

**IN THE MATTER OF
AN ARBITRATION UNDER THE RULES OF THE
UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW**

The Renco Group, Inc. and Doe Run Resources, Corp.

CLAIMANTS,

v.

**Activos Mineros
and
The Republic of Peru**

RESPONDENTS

CLAIMANTS' NOTICE OF ARBITRATION

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October 23, 2018

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1. Pursuant to the Arbitration Rules of the United Nations Commission on International Trade Law (“UNCITRAL Arbitration Rules”), the Renco Group, Inc. (“Renco”) and Doe Run Resources Corporation (“Doe Run Resources”) submit this Notice of Arbitration and Statement of Claim against Activo Mineros S.A.C. (“Activos Mineros”) and the Republic of Peru for breach of the Contract of Stock Transfer between Empresa Minera del Centro del Peru S.A. (“Centromin”) and Doe Run Peru S.R. LTDA (“DRP”), Doe Run Resources, and Renco, dated October 23, 1997 (the “Stock Transfer Agreement”)¹ and the Guaranty Agreement between Peru and DRP, dated November 21, 1997 (the “Guaranty”),² and related agreements.
2. Centromin assigned its contractual position under the Stock Transfer Agreement to Activos Mineros and thereby assumed all of Centromin’s obligations related to the Stock Transfer Agreement. As a result, in this Request for Arbitration, references to Activos Mineros include its predecessor, Centromin.
3. In this arbitration, Renco and Doe Run Resources seek full reparation and injunctive relief for Activos Mineros’s multiple violations of the Stock Transfer Agreement, and Peru’s failure to honor its obligations under the Guaranty, with respect to claims for personal injury brought by Peruvian citizens against Renco, Doe Run Resources, and others, currently in the courts of the United States. Activos Mineros and Peru have refused to comply with their contractual obligations to appear in and defend the lawsuits brought by third parties who claim personal injuries; assume responsibility and liability for any damages any such third parties may be awarded; and indemnify, release, protect and hold Claimants harmless from such third-party claims.

I. Parties

4. Renco has its principal place of business at One Rockefeller Plaza, 29th Floor, New York, NY 10020. Its telephone number is 212-541-6000, and its facsimile number is 212-541-6197. Renco is a legal entity organized under the laws of New York, United States of America.

¹ **Exhibit C-1**, Contract of Stock Transfer between Empresa Minera del Centro del Peru S.A., Doe Run Peru S.R.LTDA, The Doe Run Resources Corporation, and The Renco Group, Inc., dated October 23, 1997 (“Stock Transfer Agreement”) (English).

² **Exhibit C-2**, Guaranty Agreement between the Republic of Peru and Doe Run Peru S.R.LTDA, dated November 21, 1997 (“Guaranty Agreement”) (English).

5. Doe Run Resources has its principal place of business at 1801 Park 270 Drive, Suite 300, St. Louis, MO 63146. Its telephone number is 314-453-7145, and its facsimile number is 314-453-7198. Doe Run Resources is a legal entity organized under the laws of New York, United States of America and a wholly-owned, indirect subsidiary of Renco.
6. Activos Mineros has its principal place of business at Prolongación Pedro Miotta 421 San Juan de Miraflores, Lima, Peru. Its telephone number is +51-204-9000. Activos Mineros is a state-owned mining company in Peru.
7. The Republic of Peru is the *de jure* government of the people and territory of Peru. Peru may be served with Notices and other documents by delivery to: Dirección General de Asuntos de Economía Internacional, Competencia e Inversión Privada, Ministerio de Economía y Finanzas, Jirón Lampa 227, piso 5, Lima, Peru.

II. Preliminary Statement

8. Cerro de Pasco founded the La Oroya Mining Complex in 1922. Roughly fifty years later in 1973, the Peruvian government nationalized the Complex, and Activos Mineros, a state-owned company, operated it until 1997. For over seven decades, Cerro de Pasco and Activos Mineros operated the Complex with virtually no focus on, or regard for, the environment. During that time, the Complex's operation contaminated the soil in and around the town of La Oroya with heavy metals, including lead. In 1997, the Complex and surrounding area was widely regarded as one of the most polluted areas on the planet.
9. As part of its privatization of the mining industry generally, in the mid-1990s, Peru decided to privatize the Complex, and require the new private owner to install numerous and expensive upgrades to the Complex's various facilities. At the outset of the privatization bidding process in 1994, no company considered bidding on the Complex because of its environmental condition and the potential liability associated with those conditions. As a critical inducement to encourage bidders to consider purchasing the Complex, Activos Mineros and the Republic of Peru agreed to retain and assume all responsibility and liability for any and all claims that third parties may bring not only during the period that the new owners completed environmental projects to improve the Complex, but also for the time thereafter on a more limited basis. In other words, the new private owner would agree to implement projects designed to improve the

Complex so that its future environmental impact would be reduced, while Activos Mineros and the Republic of Peru agreed to accept liability for potential third-party claims both while the new owner would be implementing its environmental projects, and subsequent thereto on a more limited basis.

