

**THE RENCO GROUP, INC.,
CLAIMANT,**

V.

**THE REPUBLIC OF PERU,
RESPONDENT.**

**Claimant's Notice of Intent to Commence Arbitration
Under United States - Peru Trade Promotion Agreement**

TABLE OF CONTENTS

	<u>Page</u>
I. Parties	2
II. Preliminary Statement	2
III. The Treaty.....	5
IV. Factual Background	6
A. The Republic of Peru Mandated Environmental Remediation in La Oroya	6
B. DRP Purchased the Complex in 1997, but Respondents Retained Sole Liability for Several Environmental Projects and Third-Party Claims	6
C. DRP Complied With and Exceeded Its Obligations Under the Stock Transfer Agreement.....	8
1. DRP Complied with its Investment Obligations	8
2. DRP is in Compliance with its PAMA Obligations	8
3. DRP Exceeded its Contractual Obligations and Made Significant Additional Investments to Improve Conditions in the La Oroya Community	9
V. Peru Breached its Treaty Obligations	10
A. Activos Mineros and Peru Breached the Investment Agreements	10
1. Activos Mineros' and Peru's Refusal to Assume Liability for Third-Party Lawsuits Brought Against Claimants, their Affiliates, and Executives Constitutes a Breach of the Investment Agreements.....	10
2. Activos Mineros' and Peru's Failure to Remediate the Soil in and Around the town of La Oroya is a Breach of the Investment Agreements.....	11
3. Peru's Failure to Grant DRP Adequate Extensions of Time to Complete its PAMA Obligations is a Breach of the Investment Agreements	12
B. Activos Mineros' and Peru's Conduct Violates Peru's Obligations under the Treaty	12
1. Peru's Pattern of Unfair Treatment of DRP Violates Article 10.5 of the Treaty.....	12
2. Peru's Pattern of Treating DRP Less Favorably than it Treats Centromin/Activos Mineros Violates Article 10.3 of the Treaty.	13
3. Peru's Unfair Treatment of DRP Continues and Has the Potential to Culminate in an Expropriation of Renco's Investment, in Violation of Article 10.7 of the Treaty.	14
4. Peru's Breach of its Obligations under the Investment Agreements Also Violates the Treaty through Article 10.4.....	14
VI. Intent to Arbitrate	15

Pursuant to Article 10.16(2) of the United States-Peru Trade Promotion Agreement that was signed on April 12, 2006 and entered into force on February 1, 2009 (the "Treaty"), The Renco Group, Inc. ("Renco" or "Claimant"), on its own behalf and on behalf of its affiliate Doe Run Peru S.R.LTDA ("DRP"), hereby provides this Notice of Intent to submit to arbitration against the Republic of Peru ("Peru," or the "State") ("Respondent") claims arising out of Renco's investment in the La Oroya Metallurgical Complex (the "Complex"), including the Contract of Stock Transfer between Empresa Minera del Centro del Peru S.A. ("Centromin") and DRP, The Doe Run Resources Corporation ("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 (collectively, the "Investment Agreements").

I. Parties

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.

DRP has its principal place of business at Av. Victor Andres Belaunde 147, Centro Empresarial Real, Torre Real 3, Piso 9, Lima Peru 27. Its telephone number is +511-215-1200, and its facsimile number is +511-215-1235. DRP is a legal entity organized under the laws of Peru and a wholly-owned, indirect subsidiary of Renco.

The Republic of Peru is the constituted *de jure* government of the people and territory of Peru, and it is represented by the Minister of Justice, whose address is Scipión Llona 350 Miraflores, Lima Peru 18. The telephone and facsimile numbers of the office of the Minister of Justice are +511-222-4660 and +511-222-4660 respectively.

II. Preliminary Statement

1. On October 23, 1997, DRP acquired substantially all of the outstanding shares of Empresa Metalurgica La Oroya S.A. ("Metaloroya" or the "Company") from Centromin, pursuant to the Stock Transfer Agreement, which established ongoing commitments by both parties. Peru also provided a written guarantee of Centromin's obligations under the Stock Transfer Agreement. At the time of the stock sale, the Company owned the Complex, a metallurgical smelting and refining complex located in the central Andes region of Peru, in the town of La Oroya. This investment dispute arises from (1) Respondent's violations of the Treaty and international law, including Peru's (a) pattern of unfair treatment of DRP in violation of Article 10.5 of the Treaty, (b) pattern of treating DRP less favorably than it treats Centromin and its successor in interest Activos Mineros, SAC ("Activos Mineros")³ in violation of Article 10.3 of the Treaty, (c) continuing unfair treatment of DRP that has

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 (English).

