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Conservation Coalition Seeks to Defend DEQ Enforcement Action Against Hecla Mining

LIBBY, Mont.—A coalition of conservation groups that petitioned the Montana Department of Environmental Quality (“DEQ”) to enforce Montana’s “bad actor” mining laws against Hecla Mining and its CEO, Phillips S. Baker, Jr., today requested to intervene in a lawsuit by Hecla’s subsidiaries. That lawsuit aims to overturn DEQ’s determinations that Hecla and Baker are in violation of the bad actor provisions and cannot pursue their planned Rock Creek and Montanore Mine projects in northwest Montana unless they repay the state for the publicly-funded cleanup of mines abandoned by Baker’s former company, Pegasus Gold.

The conservation coalition, which includes Earthworks, the Montana Environmental Information Center, the Clark Fork Coalition, Rock Creek Alliance, Save Our Cabinets, and Montana Conservation Voters, is seeking to defend the enforcement action they requested in an October 2017 letter to DEQ.

In that enforcement request, the groups alerted DEQ that Baker, now Hecla’s top corporate official, held top leadership positions with Pegasus Gold, Inc., and several of its subsidiaries. In 1998, during Baker’s tenure, those entities declared bankruptcy and shifted tens of millions of dollars in reclamation liabilities to the public at their abandoned cyanide heap-leach gold mines, which include the Zortman-Landusky, Beal Mountain, and Basin Creek mines.

Clean-up costs to date have exceeded \$74 million at Zortman-Landusky alone. DEQ expects that water pollution problems at the site will persist and cost Montanans more than \$2 million annually in perpetuity.

“Mr. Baker’s last appearance as a mining executive in Montana ended with the bankruptcy of the Pegasus entities he helped run and their legacy of toxic pollution that will burden Montanans forever,” said Earthjustice attorney Katherine O’Brien, who is representing the conservation coalition. “DEQ’s enforcement action rightly holds Mr. Baker accountable for that history as state law requires—a history he cannot shed simply by taking a new corporate name as Hecla’s CEO.”

“Montanans have spent decades and millions of dollars cleaning up rivers and streams contaminated by irresponsible mining, and the work is far from over,” said Karen Knudsen, executive director of the Clark Fork Coalition. “The ‘bad actor’ law simply requires full

responsibility from mining executives for their previous messes. In the case of Pegasus, it's long past time these polluters are held accountable."

"Never before has Montana Conservation Voters gone to court, but we do so today for the sake of future generations and our clean water," said Neal Ullman, program director for Montana Conservation Voters ("MCV"). "For nearly 20 years MCV has been known for holding elected officials accountable, but we now feel it's important to stand up and do everything we can to defend this law that simply tells companies and the people who run them that you need to clean up your messes. It's nothing different than what I tell my 4-year-old, but this company, designated as a 'bad actor,' doesn't seem to understand."

"As the organization that spearheaded the passage of the 'bad actor' bill, it makes sense for MEIC to be a party to this important test case of the law," said Jim Jensen, MEIC's executive director.

"Allowing a mining company headed by a former top executive of Pegasus Gold to construct two massive mines beneath the Cabinet Mountains Wilderness would be foolhardy and irresponsible," said Mary Costello, coordinator of Save Our Cabinets. "Clean water, unspoiled public lands, and abundant wildlife are the legacy we want for future generations of Montanans."

"It's disappointing that the board chair of the National Mining Association would rather go to court than honor his cleanup obligations," said Bonnie Gestring, northwest program director for Earthworks. "The cleanup costs shouldn't be passed off to taxpayers while Baker and Hecla profit from risky new mining projects in Montana."

DEQ responded to the conservation coalition's enforcement request on March 20, 2018, by issuing violation letters to Baker and Hecla. Those letters advised that Baker and Hecla may attain compliance with the bad actor provisions of Montana's Metal Mine Reclamation Act by repaying the State of Montana in full for expenses incurred to carry out reclamation at the abandoned Pegasus Mines or by demonstrating that Baker and any entity under his direction and control will not conduct mining or exploration activities in Montana.

DEQ's violation letters provided Baker and Hecla 30 days to respond and document any disagreement with DEQ's determinations. Instead, three of Hecla's subsidiaries, Montanore Minerals Corp., RC Resources, Inc., and Troy Mine, Inc., filed a lawsuit the same day challenging DEQ's violation letters. The case is pending before Judge Matthew J. Cuffe in state district court in Libby.

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