10. Based on these representations, in 1997, a consortium of U.S. investors, including Renco, bid for and won the right to purchase the Complex and thereafter, as required under Peruvian law, transferred it to their wholly-owned Peruvian affiliate, DRP. However, Activos Mineros and Peru have refused to accept responsibility for legal claims brought in the courts of the United States by over 4,000 Peruvian citizens living in and near the town of La Oroya who claim various injuries resulting from alleged exposure to environmental contamination from the Complex.

III. Factual Background

A. For Over 20 Years from the Early 1970s to the Early 1990s, the Peruvian Government Operated One of the Most Polluted Smelting Sites in the World—La Oroya Complex

11. The La Oroya Complex is comprised of smelters, refineries and related equipment that process poly-metallic minerals into copper, lead, zinc and other metals, including silver and gold. Smelters process concentrates to create pure ore by burning-off or separating out unwanted impurities. Controlling emissions of these impurities is always a challenge. But the composition of concentrates at the La Oroya Complex create particularly significant complications in terms of design, operation, and potential for environmental impacts because the process of isolating and refining the target metals creates substantial quantities of by-products that can be harmful to the environment and human health.
12. From 1922 through the 1990s, Peru's mining sector operated with little or no regulatory oversight. Mining companies were neither required to control their emissions nor were they required to remediate environmental impacts. During the more than seventy years that Cerro de Pasco and Centromin owned and operated the Complex, they caused significant environmental contamination in and around the town of La Oroya.
13. The Peruvian government publicly recognized in the 1970s that the La Oroya Complex was one of the worst polluters in the country, but during the ensuing 20 years under Centromin's

control, Centromin continued to contaminate the soil and waters in and around the town of La Oroya, with little or no environmental oversight or State regulation.

14. In 1994, Newsweek reported:

Richard Kamp figured he had seen the worst wastelands the mining industry was able to create. But that was before the American environmentalist – a specialist on the U.S.-Mexican border area – laid eyes on La Oroya, home to Centromin, Peru’s biggest state-owned mining company. Last month, as his car rattled toward the town through hills that once were green, Kamp fell silent. Dusted with a whitish powder, the barren hills looked like bleached skulls. Blackened slag lay in heaps on the roadsides. At La Oroya, Kamp found a dingy cluster of buildings under wheezing smelter smokestacks. Pipes poking out of the Mantaro River’s banks sent raw waste cascading into the river below. ‘This,’ he said, ‘is a vision from hell.’³

B. In the Early 1990s, Peru Sought to Privatize the La Oroya Complex; No One was Interested Because of the Environmental Liabilities

15. In 1994, as part of a larger policy initiative to privatize its mining industry, Peru attempted to sell Centromin to private investors. Twenty-eight international companies expressed initial interest, but none submitted a bid because of the liability associated with environmental contamination claims and because the facilities’ complex operations and obsolete infrastructure made it too difficult to modernize.
16. Peru then considered closing the La Oroya Complex because of its environmental problems, but decided that the facilities needed to keep operating. The Complex was a major employer in the region and also provided health care and educational services to the local population. In addition, the Complex was the only facility in the region that could process complex poly-metallic concentrates produced at surrounding mines, meaning that those mines, which were also a crucial source of employment, would suffer serious economic difficulties if Peru closed the Complex.
17. Thus, Peru recognized that it needed to both remediate the Complex’s historical environmental impacts and modernize the Complex to reduce its ongoing environmental impacts while at the same time preserving the economic viability of its operations.

³ Exhibit C-3, Corinne Schmidt, *How Brown Was My Valley*, NEWSWEEK, April 18, 1994.

C. Peru Issued a Second Bid, this Time Agreeing to Retain Liability for Third-Party Claims and Remediate the Soil Around La Oroya; Renco Purchased the La Oroya Complex Based on Peru's Commitments

18. Given the obsolete condition of many of Peru's mining facilities, Peru enacted new environmental regulations that created a transitional regime for existing operations. During that phase, companies had to prepare a preliminary environmental study identifying issues and proposing a program of projects intended to reduce pollutants and bring the company into compliance with current standards. These programs were referred to as a "PAMA," which was an acronym of Programa de Adecuación y Manejo Ambiental. The Ministry of Energy and Mines ("MEM") would approve a PAMA, and a company performing PAMA projects would be deemed in compliance with environmental regulations.
19. In 1995, Centromin submitted to MEM both a preliminary environmental study and a proposed PAMA for the La Oroya Complex. The study highlighted a number of significant issues, including substantial lead, arsenic, and other heavy metal contamination of nearby rivers and lands through leakage and direct discharges as well as particulate emissions into the air of lead and other heavy metals from the plant. Peru's Privatization Committee then retained an expert environmental consulting group to provide an independent assessment of the La Oroya Complex and assess Centromin's proposed PAMA program. These experts opined that there was insufficient quality data and engineering studies to list specific actions required to bring the Complex into compliance with current regulatory standards. In fact, these experts questioned whether the facilities would ever be able to comply, and thus recommended considerable flexibility in the implementation and application of new standards if La Oroya was to continue as an economically viable operation and that continued long-term operation of the smelter and progress on privatization could be achieved only if La Oroya was subject to realistic requirements to gradually reduce emissions.
20. In late 1996, Centromin submitted its final PAMA, which MEM approved on January 14, 1997. The PAMA set forth sixteen projects and estimated that the total cost to complete all of them at US\$ 129 million. These sixteen projects were intended to address four categories of environmental impact: (i) air emissions and air quality, (ii) soil remediation, (iii) control of liquid effluents, and (iv) management of slag and other waste deposits. The PAMA set forth a ten-year deadline to complete all sixteen projects.