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

³ Activos Mineros is a legal entity organized under the laws of Peru, wholly-owned by the Republic of Peru. It is the successor-in-interest to Centromin, which is an entity wholly-owned by the Republic of Peru that was substantially dissolved in 2007. The terms "Centromin" and "Activos Mineros" are used interchangeably herein.

the potential to culminate in an expropriation of Renco's investment in violation of Article 10.7 of the Treaty, and (d) failure to observe the obligations into which it entered pursuant to the Investment Agreements; and (2) Respondent's breaches of the Investment Agreements, including (a) the failure and refusal of Activos Mineros and the Republic of Peru to honor their contractual obligations to assume and accept liability and responsibility for pending third-party claims, (b) the failure by Activos Mineros and Peru to comply with their environmental obligations, including remediating the soil in and around the town of La Oroya, and (c) the failure by Peru to grant DRP adequate extensions of time to complete environmental projects.

2. During the three-year period prior to DRP's acquisition of the Complex, Peru had passed a law and related regulations requiring Centromin to improve the Complex to reduce its environmental impact going forward and to perform environmental remediation projects in and around the Complex arising from Centromin's decades-long ownership and operations of the Complex. This legal process culminated in the Programa de Adecuación y Manejo Ambiental of January 13, 1997 (the "PAMA"), by which Centromin became obligated to meet certain environmental goals and complete certain projects on an established investment schedule, over an initial period of ten years (through January 2007).

3. As part of the October 1997 sales transaction, DRP agreed to complete significant environmental projects pursuant to the PAMA relating to the Complex, while Centromin retained some PAMA obligations, in particular those relating to remediating the area in and around the town of La Oroya. Seventy-five years of gaseous and particle emissions from the operations of the Complex by Centromin and its predecessors impacted the soil in and around the town of La Oroya with heavy metals, including lead. In light of these substantial pre-existing environmental impact issues, Centromin and the Republic of Peru accepted and assumed liability for any and all claims that third parties might bring after DRP acquired the Company shares and the Complex, except in extremely narrow circumstances that are not present here. In other words, DRP was to improve the Complex so that its *future* environmental impact was reduced, while Centromin and Peru agreed to remediate much of the *pre-existing* environmental impact for which Centromin and its predecessors were solely responsible and to accept liability for potential third-party claims going forward—for the period during which DRP would be implementing the PAMA environmental projects, and subsequent thereto.

4. Specifically, the Stock Transfer Agreement provides that during the period of time approved for performance of the environmental PAMA obligations (initially ten years, extended to 15 years), *Centromin (and Peru through its Guaranty) assumes liability for any damages and claims by third parties attributable to the activities of DRP, Centromin or its predecessors, except only in cases in which third-party claims: (i) arise directly from acts exclusively attributable to DRP that are not related to the PAMA, and even then, only insofar as such acts were the result of DRP's use of standards and practices less protective of the environment or public health than those pursued by Centromin during its period of ownership, or (ii) arise from a default by DRP in its PAMA obligations or environmental obligations established by the Stock Transfer Agreement. The Stock Transfer Agreement provides further that after the approved term of the PAMA expires, Centromin and Peru continue to assume and accept liability for third-party claims except only to the extent that they result directly from (i) acts that are solely attributable to DRP's operations after the PAMA expires, or (ii) a default by DRP in its PAMA obligations or environmental obligations established by the Stock Transfer Agreement.*

5. Renco relied on the contractual commitment of Centromin and Peru to assume and accept liability for third-party claims when it agreed to purchase the Company. The sale transaction would not have occurred without this critically important commitment by Centromin and Peru.

6. Other relevant provisions of the Stock Transfer Agreement are set forth in more detail below, including provisions by which Centromin agreed to release DRP from any obligations arising from lawsuits actually filed by third parties, including the obligation to defend against third-party claims for which Centromin and Peru have assumed liability and responsibility.

7. At the time the Stock Transfer Agreement was executed, Peru estimated that DRP's PAMA obligations would cost approximately \$107 million. Not only did the actual project costs vastly exceed these initial estimates, but in order to achieve the agreed-upon environmental goals of the PAMA, DRP was required to complete many additional, time-consuming, and costly projects. In addition, Peru imposed additional projects upon DRP. When DRP reasonably sought extensions of time to complete its PAMA obligations in light of these changes, after extensive extension request processes, Peru failed to grant adequate extensions and instead granted limited extensions and imposed upon DRP more obligations. At one point, Peru's failure to grant DRP an adequate extension to complete its PAMA caused DRP's lending institutions to refuse to renew DRP's operational financing, forcing DRP to shutdown operations of the Complex in June 2009. Indeed, Peru arbitrarily and capriciously attempted at such time to extract unreasonable concessions from DRP as a pre-condition to holding substantive discussions to restart the Complex. Peru's conduct prevented DRP from obtaining the financing necessary to timely reopen the facility. This pattern of unfair and inequitable treatment of DRP by Peru eventually led to one of DRP's suppliers placing DRP in an involuntary bankruptcy proceeding in February 2010, of which DRP was notified in April 2010, and which officially started in August 2010. This proceeding currently is ongoing.

