



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

2110 IRONWOOD PARKWAY • COEUR D'ALENE, IDAHO 83814 • (208) 769-1422

JAMES E. RISCH, GOVERNOR
TONI HARDESTY, DIRECTOR

September 29, 2006

Mr. Michael Lidgard
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue OW-130
Seattle, Washington 98101

RE: §401 Certification Regarding NPDES Permit No. ID-000002-7
U.S. Silver Corporation - Coeur and Galena Mines and Mills

Dear Mr. Lidgard:

The State of Idaho Department of Environmental Quality (DEQ) has reviewed the facts and information presented in the revised draft National Pollutant Discharge and Elimination System (NPDES) permit No. ID-000002-7 for U.S. Silver Corporation ("U.S. Silver") (formerly Coeur Silver Valley, Inc.) Coeur and Galena Mines and Mills ("Coeur"). DEQ has also reviewed the comments and information received from Coeur. In addition, DEQ has completed a mixing zone analysis and an evaluation of the need for a compliance schedule and interim limits and these documents are enclosed with this letter for your information. This letter will serve as certification by the State of Idaho pursuant to the provisions of Section 401 of the Federal Water Pollution Control Act, (Clean Water Act) as amended, 33 USC Section 1341 that, if the Coeur and Galena Mines and Mills comply with the terms and conditions imposed by this permit and the conditions set forth in the §401 Certification, there is reasonable assurance the discharge authorized by this permit will comply with the applicable requirements of Sections 208(e), 301, 302, 303, 306, and 307 of the Clean Water Act, including the Idaho Water Quality Standards and Wastewater Treatment Requirements (Water Quality Standards).

Mixing Zones

U.S. Silver has proposed installing a 10 to 12 foot multiport diffuser to be located at Outfall 002. Mixing Zones for Outfall 002 are conditioned upon installation and implementation of the diffuser in South Fork Coeur d'Alene River.

DEQ authorizes, pursuant to the Water Quality Standards IDAPA 58.01.02.060, the use of the following mixing zones:

Outfall 001		
Flow Tiers (cfs)	Copper	Mercury
<1.7	25%	25%
1.7 to 3.8	25%	25%
3.8 to 13.4	25%	25%
13.4 to 23	50%	50%
23+	75%	50%
Outfall 002 (with diffuser)		
<48	50%	50%
48 to 109	50%	50%
109 to 379	50%	25%
379 to 649	50%	25%
649+	50%	25%

DEQ also authorizes a 25% mixing zone to calculate toxicity triggers for WET testing.

Compliance Schedule

This certification includes authorization of a four-year, nine-month compliance schedule to meet certain metals limits set forth within the draft permit pursuant to the Water Quality Standards, IDAPA 58.01.02.400.03. The compliance schedule applies to those metals and effluent limits receiving interim limits as described below.

Table: Interim Limits-Using recommended flow tiers*

Parameter	Water Quality Criteria (µg/L)		
Outfall 001 – Lake Creek			
	Acute	Chronic	
Dissolved Copper	16.5	11.1	Interim limit = 15 µg/L applied to tiers 1 through 5 for the Average Monthly Limit (AML) and tiers 3 and 4 for the Maximum Daily Limit (MDL)
Mercury	N/A	N/A	Interim limit = 0.1 µg/L applied to tiers 1 through 5 for the AML and tiers 1 through 4 for the MDL.
Outfall 002 – SF Coeur d'Alene River			
Dissolved Copper	13, tier 1 9.5, tier 2 7.9, tier 3 6.3, tier 4 5.0, tier 5	8.7, tier 1 6.7, tier 2 5.7, tier 3 4.6, tier 4 3.7, tier 5	Interim limit = 142 µg/L applied to tiers 1 through 3 for the AML and tiers 1 and 2 for the MDL.
Dissolved Cadmium	2.7	1.3	Interim limit = 4 µg/L
Dissolved Zinc	232	232	Interim limit = 530 µg/L

*Site Specific Criteria for the South Fork of the Coeur d'Alene River submitted to EPA August 8, 2002 and approved in January 2003 will be used for cadmium, lead and zinc end-of-pipe limits.

In addition, U.S. Silver shall submit written progress status reports to EPA and DEQ in accordance with the permit.

Bioassessment Monitoring

In order to ensure compliance with the Water Quality Standards, the permit shall include the requirement that U.S. Silver conduct annual instream bioassessment using a sample design that will likely involve biomonitoring both upstream and downstream of the discharge. Bioassessment monitoring shall be conducted using a sample design that will allow DEQ to make a determination as to the impact of the discharges to the beneficial use. U.S. Silver shall coordinate the sample design with the DEQ Coeur d'Alene Regional Office and submit a monitoring plan to the Coeur d'Alene office within 60 days of the effective date of the permit. The plan shall be implemented according to the dates set forth in the plan.

Flow Tiers

The permit establishes multiple flow tiers. Effluent limits and mixing zones are calculated from the minimum upstream flow of each tier. These flow tiers are authorized by the Water Quality Standards (IDAPA 58.01.02.400.05) and will allow effluent limits to be increased while maintaining Idaho Water Quality Standards.

Total Suspended Solids

DEQ certifies that the TSS Effluent Limits included in the Coeur and Galena NPDES permit meet the State of Idaho Water Quality Standards and comply with wasteload allocations set forth in the *South Fork Coeur d'Alene River Subbasin Assessment and Total Maximum Daily Load* dated May 17, 2002.

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DEQ Notification

DEQ requests that EPA require the permittee to notify DEQ in conjunction with EPA in all areas where notification is required. We also request the timeline for EPA notification apply to the state as well.

Other comments

As a general comment, DEQ supports any steps that can be taken to make all the permit monitoring requirements less expensive. Consistent with this general comment, DEQ supports the position that the whole effluent toxicity testing should only be required beginning four-years nine-months after permit issuance. Due to economic and safety constraints DEQ recommends that U.S. Silver should be allowed to investigate sampling at upstream bridges or other structures to fulfill the upstream monitoring requirement.

DEQ also points out that it removed the aquatic life criteria for mercury when it adopted the human health methylmercury fish tissue standard. While EPA approved the fish tissue criteria, EPA has not yet approved the removal of the aquatic life criteria. DEQ believes the human health methylmercury fish tissue criteria will be protective of aquatic life in most situations. DEQ believes EPA should approve the removal of the mercury criteria, and that the methylmercury fish tissue criteria should be applied in this and other NPDES permits.

This certification is conditioned upon the requirement that any material modification of the permit or the permitted activities, including without limitation, any modifications of the permit to reflect new or modified TMDLs, waste load allocations, site specific criteria, variances, or other new information, shall first be provided to the DEQ for review to determine compliance with state Water Quality Standards and to provide additional certification pursuant to §401.

This §401 certification and associated conditions may be appealed by submitting a petition to initiate a contested case, pursuant to Idaho Code § 39-107(5) and the Rules of Administrative Procedure Before the DEQ Board IDAPA 58.01.23, within 35 days of the date of this letter.

Sincerely,



Gwen Fransen
Regional Administrator
Coeur d'Alene Regional Office

Enclosure

c: Corey Millard, Environmental Manager, U.S. Silver Corporation
Doug Conde, Deputy Attorney General, DEQ, Attorney General's Office
Barry Burnell, Water Program Administrator, DEQ, State Office
Don Essig, Water Quality Standards Coordinator, DEQ, State Office
Ed Tulloch, Regional Water Quality Manager, DEQ, Coeur d'Alene Regional Office

