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**Comments on Proposed Operations Plan for the Soil Treatment
Technologies, LLC Thermal Treatment Facility, Nikiski, Alaska
August 4, 2021**

These comments are submitted by Alaska Community Action on Toxics (ACAT), a statewide non-profit public interest environmental health and justice research and advocacy organization dedicated to protecting public health. We are submitting comments on the Operations Plan for the proposed Soil Treatment Technologies, LLC thermal treatment facility (“STT facility”), 52520 Kenai Spur Highway in Nikiski, Alaska. ACAT has members and their families who live, work, attend school, and recreate in the immediate area that would be affected. Members who live in the immediate vicinity have contacted us to express their concerns and opposition to the proposed facility.

The majority of the 50+ comments on the proposed permit were in opposition to the STT facility and based on legitimate concerns of people in the community about adverse effects that this facility will have on air and water quality, public health, property values, businesses and the local economy, wetlands, and wildlife. Over 200 local residents signed a petition in opposition to the facility. ADEC failed to conduct a meaningful public review process and issued the “Minor Permit” without regard or due consideration of the public health, safety, and property rights issues raised in the public comments. People raised concerns about the lack of public notice, lack of adequate time for review, that the process was biased toward the applicant rather than the interests of the community and public health, and that many people were at unfair disadvantage in the process because they do not have computers or internet access. By issuing the permit, ADEC failed to meet the obligation to its mission of: *“Conserving, improving, and protecting Alaska’s natural resources and environment to enhance the health, safety, and economic and social well-being of Alaskans.”* It is within the Department’s authority and pursuant to its obligations under the Constitution of the State of Alaska, the Public Trust Doctrine, and statutes and regulations to heed the public health threat posed by this proposed facility and to protect the rights and common welfare of present and future generations of Alaskans by revoking the permit and rejecting Operations Plan. The public review process and comment period for both the permit and operations plan (two weeks) has been insufficient.

The permit states that air pollution is prohibited and that “no person may permit any emission which is injurious to human health or welfare, animal or plant life, or property, or which would unreasonably interfere with the enjoyment of life or property.” Yet, the facility is permitted to release annually up to 18 tons of NO_x, 12 tons of CO, 27.9 tons of SO₂, 5.9 tons of PM₁₀, 2.5 tons of PM_{2.5}, and 27.4 tons of VOCs. Refer to Table 1 for a summary of health effects associated with these air pollutants. These emissions present a serious public health hazard to the community of Nikiski and in particular to the people downwind and living within ½ mile of the proposed facility and to the children, teachers, and workers attending school at the middle and high school.

A recent study published in the American Journal of Public Health stated: “Air pollution exposure has been linked with preterm birth and low birth weight, known risk factors for many neurodevelopmental disorders in children. A growing body of human studies associate exposure to combustion-related air pollutants (PM_{2.5}, polycyclic aromatic hydrocarbons, nitrogen dioxide, black carbon) with adverse effects on brain development, including deficits in intelligence, memory, and behavior. Polycyclic aromatic hydrocarbons, a component of PM_{2.5}, have been associated with developmental delay; reduced IQ; symptoms of anxiety, depression, and inattention; ADHD; and reduced size of brain regions important for processing information and impulse control. Other studies have linked roadway proximity, traffic-related PM, elemental carbon, or nitrogen dioxide to decreased cognitive function, including deficits in memory and attention. The effect of polycyclic aromatic hydrocarbon exposures during fetal development on cognitive and behavioral outcomes is magnified by material hardship or maternal demoralization. Low-income communities are thus disproportionately exposed and uniquely vulnerable because of family and community economic hardship. Increasing evidence links prenatal exposure to combustion-related air pollutants and PM_{2.5} to autism spectrum disorder.”¹ Emerging research, including a study from Harvard T.H. Chan School of Public Health,² finds that breathing more polluted air over many years may itself worsen the effects of COVID-19.

¹ Devon C. Payne-Sturges, Melanie A. Marty, Frederica Perera, Mark D. Miller, Maureen Swanson, Kristie Ellickson, Deborah A. Cory-Slechta, Beate Ritz, John Balmes, Laura Anderko, Evelyn O. Talbott, Robert Gould, and Irva Hertz-Picciotto, 2019: Healthy Air, Healthy Brains: Advancing Air Pollution Policy to Protect Children’s Health, American Journal of Public Health **109**, 550-554, <https://doi.org/10.2105/AJPH.2018.304902>.