8. Moreover, Centromin, and Peru through its Guaranty, failed to comply with their PAMA obligations under the Stock Transfer Agreement, including the obligation to remediate the soil in and around the town of La Oroya.

9. In 2007 and 2008, Peruvian citizens living in and near the town of La Oroya filed lawsuits against Renco, Doe Run Resources, and affiliated entities and individuals in the state court of Missouri, U.S.A., alleging various injuries and damages as a result of alleged lead exposure and environmental contamination from the Complex (the "Lawsuits"). In public statements and in correspondence between the parties, the Republic of Peru and Activos Mineros have affirmatively denied liability for these third-party damage claims, for which they are exclusively liable under the terms of the Stock Transfer Agreement and the Guaranty. They also have failed and refused to release the defendants in the Lawsuits from liability, and to assume the obligation of taking the lead in defending against the Lawsuits.

10. As described more fully below, Renco intends to pursue arbitration to seek damages for violations of the Treaty and international law and breach of the Investment Agreements in an amount to be established, but not less than approximately (U.S.) \$800 million. In addition, Renco intends to seek an award declaring Peru (to which Centromin's successor Activos Mineros' actions and omissions are attributable) exclusively liable for any judgment and damages that may be rendered in connection with the Lawsuits. Renco also intends to seek an order and award requiring Peru to release and indemnify the defendants from all liability associated with the Lawsuits and to take on the defense of the Lawsuits.

III. The Treaty

11. The Treaty is a bilateral free trade agreement that was designed to eliminate obstacles to trade, consolidate access to goods and services, and foster private investment in and between the United States and Peru. Chapter 10 of the Treaty provides for the protection of private investment in both countries, and for arbitration of investment disputes between investors from one State and the government of the other State.

12. Section A of Chapter 10 of the Treaty sets out various substantive protections that Peru is obligated to afford to U.S. investments.⁴ The Treaty provides, *inter alia*, that Peru must (i) accord U.S. investments fair and equitable treatment and full protection and security,⁵ (ii) treat U.S. investors and investments no less favorably than it treats its own investors and investments,⁶ and (iii) not expropriate or nationalize U.S. investments, either directly or indirectly, through measures equivalent to expropriation or nationalization, except for a public purpose, in a non-discriminatory manner, on payment of prompt, adequate, and effective compensation, and in accordance with due process of law.⁷ The Treaty also requires Peru to treat U.S. investors and investments no less favorably than it treats investors and investments from countries other than the United States.⁸ In bilateral investment treaties with other countries, Peru has agreed to observe any obligation into which it has entered with regard to investments of nationals from these other countries. This commitment by Peru extends to the present case.

13. Section B of Chapter 10 of the Treaty grants a U.S. investor the right to submit to arbitration any investment dispute between the investor (either on its own behalf or on behalf of a Peruvian subsidiary that it owns or controls directly or indirectly) and Peru for breach of the Treaty obligations contained in Section A,⁹ or of any “investment agreement” between the U.S. investor and a Peruvian national authority.¹⁰

14. The Stock Transfer Agreement (defined and described below), together with the Guaranty and related agreements, qualifies as an “investment agreement” under the Treaty.¹¹

⁴ The Treaty defines investment broadly as “every asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including . . . shares, stock, and other forms of equity participation in an enterprise[.]” Treaty Article 10.28 at 10-24 and 10-25. This language means that the U.S. investor need not directly own the covered investment—here, the Complex—in order to qualify for protection under the Treaty. Indirect ownership through a shareholding interest is sufficient.

⁵ Treaty Article 10.5(1).

⁶ Treaty Article 10.3.

⁷ Treaty Article 10.7(1).

⁸ Treaty Article 10.4.

⁹ Treaty Articles 10.16(1)(a)(i)(A) and 10.16(1)(b)(i)(A).

¹⁰ Treaty Articles 10.16(1)(a)(i)(C), 10.16(1)(b)(i)(C), and 10.28 (definition of “investment agreement”).

¹¹ An “investment agreement” is any written agreement between a national authority and a foreign investor, on which the investor relies in establishing or acquiring an investment other than the written agreement itself, that grants certain rights to the investor. Treaty Article 10.28 at 10-25.

IV. Factual Background

A. The Republic of Peru Mandated Environmental Remediation in La Oroya

15. The Complex was founded in 1922 by the Cerro de Pasco Corporation, a private company, and it is comprised of smelters and refineries that process the poly-metallic minerals mined in the central Andes region, into copper, lead, zinc and other metals including but not limited to silver and gold. In 1974, Peru expropriated the Complex and transferred its ownership and operations to Centromin, a corporation wholly-owned by the Republic of Peru.