21. Ten days after MEM approved the PAMA, Peru again called for privatization of the Complex and issued a Public International Bidding. In February and March 1997, Centromin published two rounds of bidders' questions and official answers in which Centromin represented to potential investors that they would not be saddled with La Oroya's environmental legacy. Instead, Centromin would assume liability for third-party claims that arose from the Complex's operations before or during the modernization and upgrade, and Centromin would remediate the soil around La Oroya. Peru also would guarantee all of Centromin's obligations.
22. Peru awarded the bid to a consortium that included Renco and Doe Run Resources. Renco and its affiliates own some of the largest mining, metals, and manufacturing companies in the world, and they have a strong track record of achieving high environmental standards of operations and developing innovative new environmental technologies. On October 23, 1997, DRP, Doe Run Resources, Renco, and Centromin executed the Stock Transfer Agreement, pursuant to which DRP—a Peruvian acquisition vehicle and subsidiary of Renco created as required, authorized and approved by the Peruvian authorities—acquired the majority shares of Empresa Metalurgica La Oroya S.A. ("Metaloroya") for a purchase price of US\$ 121.4 million.⁴ DRP later invoked its rights to acquire the remaining shares for US\$ 126.4 million.
23. Under the Stock Transfer Agreement, Activos Mineros and Peru agreed, *inter alia*, to retain responsibility and liability for contamination that had occurred to date (and for which Activos Mineros and its predecessors were solely responsible) *and* that would continue to occur and exist.
24. The Stock Transfer Agreement provides that Activos Mineros and Peru agreed to retain and assume responsibility for defending against third-party claims, accept liability for any and all third-party claims attributable to the activities of DRP, Activos Mineros, and its predecessors, and to release DRP and its affiliates from any obligation regarding those claims. Separately, Activos Mineros and Peru may seek to resolve apportionment of liability as between themselves and DRP, but DRP will be liable for such potential apportionment *only* in the narrow and limited circumstances in which the claims arose: (1) directly due to acts by DRP that are *unrelated* to the PAMA, which are *exclusively attributable to DRP*, and *even then*, only

⁴ By merger agreement dated December 30, 1997 (two months after the parties executed the Stock Transfer Agreement), Metaloroya merged completely into DRP, which assumed all of the Company's contractual rights and obligations, per the Tenth Clause of the Stock Transfer Agreement.

insofar as the third-party claims are the result of DRP's "use of standards and practices that were less protective of the environment or of public health than those that were pursued by Activos Mineros until the date of execution of this contract"; or (2) directly from a default of DRP's PAMA obligations or of its environmental obligations set forth in Clauses 5.1 and 5.2 of the Stock Transfer Agreement.⁵ Neither of these circumstances is present here.

25. Activos Mineros's and Peru's obligations to take responsibility for all third-party claims extend to claims that third parties may bring even *after* the period approved for DRP to complete the PAMA projects has expired,⁶ and during that period of time Activos Mineros and Peru may separately seek to resolve apportionment of liability as between themselves and DRP, but DRP will be liable for such potential apportionment only in cases where such third-party claims result directly from (1) acts that are solely attributable to DRP's operation after that period⁷ or (2) a default of DRP's PAMA obligations or of its environmental obligations set forth in Clauses 5.1 and 5.2 of the Stock Transfer Agreement.⁸ Neither of these circumstances is present here.
26. Both during and after the period approved for DRP to complete the PAMA projects, Activos Mineros and Peru agreed to protect, defend, indemnify, release and hold DRP (and its affiliates) harmless for any damages or liabilities related to such third-party claims for which Activos Mineros and Peru have "assumed liability and obligation."⁹
27. Activos Mineros also agreed to assume responsibility for remediating the soil in and around La Oroya among other environmental projects.¹⁰
28. Without these critically important commitments by Activos Mineros and Peru as to potential claims by third parties, Renco and its affiliates would not have agreed to purchase the Company, which was well-known to have polluted the area. Indeed, from the beginning of the sale process, Renco and Doe Run Resources made it absolutely clear they would not proceed

⁵ **Exhibit C-1**, Stock Transfer Agreement at Clauses 5.3, 6.2.

⁶ *Id.* at Clause 6.3.

⁷ In the event that the damages are attributable to both Centromin and DRP during this period, DRP will assume liability proportionately to its contribution to the damage. *Id.* at Clause 5.4(c).

⁸ *Id.* at Clause 5.4.

⁹ *Id.* at Clause 6.5 and Clause 8.14.

¹⁰ *Id.* at Clause 6.1.

with the transaction without these key protections. No acquirer of the La Oroya facility would risk being held liable for the impact of historical operations of the facilities as conducted by the government, or its predecessor, as well as the ongoing effects of those past practices.

