receipt of this letter.

As provided in paragraph 135 of the Order, please confirm your willingness to perform this additional work in writing within seven days of your receipt of this letter. If you are willing to perform this work, please identify the name of your Project Coordinator, your proposed contractor, and any laboratory you intend to use for this work at the same time that you confirm your willingness to perform the work. Due to air travel restrictions presently in place throughout the country, a local independent analytical lab should be used for confirmation samples. In addition, if you are willing to perform this work, your response to this letter shall include a proposed schedule and plans for performance of sampling and soil cleanups at the residences where children with elevated blood levels currently reside.

If you are willing to perform this work, you must have an adequate Health and Safety Plan in place prior to initiation of field work. The Health and Safety Plan shall be submitted to the EPA Project Coordinator (Tony Petruska) prior to start of any field work.

You shall submit weekly progress reports to EPA and MDNR during the time period in which you are performing this additional work. Each progress report shall contain details as to work performed during the prior week, including a list of the residences sampled and the corresponding XRF data and laboratory analytical results; work planned for the following week, including a list of the residences proposed to be sampled during the following week; and any problems encountered.

The enclosed QAPP provides for interior dust sampling and air monitoring activities, in addition to the soil sampling activities. EPA is not requesting that Doe Run perform those activities. EPA intends to perform the interior dust sampling and air monitoring activities itself. Also, the enclosed QAPP was written so that it can be used by EPA and our contractor to perform the work in the event that you decline to do so. Accordingly, there are references at several places in the QAPP to EPA and its contractors; if you agree to perform this work, any such references should be considered to refer instead to Doe Run and its contractors.

You must notify EPA at least three days prior to commencement of any field activities that are part of this additional work. EPA intends to conduct oversight of all soil characterization activities that you may perform, and we intend to collect split samples from confirmation samples.

If you decide that you will perform this work, EPA can offer assistance to you in several areas in order to help you efficiently complete this characterization. We can provide you and/or your contractor assistance and advice on access forms, field management, data tracking, and other items. We encourage you to contact us if you would like this type of assistance.

If you refuse to perform this additional work, EPA will consider you to be in violation of the AOC and potentially subject to civil penalties up to \$27,500 per day pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609. In addition, if you refuse to perform this work; EPA may seek judicial enforcement of the AOC pursuant to Section 106 of CERCLA, or EPA may perform this

work itself and then seek to recover monies expended by the Agency pursuant to Section 107 of CERCLA.

Finally, please be advised that EPA and MDNR will be evaluating the sample results from this expedited sampling program on an on-going basis as the results are received. We intend to require expedited cleanup of any contaminated soils that present immediate risks. The Agencies will require Doe Run to prioritize cleanups based on the potential exposure of children and concentrations in yards and high child use areas. Doe Run should not expect to wait for complete characterization of all properties before removal actions begin.

If you have technical questions regarding this matter, please contact me at (913) 551-7637. If you have legal questions, please contact Dave Cozad at (913) 551-7587. We look forward to receiving your response within seven days.

Sincerely,



Tony Petruska
Project Manager

cc: Bruce Morrison, EPA
Joe Davis, EPA
Hattie Thomas, EPA
David Mosby, MDNR
Denise Jordan-Izaguirre, ATSDR
Angela Minor, MDOH
Shelley Woods, MO Office of the Attorney General