16. In 1993, Peru passed Supreme Decree No. 016-93-EM, mandating the remediation and environmental improvements of various industrial sites around the country, including in La Oroya. With an eye towards privatizing the Complex, Centromin created the Company, in which it vested ownership of the Complex. Centromin also conducted a preliminary environmental evaluation with respect to the Complex, and prepared a list of environmental projects and estimated costs necessary to bring the Complex within the environmental standards prescribed by the law. On January 13, 1997, the Peruvian Ministry of Energy and Mines adopted Centromin's environmental proposals, in the form of the PAMA, which contained a list of environmental projects and required that Centromin meet certain environmental goals over an initial period of ten years (later extended twice until March 2012).

B. DRP Purchased the Complex in 1997, but Respondent Retained Sole Liability for Several Environmental Projects and Third-Party Claims

17. By Supreme Resolution No. 018-97-PCM dated January 23, 1997, Peru called for an increase of private investment in the Company, and in accordance with this Resolution, the Special Committee on Privatization of Centromin called for Public International Bidding No. PRI-16-97 "to promote private investment in the Company, through a stock transfer and the increase of its stock capital in virtue of new contributions from a corporation or consortium that would fulfill the pre-qualification requirements established by [the law]."¹²

18. Public International Bidding No. PRI-16-97 was implemented, and by letter dated July 10, 1997, the bid was awarded to a consortium comprised of Doe Run Resources and Renco. In accordance with the Bidding Conditions, the consortium assigned its rights to its Peruvian subsidiary, DRP, as authorized and approved by the relevant Peruvian authorities by agreement dated September 11, 1997.

19. On October 23, 1997, DRP, Doe Run Resources, Renco, and Centromin executed the Stock Transfer Agreement, pursuant to which DRP acquired the majority shares of the Company for a purchase price of \$121.4 million, and as part of that transaction, Peru issued the Guaranty, which guaranteed the "representations, assurances, guaranties and obligations assumed by" Centromin under the Stock Transfer Agreement.

¹² Exhibit C-1, Stock Transfer Agreement at VII.

20. The Stock Transfer Agreement contained various ongoing commitments by both parties.¹³ DRP agreed to invest \$120 million in improving and operating the Complex within five years.¹⁴

21. The parties also agreed to allocate the PAMA projects among themselves, which the Ministry of Energy and Mines approved. Among other projects, Centromin, and Peru through its Guaranty, agreed to remediate the areas affected by gaseous and particle emissions from the smelting and refining operations.¹⁵ Gaseous and particle emissions from the operations of the Complex by Cerro de Pasco (for over 50 years) and Centromin (for over 20 years) impacted the soil in and around the town of La Oroya with numerous heavy metals, including lead.

22. DRP agreed to construct new sulfuric acid plants, a water treatment plant for the copper refinery, an industrial liquids treatment plant, a wall to retain the drainage of lead mud from the Zileret plant, sewage water treatment plants and a garbage disposal facility at the Complex. DRP also agreed to create a closed circuit for the speiss granulation waters, install equipment to improve anode cleaning in the zinc plant, and develop a system for copper and lead slag management and disposal.

23. During the period approved for performance of the PAMA projects, Centromin—and Peru through its Guaranty—agreed to assume liability for any and all damages and third-party claims attributable to the activities of DRP, Centromin, and its predecessors, except in narrow and limited circumstances that are not present here.¹⁶ This obligation and commitment by Peru and Centromin to take responsibility for third-party claims extends to, and benefits, affiliates and owners of DRP.

24. The Stock Transfer Agreement further clarifies that DRP would not be liable for damages or third-party claims attributable to Centromin that result from Centromin's or its predecessors' operations, or that are due to Centromin's default of its environmental obligations specified in Clause 6.1.¹⁷

25. Centromin also undertook to protect and hold DRP harmless against third-party claims and to "indemnify it for any damages, liabilities, or obligations that may arise for which it has assumed liability and obligation,"¹⁸ and to immediately assume any obligations relating to "any demand or judicial, administrative notice or notice of any kind" arising out of events for which Centromin assumed responsibility, releasing DRP from such claims, and to lead the defense with respect to such lawsuits.¹⁹ These obligations and commitments by Centromin and Peru extend to claims brought

¹³ By merger agreement dated December 30, 1997 (two months after the parties executed the Stock Transfer Agreement), the Company merged completely into DRP, which assumed all of the Company's contractual rights and obligations, per the Tenth Clause of the Stock Transfer Agreement.

¹⁴ Stock Transfer Agreement at Fourth Clause.

¹⁵ *Id.* at Clause 6.1(c).

¹⁶ *Id.* at Clause 6.2. The narrow circumstances in which Centromin and Peru are not liable for third party claims are when the claims arise: (1) directly due to acts *unrelated* to the PAMA, which are *exclusively attributable to DRP*, and only *insofar* as they 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 Centromin 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. Neither of these events has occurred.

¹⁷ *Id.* at Clause 5.5.

¹⁸ *Id.* at Clause 6.5.

¹⁹ *Id.* at Clause 8.14.

against DRP's owners and affiliates, including individual directors and officers of such affiliates, as is the case in the Lawsuits.

