

October 3, 2019

Via Electronic Mail

Charles Gruenfelder
Project Manager
Washington Department of Ecology
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Re: Pasco Landfill NPL Site (Facility Site ID 575; Cleanup Site ID 1910) – Sandvik Special Metals, LLC’s Comments to Draft Enforcement Order

Dear Mr. Gruenfelder:

This firm represents Sandvik Special Metals, LLC (“SSM”) with regard to the Pasco Landfill NPL Site (“Site”). The Washington Department of Ecology (“Ecology”) recently issued for public comment a draft Consent Decree, a draft Enforcement Order, and a draft Cleanup Action Plan for the Site. Accompanying or included within each of the draft documents is a list of Potentially Liable Parties (“PLPs”) for the Site. Ecology states the listed PLPs are being asked to sign the Consent Decree, which requires implementation of the Cleanup Action Plan. If a PLP does not sign the Consent Decree, Ecology asserts it will issue the Enforcement Order to the PLP, requiring the PLP to implement the work described in the Cleanup Action Plan. This letter sets forth SSM’s comments to the draft Consent Decree, the draft Enforcement Order, and the draft Cleanup Action Plan.

For the reasons set forth below, SSM should not be listed as a PLP and should not be the recipient of an Enforcement Order. Given the nature of SSM’s waste sent to the Site, where it was deposited at the Site, and the work to be performed at the Site as described in the Cleanup Action Plan, SSM has no, or at most *de minimis*, liability for the remediation of Site conditions proposed in the draft Cleanup Action Plan.

I. The Constituents in the Waste SSM Sent to the Site Are Not Causing the Need for the Proposed Cleanup Activities.

During the period in which waste was accepted at the Site, SSM operated (and continues to operate) a tubing manufacturing facility in Kennewick, WA.¹ The primary manufacturing operation used a process called pilgering, where tubes were reduced in diameter by passing them

¹ SSM would be happy to meet with Ecology to further discuss its operations and provide documents and transcripts from witness depositions that support the facts discussed herein.

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between rollers. The process also involved tool grinding and finishing operations. These operations required coolants. The coolant used in the pilgering process was comprised of a Baker Gubbins animal fat emulsion that was added to water along with an antifoaming agent and molybdenum disulfide. This mixture was sprayed on rollers and other parts for the tube reduction process. After use, the coolant was recycled back into the coolant tank and reused until the animal fat became rancid. A non-hazardous synthetic coolant was used in the tool grinding operations. Waste from tool grinding was combined with the rancid animal fat coolant, forming a mixture that was comprised primarily of the animal fat emulsion waste coolant along with very small amounts of metal shavings. Former SSM, Resource Recovery Corp., and Basin Disposal Inc. employees and documents identify that the only material sent to the Site was this waste coolant mixture.

When Ecology first identified SSM as a PLP with respect to the Site in May 1991, SSM objected to the characterization due to the nature of its waste sent to the Site. However, because of the presence of very small amounts of metals in the waste, Ecology continued to list SSM as a PLP, claiming that the issue of ultimate liability must wait until completion of the Remedial Investigation.

Now, 28 years later, the Site has been thoroughly investigated and it is clear that the metals in SSM's waste are not driving any of the proposed cleanup activities at the Site, which instead appear to be driven by the presence of volatile organic compounds, semi-volatile organic compounds, and polyaromatic hydrocarbons.

II. The Areas Where SSM's Waste Was Deposited at the Site Are Not Subject to Proposed Cleanup Activities.

SSM's waste arrived at the Site in tanks and was deposited in the Land Spreading and Sludge Management Areas. According to a former Resource Recovery Corp. employee, the material was spread onto the ground, allowed to dry, and was then picked up, along with dirt, by a scraper. It was then used as cover material at the municipal solid waste landfill. Significantly, SSM never sent drummed waste to the Site and its material was not deposited in Zone A, which is driving the majority of the work identified in the Cleanup Action Plan. After investigation of the Land Spreading and Sludge Management Areas (an investigation in which SSM participated), no chemicals of potential concern were identified for those areas. The Focused Feasibility Study concludes that no further action is recommended for the Land Spreading and Sludge Management Areas. The draft Cleanup Action Plan concurs with this conclusion: "The original Sludge Management and Landspread Areas are not considered ongoing areas of concern requiring additional cleanup actions, and therefore are not further addressed in this CAP." Draft Cleanup Action Plan, p. 14.

Although SSM's waste eventually was deposited into the MSW Landfill for use as cover, the remaining closure activities for the MSW Landfill are consistent with those typically required for a municipal landfill. Specifically, a gas control system is being operated to control vapor phase contaminants and the landfill cover maintained. No proposed cleanup activities are being driven by the very small quantities of metals that were in the SSM waste coolant sent to the Site.

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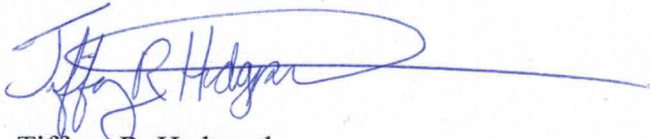
In light of the above facts, it is not appropriate for Ecology either to list SSM as a PLP for the Site or to issue the Enforcement Order to SSM. SSM's waste is divisible from the materials that are driving cleanup, both in terms of its chemical make-up and in terms of its disposal location. Moreover, none of the cleanup work that Ecology is requiring to be performed in the draft Cleanup Action Plan is due to the presence of SSM's material.

Despite SSM's non-liability for Site conditions requiring remediation, SSM currently is participating in settlement negotiations with the Industrial Waste Area Group, the current and former owners and operators of the Site, and other alleged waste generators to the Site, to develop a final resolution for Site liability. If successful, the negotiation will result in various parties (not including SSM) agreeing to sign the Consent Decree and perform the Cleanup Action Plan. Having a sufficient number of parties sign the Cleanup Action Plan, Ecology should not thereafter pursue non-signatory settlors by issuing an enforcement order against them.

In the event SSM is unable to reach a settlement agreement with the other named PLPs, SSM will seek to enter into a *de minimis* consent decree with Ecology.

SSM appreciates Ecology's attention to its comments and welcomes any questions regarding why SSM should not be listed as a PLP or be a recipient of the Enforcement Order.

Very truly yours,



Tiffany R. Hedgpeth