29. Finally, under the Guaranty, Peru guaranteed “the representations, assurances, guaranties and obligations assumed by” Activos Mineros under the Stock Transfer Agreement.¹¹ Peru’s Guaranty extends for as long as Activos Mineros “has pending obligations” under the Stock Transfer Agreement.¹² Peru’s Guaranty also “survive[s] the transfer of any of the rights and obligations of [Activos Mineros] [under the Stock Transfer Agreement] and any liquidation of [Activos Mineros].”¹³

D. Renco’s Acquisition Vehicle, DRP, Exceeded Its Environmental Obligations Under the Stock Transfer Agreement and Enacted Additional Measures to Assist and Protect the Local Population

30. Between 1998 and 2002, Doe Run Peru’s engineering and design studies showed that Centromin had severely underestimated the cost and complexity of updating the Complex. As a result, DRP made multiple requests to expand the scope of its PAMA obligations, and MEM also repeatedly asked DRP to add new PAMA projects. For instance, in October 1999, MEM approved DRP’s request to add more PAMA tasks, which increased the originally anticipated PAMA investment amount by US\$ 60,767,000 to total of US\$ 168,342,000. Similarly, DRP and MEM increased the amount needed for projects to improve an industrial liquid effluents treatment plant from an initial US\$ 2,500,000 to US\$ 33,600,000.
31. In 2002, MEM asked DRP to engage in eight new emissions reduction projects. In particular, MEM asked DRP to do the following: (1) separate treatment for dusts to eliminate recirculation; (2) encapsulate the concentrates during warehousing; (3) an environmental management plan for the Huanchan deposit; (4) ongoing cleaning program for the plant; (5) establish self-limitations on the treatment of concentrates with high contents of arsenic and cadmium with the aim of reducing the levels of emission to acceptable national and international levels; (6) better the plant maintenance in order to reduce the emission of gasses and dust; (7) design a system of alert to prevent the occurrence of emission peaks; and (8)

¹¹ **Exhibit C-2**, Guaranty Agreement at 2.1.

¹² *Id.* at 4.

¹³ **Exhibit C-1**, Stock Transfer Agreement at Tenth Clause.

coordinate with the civil society the relocation of the educational centers of La Oroya Antigua, including transportation of the students. In response, DRP added the new projects to its growing list of projects that it was required to undertake and complete within the original ten-year timeframe of the PAMA.

32. DRP also engaged in numerous activities beyond the scope of the PAMA projects to reduce lead contamination and to address public health concerns related to lead exposure for both workers and the community. These efforts included (among other things) the mandated use of respirators and the change room (where workers start and end each day in a clean set of clothes), the use of spray trucks to reduce dust, and frequent medical check-ups. When DRP acquired the Complex, the blood lead levels of workers averaged 51.1 µg/dl. By 2002, the workers' blood lead levels had fallen below the World Health Organization's recommended worker levels of 40 µg/dl for men and 30 µg/dl for women. By 2005, these average numbers had dropped to 32.18 µg/dl. DRP also dramatically reduced accidents at the Complex, and received awards for its safety record.
33. DRP also constructed on-site change-houses, routinely washed trucks before they left the facility, and mandated that workers shower and change clothes after their shifts. These measures, which were not included in the original PAMA, prevented the transmission of contaminants to the workers' homes.
34. DRP also enacted measures to reduce emissions from the main stack and to control fugitive emissions (which were the main sources of lead and other heavy metal emissions). Such measures included: a) installing a television system in an environmental control center to monitor and immediately address visible fugitive emissions, b) introducing portable radios to facilitate real-time communications on the Complex, c) repairing flues to improve dust recovery, and d) changing filter bags in 27 bag houses thereby increasing dust recovery from 96.5 percent to 98.1 percent. By the end of 2001, DRP had reduced the amount of particulate matter emitted from the main stack by 27.6 percent.
35. In 1999 and 2000, the Peruvian Ministry of Health and an NGO separately reported studies showing higher than normal blood-lead levels in people living in La Oroya. In response, DRP performed a follow-up blood-lead level study on 5,000 residents and created the Hygiene and Environmental Health Program to carry out a series of actions based on the general

recommendations of the United States Centers for Disease Control and Prevention and the World Health Organization. These actions included: (1) evaluating and monitoring the physical and psychological well-being of the children of La Oroya; (2) utilizing social workers to evaluate the family situation and potential risk factors for high blood lead levels in the home; (3) providing personalized training in hygiene and nutrition during house visits, including training in hand washing and bathing and training in proper cleaning of the house; (4) creating leaders in health and hygiene through community workshops; (5) sponsoring presentations on health and hygiene in local schools, including an educational puppet show and children's book; and (6) sponsoring a campaign to clean the schools, roads, and neighborhoods on a weekly basis, for which Doe Run Peru provided cleaning supplies and pressurized water from a water truck.