26. Each party also agreed to work with the other party in the event the other party had difficulty fulfilling its obligations under the Stock Transfer Agreement if such difficulty was the result of causes that arise that are not imputable to the obliged party and that were not foreseen at the time that the contract was signed, such as extraordinary economic alterations and governmental interference.²⁰

27. Finally, pursuant to the Guaranty, Peru guaranteed "the representations, assurances, guaranties and obligations assumed by" Centromin under the Stock Transfer Agreement.²¹ Peru's Guaranty extends for as long as Centromin "has pending obligations" under the Stock Transfer Agreement.²² Peru's Guaranty also "survive[s] the transfer of any of the rights and obligations of Centromin [under the Stock Transfer Agreement] and any liquidation of Centromin."²³

C. DRP Complied With and Exceeded Its Obligations Under the Stock Transfer Agreement

1. DRP Complied with its Investment Obligations

28. DRP satisfied its obligation to invest \$120 million in the first five years. From 1997 to 2002, DRP invested approximately \$120.2 million in the Complex, as confirmed by Centromin in an official certification, dated February 13, 2003.

2. DRP is in Compliance with its PAMA Obligations

29. DRP is in compliance with the PAMA obligations and actually has exceeded initial expectations in this regard.

30. The PAMA projects initially proposed by Centromin, and approved by the Ministry of Energy and Mines, underestimated the amount of work required to meet the environmental goals contained in the PAMA. The Ministry of Energy and Mines acknowledged that the engineering work at the time was prepared with limited technical detail and a very basic level of engineering that did not contemplate the remediation of some environmental problems, which in some cases were significant. DRP thus proposed, and the Ministry of Energy and Mines approved, additional investments that DRP would make at its own cost. Moreover, the Ministry of Energy and Mines required DRP to complete additional, so-called "complementary projects" to the PAMA.

31. In light of these circumstances, as well as the 2002 financial crisis in the metals market which constituted an "extraordinary economic alteration" under the terms of the Stock Transfer Agreement, in year 2004 DRP requested a five-year extension to complete the PAMA and, in this respect, took part in a thorough and extensive process in support of its request. However, Peru did not grant DRP the five years that it requested. Instead, in 2006 Peru extended the deadline by only two years and ten months, until October 31, 2009, while simultaneously imposing on DRP various new and

²⁰ *Id.* at Fifteenth Clause.

²¹ **Exhibit C-2**, Guaranty at 2.1.

²² *Id.* at 4.

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

onerous obligations, including “complementary projects,” more stringent environmental standards, and continuous and daily inspections. One of the projects that Peru required DRP to complete was a copper modernization project that increased DRP’s costs by over \$100 million. DRP worked to comply with these new obligations, as well as to fulfill its other obligations imposed by the PAMA and the Ministry of Energy and Mines.

32. By 2007, DRP had substantially completed all but one of the PAMA projects, and it had partially completed the final project. As a result of the global financial crisis, DRP experienced some financial difficulties as world metal prices dropped, and in 2009, at the request of its lender, it made several requests to the Ministry of Energy and Mines for an extension of time to complete the remaining PAMA environmental work, as the Stock Transfer Agreement contemplates in times of “extraordinary economic alterations,” and as the law requires in light of Peru constantly changing its requirements. The Ministry of Energy and Mines refused to honor the parties’ shared understanding and commitment, and refused to grant an extension. When DRP was unable to secure an extension of its PAMA obligations, DRP’s lending institutions refused to renew the revolving loan that DRP was using to finance its day-to-day operations, forcing DRP to partially close the Complex in March 2009.

33. On September 26, 2009, the Peruvian Congress finally passed a law granting DRP an extension of 30 months to complete the last remaining project, the sulfuric acid plant. Although initially adequate, this extension soon became insufficient when the Ministry of Energy and Mines passed new and targeted regulations that were so onerous that DRP was unable to resume operations and take advantage of the extension. For example, the regulations required DRP, *inter alia*, to pay 100% of its gross proceeds into a trust that would only release funds after securing three months’ worth of PAMA schedule obligations, thus making it difficult for DRP to pay its workers or suppliers, or generally to operate the Complex. Because of these prohibitive regulations, DRP was unable to obtain the necessary financing or to restart the facility.

34. DRP has spent over \$300 million on PAMA projects to date, and in complying with its commitments and obligations, DRP adopted standards and practices that are more protective of the environment and public health than those adopted and implemented by Centromin in the years leading up to the sale of the Company and its Complex. These standards and practices are evidenced by DRP’s significant and documented improvements with respect to air and water quality in La Oroya. Moreover, DRP voluntarily put in place safety standards and practices focused on prevention and control actions—such as continuous medical examinations—and also implemented health-related standards and practices that Centromin never established, including the creation of hygiene and health programs benefiting all local residents and the institution of programs to clean the streets, refurbish houses of at-risk children, and install washrooms in local schools.

3. DRP Exceeded its Contractual Obligations and Made Significant Additional Investments to Improve Conditions in the La Oroya Community

35. In addition to performing its contractual obligations, DRP voluntarily spent additional sums on social programs for the citizens of the La Oroya area, such as:

- 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 monitors the health of at risk children and provides daily nutritional lunches;
- Sponsoring training programs in animal husbandry targeted to the farming communities around La Oroya. In the Forestation and Andean Gardening program, DRP and community participants planted more than 121,000 seedlings and 132,000 square meters of gardens by 2006; and,
- Improving infrastructure at 17 schools, three playgrounds, a medical post, a laundry area, and a public dining room. Infrastructure improvements consisted of works like installing computer labs, installing washrooms and running water, refurbishing existing structures, and constructing additions.

V. Peru Breached its Treaty Obligations

A. Activos Mineros and Peru Breached the Investment Agreements

36. Renco intends to submit claims to arbitration under Article 10.16 of the Treaty because Activos Mineros and Peru breached their contractual obligations under the Investment Agreements.

1. Activos Mineros' and Peru's Refusal to Assume Liability for Third-Party Lawsuits Brought Against Claimants, their Affiliates, and Executives Constitutes a Breach of the Investment Agreements

37. 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.”

38. On October 4, 2007, a group of plaintiffs filed lawsuits in the United States alleging various personal injury damages as a result of alleged lead exposure and environmental contamination from the Complex. The plaintiffs voluntarily withdrew the lawsuits and then refiled the Lawsuits in 2008, which are comprised of 11 cases on behalf of 35 minor plaintiffs—all of whom are citizens and residents of La Oroya, the Republic of Peru—in the Circuit Court of the State of Missouri, Twenty-Second Judicial Circuit, City of St. Louis, Missouri, U.S.A. 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.”

39. In addition to seeking damages for alleged personal injuries, the plaintiffs seek punitive damages, and name as defendants Renco and Doe Run Resources, as well as their affiliated companies DR Acquisition Corp. and Renco Holdings, Inc., and directors and officers Marvin K. Kaiser, Albert Bruce Neil, Jeffrey L. Zelms, Theodore P. Fox III, Daniel L. Vornberg, and Ira L. Rennert (the “Renco Defendants”). The plaintiffs 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. Pursuant to applicable law and governing corporate documents, DRP is obligated to indemnify the Renco Defendants against any judgment that may be entered against them in the Lawsuits.

40. On October 31, 2007, the then-President of Peru's Council of Ministers, Jorge del Castillo Galvez, wrote a letter to the United States Ambassador to Peru Michael McKinley, expressing the Republic of Peru's "deepest concerns" about the Lawsuits that had just been filed.²⁴ As the party that will be liable for any ultimate damages award under the Stock Transfer Agreement, the Republic of Peru does not wish for the cases to proceed in the United States where, for example, punitive damages are possible. In his letter, Mr. del Castillo Galvez explained that, under principles of international law, the courts in the United States should "refuse to review the case" because the owner and operator of the Complex is DRP, a Peruvian company, the plaintiffs are Peruvian, the facts that are the basis of the Lawsuits have taken place in Peru, and any such claims should be brought in Peru.

41. The Lawsuits have proceeded slowly to date and pending motions, some of which move to dismiss the Lawsuits, have not yet been heard. Specifically, on September 14, 2010, the Missouri state court ruled that the proper venue for the Lawsuits is the Circuit Court of the City of St. Louis, Missouri, U.S.A. The Renco Defendants submitted a petition challenging that ruling. However, on December 21, 2010, the Supreme Court of the State of Missouri effectively affirmed that venue is proper in the Circuit Court of the City of St. Louis. Therefore, while no recent proceedings have been held in the Lawsuits following an order that stayed discovery in the Lawsuits pending the disposition of the petition challenging venue, proceedings will now resume in the Lawsuits, including proceedings to be held on the defendants' motion to dismiss on various grounds including *forum non conveniens*. Once those motions have been fully briefed, a hearing on the motions could be held as early as in the spring of 2011.

42. 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 by (1) appearing in the Lawsuits; (2) assuming liability and responsibility for any damages that the plaintiffs may recover in the Lawsuits; and (3) releasing and holding Renco and its affiliates harmless from those third-party claims. Renco and its affiliates reiterated their requests in letters dated November 12, 2010 and December 14, 2010. By letters dated November 5 and 26, 2010, Activos Mineros responded, refusing to accept or assume any liability or responsibility. The Republic of Peru has not responded to date.

2. Activos Mineros' and Peru's Failure to Remediate the Soil in and Around the town of La Oroya is a Breach of the Investment Agreements

43. In both the PAMA and the Stock Transfer Agreement, Activos Mineros and Peru agreed to remediate the soil in and around the town of La Oroya, but they have utterly failed and refused to do so. Moreover, in 2000, Peru improperly passed a resolution purporting to change the timing of its project to remediate the soil in and around the town of La Oroya, stating that it could begin the projects in 2007 and finish in 2010. To date, Peru has taken no meaningful actions whatsoever to comply with its obligation to remediate the soil.