36. In 2003, at DRP's insistence, the Peruvian Ministry of Health entered into an agreement with DRP to support a public health program. Through this agreement, DRP provided the Peruvian Ministry of Health financial support to achieve the following objectives: (1) establishing a culture of prevention in the population with the adoption of healthy habits that reduce exposure to dust; (2) establishing a safer water system, a program for potable water, monitoring programs for the soil, crops, wild vegetation and animals, and air quality, and monitoring of blood lead levels; (3) gradually reducing blood lead levels; (4) creating a program to treat children and pregnant women with high blood lead levels; and (5) signing cooperation agreements with various local authorities and agencies. Before 2006, when MEM mandated its continuance, DRP provided US\$ 1 million a year for this program on a voluntary basis.
37. In another voluntary effort to reduce blood lead levels in the community, DRP hired the consulting firm Gradient Corporation to perform a study on the human health risks in La Oroya. Based on Gradient's conclusions, Doe Run Peru began a series of complementary projects to reduce lead (and other particulate) emissions from the facility. The additional projects to reduce lead (and other particulate) emissions through chimneys or stacks included (1) installation of baghouse filters for the lead furnaces, the arsenic kitchen, and the lead foam reverberator furnace, (2) preparation of units 1, 2 and 3 of the Cottrell Process for the sintering plant, and (3) reducing particulate material from copper converters and from the Cottrell Process in the anode residue plant. Doe Run Peru also added an electrostatic precipitator to the Cottrell Central, which reduced particulate emissions by 23 percent. Combined with stopping

one line roasters in the Zinc Circuit, the project created a 35 percent reduction in particulate emissions from the chimney.

38. The projects to reduce lead (and other particulate) fugitive emissions, in turn, included (1) repowering of ventilation systems A, B, C and D of the lead sintering plant, (2) closure of lead furnace buildings and foam plant, (3) management of lead plant fusion beds, (4) management of copper plant fusion beds, (5) management of nitrous gases at the anode residue plant, (6) a new ventilation system for the anode residue plant building, (7) reduction of recirculating fines and (8) restriction on entry of concentrates. Doe Run Peru also added industrial sweepers and paved the roads to the different plants.
39. DRP implemented these complementary projects alongside its rapidly expanding PAMA projects, with the twin goals of better environmental performance at the Complex and reducing blood lead levels in its workers and the community.

E. DRP also Engaged in Numerous Additional Social and Public Health Projects to Help the Community

40. In addition to mandated and voluntary measures to reduce the Complex's environmental impact on the local community, DRP spent more than US\$ 30 million on quality-of-life projects, becoming one of the first companies in Peru to implement this type of voluntary corporate social responsibility program. DRP's social programs included:

- Offering special programs for the women from the communities: training programs focused on budget planning, child rearing, nutrition, and social responsibility, training a team of health promoters to educate the communities about health risks and orient pregnant women on pre-natal care, and extensive small business training;
- Instituting the Human and Social Ecology Program, which monitored the health of at-risk children and provided daily nutritional lunches;
- Sponsoring (1) training programs in animal husbandry targeted to the farming communities around La Oroya and (2) the Forestation and Andean Gardening program, in which Doe Run Peru and community participants planted more than 121,000 seedlings and 132,000 square meters of gardens by 2006;
- Founding the Ecological Recreation Center, a wildlife refuge and garden center with free access to the public;
- Upgrading several community facilities, including marketplaces, community centers, and educational facilities; and
- Spending over US\$ 600,000 to rebuild the Central Highway that runs through La Oroya.

F. Activos Mineros and Peru Failed to Remediate the Soil In and Around La Oroya

41. Pursuant to Section 6.1(c) of the Stock Transfer Agreement, Centromin was obligated to remediate the soil surrounding the Complex and execute numerous other PAMA projects. In contrast to DRP's efforts to comply not only with the PAMA but with additional projects to reduce environmental impacts of the plant, Centromin obtained a deferral until 2007 of its obligation to complete PAMA Project No. 4 and its associated site characterization studies until 2007. It was not until 2008-2009 that Centromin even ordered a study to identify areas impacted by the plant's decades of operations. Even then, the type of study Centromin commissioned could not provide the precision necessary to adequately characterize contamination so as to support focused remediation of critical areas. Only recently has Activos Mineros taken any remediation efforts and those activities have been limited to paving a few streets and other surfaces and revegetating some slopes to prevent erosion of the slopes—far short of its remediation obligations under the Stock Transfer Agreement.

G. Activos Mineros and Peru Improperly Refused to Accept Responsibility and Liability for Third-Party Lawsuits Brought Against Claimant Renco, Its Affiliates, and Executives

42. In early August 2007, DRP learned that fliers soliciting plaintiffs for future litigation were being distributed in La Oroya. The fliers, prepared by the law firm SimmonsCooper LLC of East Alton, Illinois, U.S.A., stated, among other things, that “with the lawyers’ help, you can ask the courts of law of the United States and make Doe Run pay for the medical treatment of your children and for their injuries.”
43. In 2008, 2012, 2013, 2014, 2015, 2016 and 2017 a group of Peruvian plaintiffs and their U.S. personal injury lawyers commenced several lawsuits in the United States on behalf of over 4,000 plaintiffs against Renco and Doe Run Resources, companies associated with the Renco consortium and certain of their officers and directors. The lawsuits ultimately were consolidated in the federal district court for the Eastern District of Missouri (the “St. Louis Lawsuits”).
44. The allegations in each lawsuit are virtually identical, stating “[t]his is an action to seek recovery from Defendants for injuries, damages and losses suffered by each and every minor plaintiff named herein, who were minors at the time of their initial exposures and injuries as a

result of exposure to the release of lead and other toxic substances . . . in the region of La Oroya, Peru.” The damages they seek include punitive damages.