²⁴ Exhibit C-3, Letter from Mr. Jorge del Castillo Galvez to Ambassador Michael McKinley, dated October 31, 2007.

44. Activos Mineros' and Peru's failure to honor their commitment to remediate the soil continues to harm the citizens of La Oroya and has given rise to the Lawsuits, for which Activos Mineros and Peru are liable, not only because they assumed all liability for third-party claims in the Investment Agreements, but, for the separate reason that they failed to remediate the soil as they promised to do.

3. Peru's Failure to Grant DRP Adequate Extensions of Time to Complete its PAMA Obligations is a Breach of the Investment Agreements

45. Activos Mineros and Peru also breached their contractual obligations under Clause 15 of the Stock Transfer Agreement and Article 2.1 of the Guaranty by failing to grant DRP adequate extensions of time to complete its PAMA obligations in light of certain circumstances of *force majeure*, including extraordinary economic alterations in 2002 and 2008, and the imposition upon DRP by Peru of additional and onerous environmental and operational obligations as a condition to granting the first extension in 2006.

46. In 2009, DRP requested an extension of time to complete the final PAMA project due to (1) financial difficulties that it faced during the global economic crisis and (2) the State's unilateral imposition upon DRP of additional and onerous environmental and operational obligations. When Peru failed to provide DRP with an adequate extension of its environmental obligations, DRP lost its financing for day-to-day operations and was forced to reduce the operations of the Complex substantially in March 2009, ultimately ceasing operations altogether on June 3, 2009.

B. Activos Mineros' and Peru's Conduct Violates Peru's Obligations under the Treaty

47. Peru's and Activos Mineros' misconduct not only breaches the Investment Agreements, but also violate international law and the Treaty. Their actions and omissions continue to harm and impair Renco's substantial investment in the La Oroya Complex, and risk depriving Renco of its investment without fair compensation. Because this misconduct violates at least three Articles of the Treaty and threatens to violate a fourth, Renco intends to submit claims to arbitration under Articles 10.16(1)(a)(i)(A) and 10.16(1)(b)(i)(A) of the Treaty.

1. Peru's Pattern of Unfair Treatment of DRP Violates Article 10.5 of the Treaty

48. Peru has engaged in a pattern of conduct of unfair treatment in violation of Article 10.5 of the Treaty by, *inter alia*, repeatedly imposing on DRP additional environmental projects and requirements, which increased the amount of time and money that DRP was required to spend, while simultaneously and improperly refusing to timely grant DRP the needed additional time to fulfill these new obligations.

49. Moreover, not only did the actual project costs vastly exceed Peru's initial estimates in 1997, but the actual environmental conditions that existed at La Oroya at the time of the transfer caused DRP to spend additional sums and do additional projects that were not originally anticipated, which became mandated by the government through resolutions. When DRP reasonably sought an extension of time in light of the changes required by Peru, Peru granted only a limited extension and imposed additional and onerous obligations upon DRP.

50. When DRP reasonably sought a second extension in light of several factors including the additional obligations imposed by Peru and world economic conditions, the Ministry of Energy and

Mines denied the request. The Congress of the Republic of Peru through the Law 29410, finally extended DRP's time to complete its PAMA, but the Ministry of Energy and Mines, through an inferior range rule, passed such onerous financial regulations that DRP was unable to take advantage of the extension. It is a classic case of unfair and inequitable treatment for one Peruvian State organ (Congress) to grant a necessary and required extension that another State organ (the Ministry of Energy and Mines) effectively cancels out.

51. Moreover, during all of this time, Peru engaged in a smear campaign in the press against DRP. Peru's statements to the press—including the Peruvian President's public statement that DRP was no longer welcome in Peru—were intended to create an erroneous public opinion that DRP was responsible for the contamination of La Oroya and remiss in its remediation obligations.

52. In addition, and as discussed more fully above, Peru and Activos Mineros refused to honor their commitment to assume liability for the Missouri Lawsuits. Renco relied on this contractual commitment when it agreed to purchase the Company. The sale transaction would not have occurred without this critically important commitment by Centromin and Peru. The refusal by Peru and Activos Mineros to honor this commitment is a breach of Renco's and DRP's legitimate expectations when they made their substantial investment in Peru and constitutes yet another example of the unfair and inequitable treatment that Renco has experienced at the hand of Peru.

53. Peru's unfair refusal to timely grant reasonable PAMA extensions, its unreasonable refusal to honor its commitment to assist DRP in overcoming fallout from the global financial crisis, and its disparaging public campaign against Renco and DRP have created a hostile investment environment and have prevented DRP from securing new financing necessary to resume operations of the Complex.