45. The Peruvian plaintiffs and their U.S.-based personal injury lawyers did not bring claims against Activos Mineros, the Republic of Peru, or DRP, choosing instead to sue DRP’s U.S.-based affiliates in the courts of the United States. The Lawsuits seek to hold DRP’s U.S.-based owners and corporate affiliates, as well as directors and officers of these U.S.-based affiliated companies, liable for the alleged actions of DRP. Activos Mineros and Peru are obligated to join these Lawsuits, defend the actions, and indemnify, release, protect and hold Renco, Doe Run Resources, DRP, and their affiliate harmless from any and all liability.
46. On October 12, 2010, counsel for Renco and its affiliates wrote to Activos Mineros, the Ministry of Energy and Mines, and the Ministry of Economics and Finance of Peru to request that they honor their contractual obligations to take on the defense of the Lawsuits and release, protect and hold harmless Renco and its affiliates from those third-party claims. Renco and its affiliates reiterated their requests in subsequent letters. By letters dated November 5 and 26, 2010 and January 21, 2011, Activos Mineros responded, refusing to appear and defend the Lawsuits or to accept or assume any responsibility or liability. Over the past seven years, Renco and its affiliates have put Peru on notice of all subsequent claims and of the fact that more than 4,000 Peruvian plaintiffs have asserted similar claims. Activos Mineros has refused to comply with its contractual obligations and Peru never responded.
47. To date, neither Peru nor Activos Mineros has joined the Lawsuits or indicated any willingness to do so. Nor have they compensated Renco, Doe Run Resources, or the other defendants for their losses in connection with the Lawsuits. The legal fees alone are in the tens of millions of dollars.

IV. Activos Mineros and Peru Breached their Obligations to Renco and Doe Run Resources under the Stock Transfer Agreement and the Guaranty

A. Activos Mineros and Peru Are Obligated to Cover All Losses Falling Within the Scope of Its Assumption of Liability Running to the Members of the Renco Consortium

48. Activos Mineros agreed in Clauses 6.2 and 6.3 to “assume liability for any damages and claims by third parties” relating to environmental contamination, in addition to its obligation under

Clause 6.5 to “indemnify [the Company] for any damages, liabilities or obligations” arising from such claims. An “assumption of liability” is different from, and broader than, an obligation to indemnify. A party that agrees to assume a liability takes that liability upon itself and is obligated to cover the losses (including the litigation costs) of anyone who is sued for damages falling within the scope of the liability the party has assumed. Because Renco and Doe Run Resources are the subject of the Lawsuits, Activos Mineros has an obligation to indemnify Renco and Doe Run Resources.

B. Renco and Doe Run Resources are Not Liable for the Lawsuits under the Stock Transfer Agreement and as such Activos Mineros and Peru Are Obligated to Indemnify Renco and Doe Run Resources

49. As previously explained, the Stock Transfer Agreement provides that Activos Mineros and Peru retained and assumed responsibility for defending against (and accepting liability for) any and all third-party claims against Renco and DRP during the period approved for DRP to complete its PAMA projects. There were only two circumstances under which DRP would be responsible for third-party claims in an amount proportional to its liability:¹⁴ (1) directly due to acts by DRP that are *unrelated* to the PAMA, which are *exclusively attributable to DRP*, and *even then*, only insofar as the third-party claims are the result of DRP’s “use of standards and practices that were less protective of the environment or of public health than those that were pursued by Activos Mineros until the date of execution of this contract”; or (2) directly from a default of DRP’s PAMA obligations or of its environmental obligations set forth in Clauses 5.1 and 5.2 of the Stock Transfer Agreement.¹⁵ Neither of these circumstances forms the basis for the Lawsuits: the health problems claimed in the Lawsuits cannot be found “solely attributable” to the operations of DRP nor is DRP in default of its environmental obligations set forth in Clauses 5.1 and 5.2 of the Stock Transfer Agreement.

50. Similarly, under Clause 5.4 of the Stock Transfer Agreement, Renco and Doe Run Resources, after the expiration of the legal term of the PAMA, assumed liability for damages and third-party claims in only two scenarios.¹⁶ The first scenario involves cases that “result directly from acts that are solely attributable to its operations after that period.”¹⁷ The second scenario involves cases that “result directly from a default on the Metaloroya’s PAMA obligations . . . or of the obligations

¹⁴ **Exhibit C-1**, Stock Transfer Agreement at Clause 6.2.

¹⁵ *Id.* at Clause 5.3.

¹⁶ **Exhibit C-1**, Stock Transfer Agreement Clause 5.4.

¹⁷ **Exhibit C-1**, Stock Transfer Agreement Clause 5.4(A).

established by this contract.”¹⁸ These are the only two scenarios in which Renco or Doe Run Resources should be found liable; all other liabilities belong to Activos Mineros according to Clause 6.3 of the Stock Transfer Agreement.¹⁹

51. Clause 5.5 of the Stock Transfer Agreement reinforces this limitation on Renco and Doe Run Resources’s liability. For any acts or operations before the signing of the Stock Transfer Agreement, Renco will not have nor assume any liability.²⁰ Furthermore, Renco and Doe Run Resources will not be liable for any default by Activos Mineros on its obligations set forth in the Stock Transfer Agreement.²¹ Instead, in either case, Activos Mineros shall hold sole liability.²² If Activos Mineros is solely liable, “Centromin [later Activos Mineros] will protect and hold [Renco and Doe Run Resources] harmless against third party claims and will indemnify it for any damages, liabilities or obligations that may arise for which it has assumed liability and obligation.”²³

52. As seen in the facts above, Activos Mineros (and Peru through its Guaranty) are liable for the Lawsuits under the Stock Transfer Agreement. The health problems claimed in the Lawsuits cannot be found “**solely attributable**” to the operations of DRP after the Stock Transfer Agreement was signed. Instead, they are unequivocally a result of the prolonged and continuous health hazard posed by the Complex for the past 75 years. To say that DRP’s actions solely caused the health problems claimed by the Plaintiffs in the Lawsuits would ignore all principles of cause and effect. This holds especially true considering the improvement of the area that DRP caused. As such, Renco and Doe Run Resources cannot be held liable under the first scenario of Clause 5.4.

53. Similarly, Activos Mineros and Peru are liable under the second scenario of Clause 5.4 because DRP met and exceeded its obligations under the Stock Transfer Agreement. First, DRP complied with its investment obligations by investing over US\$ 300 million over the first five years. Second, DRP complied with the PAMA obligations.

¹⁸ **Exhibit C-1**, Stock Transfer Agreement Clause 5.4(B).

¹⁹ **Exhibit C-1**, Stock Transfer Agreement Clause 6.3, stating “After the expiration of the legal term of Metaloroya’s PAMA, Centromin will assume liability for any damages and third-party claims attributable to Centromin’s and/or its predecessors’ activities except for the damages and third-party claims for which the Company is liable in accordance with Numeral 5.4.”

²⁰ **Exhibit C-1**, Stock Transfer Agreement Clause 5.5.

²¹ **Exhibit C-1**, Stock Transfer Agreement Clause 5.5.

²² **Exhibit C-1**, Stock Transfer Agreement Clause 5.5.

²³ **Exhibit C-1**, Stock Transfer Agreement Clause 6.5.

54. As such, Activos Mineros has an obligation to indemnify Renco and Doe Run Resources for any damages from the Lawsuits. At a minimum, Activos Mineros and Peru are liable for these third-party claims. Activos Mineros and Peru have refused to honor this obligation, putting them in breach of the Stock Transfer Agreement and the Guaranty.

C. Activos Mineros and Peru Failed to Remediate the Soil In and Around La Oroya

55. The Stock Transfer Agreement obligates Activos Mineros (as Centromin's successor) to assume responsibility for remediating the soil in and around La Oroya that had been impacted by the plant's decades of operations. Centromin initially proposed this project as an essential one of the 16 PAMA projects intended to reduce pollution and bring the company into compliance with current regulations. Not only did Activos Mineros fail to perform this work by 2002 as required by the contract, but to this day it has never completed its obligations to perform this project. Not only is this a violation of the Stock Transfer Agreement, but it has led to potential additional exposure to heavy metals by residents in the surrounding community and directly relates to the St. Louis Lawsuits allegations.

56. Centromin's delay in remediating the soil in the surrounding communities that had been impacted with lead and other heavy metals from the plant's decades of operations has prolonged the surrounding residents' exposure to chemical concentrations that could cause adverse health and environmental effects.

57. While in recent years Activos Mineros has purportedly conducted some remediation activities—*i.e.*, paving limited streets and surface areas and revegetation to prevent soil erosion—these activities are inadequate and insufficient to comply with the Stock Transfer Agreement, the Guaranty and Peruvian law.

58. Indeed, the soil conditions in and around La Oroya are one of the primary causal agents of the alleged injuries at issue in the St. Louis Lawsuits and therefore directly trigger Peru's and Centromin's defense and indemnity obligations under the contract.

D. In the Alternative, Renco and Doe Run Resources Assert Claims under the Peruvian Civil Code for Contribution and Unjust Enrichment

59. Under the Peruvian Civil Code, a party that causes damage is liable for that damage, and if another party pays for that damage, that party can pursue an action for contribution against the

party that actually caused the damage. Activos Mineros caused the injuries that are the basis for the lawsuits against Renco and Doe Run Resources in the United States. In this arbitration, Renco and Doe Run Resources seek compensation for any liability they incur as a result of Activos Mineros's conduct, including, but not limited to the over \$20 million in legal fees they have incurred since the commencement of the U.S. Lawsuits.

60. Under the Peruvian Civil Code, a party that is unjustly enriched at the expense of another must indemnify that other party. Activos Mineros is being unjustly enriched at the expense of Renco and Doe Run Resources because they are being forced to defend claims and could be held responsible for liability created by Activos Mineros's actions. Renco and Doe Run Resources thereby seek compensation for Activos Mineros's unjust enrichment.

V. Agreement to Arbitrate

61. Clause 12 of the Stock Transfer Agreement provides that "any litigation, controversy, disagreement, difference or claim that may arise between the parties with regard to the interpretation, execution or validity derived or in relation to this contract that cannot be resolved by mutual agreement between them, will be submitted to legal arbitration of international character under the rules and procedures of UNCITRAL."²⁴ Clause 12 provides that the seat of arbitration will be London.