2. Peru's Pattern of Treating DRP Less Favorably than it Treats Centromin/Activos Mineros Violates Article 10.3 of the Treaty.

54. Peru's unfair treatment of DRP is in direct contrast to its treatment of Centromin, a company owned by Peru, in violation of Article 10.3 of the Treaty. As described above, DRP went through an extensive request process for each of the PAMA extensions that it received. This process included conducting detailed studies, submitting the reports of the studies to the Ministry of Energy and Mines, providing the public with notice and conducting public hearings. With respect to the first of the extensions that Peru begrudgingly granted, Peru imposed upon DRP obligations to complete more projects and to satisfy additional environmental standards. Peru also subjected DRP to continuous daily inspections by an inspector living in La Oroya. With respect to the second extension that Peru granted, Peru subjected DRP to financial conditions so onerous that DRP could not possibly complete its last remaining PAMA project.

55. Meanwhile, Centromin requested a PAMA modification in 2000 that included an extension of its time to complete its PAMA projects. Centromin did not even notify DRP. DRP had no opportunity to object or participate in the process. Peru did not require Centromin to conduct any studies or submit any reports or notify the public or conduct public hearings. Peru granted Centromin's request for a PAMA modification without imposing any additional obligations or more stringent environmental standards on Centromin.

56. Moreover, while Peru subjected DRP to rigorous inspections, Peru seemingly imposed little quality control over Centromin. For example, one of Centromin's PAMA projects was the

abandonment of the arsenic trioxide deposit that Centromin used during its operations of the Complex. While Centromin claims to have completed this project and Peru seems to be satisfied that this project is complete, studies completed by DRP indicate that the deposit still leaks substantial amounts of arsenic into the river. In addition, even though its PAMA was modified to extend its deadline to remediate the soil in and around La Oroya until 2010, Centromin has yet to make any substantial progress toward completing this project.

3. Peru's Unfair Treatment of DRP Continues and Has the Potential to Culminate in an Expropriation of Renco's Investment, in Violation of Article 10.7 of the Treaty.

57. Peru's unfair treatment of DRP continues and has the potential to culminate in an expropriation of the Complex, in violation of Article 10.7 of the Treaty. Because DRP was unable to obtain financing, DRP was unable to pay its suppliers. In February 2010, one supplier placed DRP into involuntary bankruptcy. DRP had been working with its creditors to reach a repayment deal, but on October 1, 2010, the Peruvian bankruptcy agency published a list of outstanding creditors. DRP was surprised to learn that the government of Peru has filed several claims in an attempt to become the largest creditor, and thus control the fate of the company. Peru's largest (and patently bogus) claim against DRP is for payment of the cost of completion of the remaining PAMA project. But the time for completion of the PAMA has not yet passed, and in any event DRP never agreed to pay Peru the remaining cost in case of non-completion of a PAMA project. Peru's attempt to take over the company through bogus bankruptcy claims is as improper as it is unfair, and violates the Treaty.

4. Peru's Breach of its Obligations under the Investment Agreements Also Violates the Treaty through Article 10.4

58. In bilateral investment treaties with other countries, Peru agreed to observe any obligation into which it has entered with regard to investments of nationals from these other countries. This commitment, known as an "Umbrella Clause," by Peru extends to the present case through Article 10.4, which requires Peru to treat U.S. investors and investments no less favorably than it treats investors and investments from countries other than the United States.²⁵ Because Peru has failed to observe its obligations under the Investment Agreements, Peru has violated the Umbrella Clause.

²⁵ Treaty Article 10.4.

VI. Intent to Arbitrate

59. The Treaty provides that, in the event that a disputing party considers that an investment dispute cannot be settled by consultation and negotiation, that party may submit the claim to arbitration pursuant to Article 10.16.

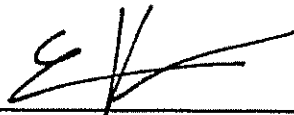
60. Claimant attempted to resolve the present dispute with Peru and Activos Mineros. Claimant's representatives met with various government officials on numerous occasions for this purpose. Claimant also delivered letters requesting that Peru and Activos Mineros honor certain of their obligations, and notifying them that Claimant would resort to any and all available legal remedies if the matter could not be resolved.

61. Because Peru and Activos Mineros rejected all of Claimant's attempts to resolve the present dispute, Claimant submits this Notice of Intent at this time to notify Peru of Claimant's intention to submit the claims described herein to arbitration in accordance with Section B of the Treaty.

62. Claimant reserves its right to amend or supplement this requested relief at the time that it may institute formal arbitration proceedings against Peru.

Dated: December 29, 2010.

Respectfully submitted,



Edward G. Kehoe
Caline Mouawad
Lisa Albert
Kana Ellis
Alejandro Cremades
KING & SPALDING
1185 Avenue of the Americas
New York, NY 10036-4003
(212) 556-2100
(212) 556-2222 (Facsimile)