62. Clause 5.4(C) of the Stock Transfer Agreement sets forth a neutral-expert resolution process if there is a dispute between the parties regarding respective liability for third-party claims, yet that process is non-binding if the claims concern more than \$50,000.²⁵ The controversy at hand involves more than \$50,000. Thus, any neutral expert process would be non-binding.

63. As noted above, in August 2016, Renco sent Activos Mineros and Peru a letter inviting them to engage in the expert process and proposing a candidate to act as the neutral expert. Neither Activos Mineros nor Peru responded. Two months later, on November 10, 2016, the parties executed a Consultation Agreement. In that Agreement, the parties agreed to discuss a potential negotiated settlement of their disputes and they agreed that the time that passed while that Consultation Agreement was in effect could not be used against Renco for purposes of any temporal objections. That Consultation Agreement expired on February 28, 2017. Two weeks later, on March 14, 2017, the

²⁴ **Exhibit C-1**, Stock Transfer Agreement Clause 12.

²⁵ **Exhibit C-1**, Stock Transfer Agreement Clause 5.4.

parties executed a Framework Agreement, which set forth similar terms, including an agreement that the time that passed while that Framework Agreement was in effect could not be used against Renco for purposes of any temporal objections. On March 14, 2018, the parties executed a Framework Agreement Addendum that extended the “Consultation Period” under these agreements to March 31, 2018. After that date, counsel for Peru represented to Renco on several occasions that Peru considered that these agreements remained in effect, but then failed to execute a formal extension of the Framework Agreement or engage in meaningful discussions regarding this issue.

64. On August 29, 2016, counsel for Renco emailed counsel for Peru noting that Peru had failed to execute extension to the Framework Agreement for the last five months. Counsel for Renco further requested that Peru inform Renco by September 5, 2018 whether it agreed to engage in the expert process contemplated under the Stock Transfer Agreement, and, to avoid any misunderstanding, counsel for Renco stated that it would interpret silence or any response that fails to formally agree to engage in the expert process immediately as a representation by Peru that it declined to engage in the expert process contemplated under the Stock Transfer Agreement. On September 5, 2018, Peru executed the extension to the Framework Agreement, but it did not address Renco’s request to state whether it would agree to engage in expert process. This extension provided that the Framework Agreement would continue indefinitely and that either party could terminate it with ten days’ notice. On October 10, 2018, Peru informed Renco that it was terminating the Framework Agreement.

65. Because Activos Mineros and Peru have refused to engage in the neutral-expert process and because that process is non-binding in any event, Renco has the right to send this matter to arbitration.

66. Clause 3 of the Guaranty Agreement provides that “any litigation, dispute, controversy, difference or claim that may originate from or is related to this Guaranty Agreement will be resolved by applying the provisions set forth in Clause 12 of the [Stock Transfer Agreement].”²⁶

²⁶ Exhibit C-2, Guaranty Agreement, art. 3.

VI. Number of Arbitrators; Claimants' Party-Appointed Arbitrator; Proposed Language and Place of Arbitration

67. Clause 12 of the Stock Transfer Agreement provides that the tribunal shall be comprised of three arbitrators, one arbitrator appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, appointed by agreement of the disputing parties.

68. Claimants, Renco and Doe Run Resources, hereby appoint Professor Horacio Grigera Naón as their party-appointed arbitrator. Professor Grigera Naón may be contacted at:

5224 Elliott Road
Bethesda, Maryland 20816
Phone: (202) 436-4877
Cell: (202) 436-4877
Email: hgrigeranaon@yahoo.com; Hgnlaw@gmail.com

69. Renco and Doe Run Resources propose that the arbitral proceedings be conducted in English, and that the Permanent Court of Arbitration administer this arbitration.

VII. Request for Relief

70. Claimants Renco and Doe Run Resources request a final award against Activos Mineros and Peru granting the following relief:

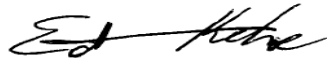
- a. An order that Activos Mineros appear in the St. Louis Lawsuits in the United States, waive any sovereign immunity that it may otherwise have, and take on the defense of the Lawsuits in the United States and release, protect, and hold harmless Renco, Doe Run Resources, and their affiliates from those third-party claims;
- b. An order that Peru appear in the St. Louis Lawsuits in the United States, waive any sovereign immunity that it may otherwise have, and take on the defense of the Lawsuits in the United States and release, protect, and hold harmless Renco, Doe Run Resources, and their affiliates from those third-party claims;
- c. An award for all damages caused to Renco and Doe Run Resources as a result of Activos Mineros's and Peru's breaches of the Stock Transfer Agreement and the Guaranty Agreement;

- d. An award of moral damages to compensate Renco and Doe Run Resources for the non-pecuniary harm that Renco and Doe Run Resources have suffered due to Activos Mineros's violations of the Stock Transfer Agreement;
- e. An award to Renco and Doe Run Resources of all costs associated with this proceeding, including attorneys' fees;
- f. An award of both pre- and post-award interest until the date of payment; and
- g. Any other relief that the Tribunal deems just and proper.

71. Claimants reserve the right to amend or supplement the present Notice of Arbitration, to make additional claims, and to request such additional or different relief as may be appropriate.

Dated: October 23, 2018

Respectfully submitted,



Edward G. Kehoe
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Caline Mouawad
David Weiss

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