² <https://doi.org/10.1126/sciadv.abd4049>

ACAT Table 1. Summary of Adverse Health Impacts for Major Harmful Air Pollutants

| Pollutant | Health Impacts |
|-------------------|---|
| Nitrogen Oxides | NO ₂ specifically: lower logical memory ¹ , more severe allergic responses, reduced pulmonary function, asthma, lower birth weight, and increased risk of preterm birth ² , increased risk of stroke ⁴ , deteriorates spatial learning and potentiates amyloid production ⁷ , contributes to an increased incidence of chronic cough ²⁰ |
| Sulfur Dioxides | Respiratory irritant ²⁰ , increased risk of stroke ⁴ , induces inflammation of membranes, causes bronchial narrowing, and slows mucus flow ²³ |
| PM ₁₀ | Contributes to more severe allergic responses, increased risk of preterm birth, increased risk of pneumonia, and reduced lung function ² |
| PM _{2.5} | Penetrates deep in to the respiratory tract wherein it can be absorbed in to the blood stream ²¹ , can be translocated to organ tissue through blood circulation, contributes to more severe allergic responses, decreased birth weight, and asthma ² , lower verbal learning performance ¹ , increased cardiovascular mortality ^{4,5} , reduced cardiovascular function ^{5,22} , has the ability to enter the olfactory epithelium and can be transported to the olfactory bulb causing olfactory dysfunction ¹⁹ , induces inflammatory reactions across organ systems ²² |
| Formaldehyde | Eye, nose, and throat irritant resulting in cough, wheezing, chest pains, and bronchitis; a carcinogen resulting in increased incidence of lung and nasopharyngeal cancer ^{5, 26} |
| Toluene | Physiological depression of the central nervous system ^{16,17} , cardiotoxic ¹⁷ , causes renal tubular acidosis and can cause headache, dizziness, confusion, muscle weakness, and even muscle paralysis ¹⁷ |
| Xylenes | Nose and throat irritation, severe lung congestion, pulmonary hemorrhages, edema, impaired short-term memory, as well as alteration in equilibrium or body balance ⁸ , reduced muscle power, depression of the central nervous system inducing symptoms such as headache, dizziness, and vomiting ⁹ , pathological changes in ovarian tissue, ovary atrophy ¹⁰ |
| Acetaldehyde | Carcinogenic and genotoxic ^{11, 27} , can cause mild respiratory irritation ²⁷ |
| Ethyl Benzene | Ototoxic (having a toxic effect on the ear or its nerve supply) ^{24, 25} |
| Benzene | Reduced pulmonary function ² , decreases the number of cells in bone marrow causing blood disorders ^{2,5} , genotoxic causing genetic damage including DNA cross linking and sister chromatid exchanges ^{3,18} , increases cardiovascular risk and injury ⁶ , shortness of breath and lethargy ¹⁷ , carcinogenic ¹⁸ |
| Phenol | Accelerates pubertal development and disrupts estrogenic activity ^{12, 13} |
| Hexane | Inhibits follicular development, damages ovarian cell ultrastructure, and can cause menstrual abnormalities ¹⁴ , gestational inhalation can alter the reproductive cycle of female offspring ¹⁵ |

The Alaska Department of Environmental Conservation (ADEC) issued a “minor” permit (AQ1657MSS01) that would allow a waste treatment company, Soil Treatment Technologies, LLC (STT) to burn waste and generate toxic pollution

within yards of people's homes. ADEC's contravenes the Resource Conservation and Recovery Act (RCRA) and the Clean Air Act (CAA) and denies Alaskans vital health and environmental protection these statutes were enacted to provide.

There can be no question that the purpose of STT's "soil treatment unit" is to burn waste, specifically petroleum and solvent wastes that have been dumped or spilled in soil. According to the scanty information provided in ADEC's permit, the unit will cook contaminated soil in a rotary drum and then burn the organic chemicals that process yields in a thermal oxidizer. ADEC has made no effort to identify – let alone specify – the contaminated soils that can be burned in this unit. Nor has ADEC made any effort to identify the hazardous air pollutants that will be emitted from this unit, let alone provide assurance that they will not harm the health of the people who are forced to breathe this unit's pollution.

Of particular concern is ADEC's disregard of its own expectation that the unit will be treating soil contaminated with "chlorinated compounds." Heating and then burning chlorinated compounds will create dioxins, polycyclic organic matter, and other complex and persistent hazardous air pollutants. Even assuming that the thermal oxidizer will destroy 99 percent of volatile organic compounds, it will not destroy these organic chemicals. Moreover, because pollutants such as dioxins and furans are persistent, bioaccumulative, and extremely toxic even in tiny quantities, allowing the unit to create and emit even miniscule amounts of these pollutants will create long-term contamination of nearby neighborhoods and put the residents of these neighborhoods at risk of cancer and other serious adverse health effects.

A. ADEC's Reliance on a One-Line Narrative Prohibition on Treating Hazardous Waste Contravenes RCRA and Defeats Its Preventative Purpose.

It is well established that Congress enacted RCRA to be a preventative statute – a law that would prevent the harms that arise from treating hazardous wastes rather than just seeking to mitigate these harms after they occur. Discarded chlorinated solvents are hazardous wastes. The permit contemplates that STT will burn just that, soil into which "chlorinated compounds" have been dumped. Despite this, ADEC assumes that a single line in the permit will suffice to prevent precluding STT from burning hazardous waste. It will not. ADEC needs to establish testing and reporting requirements to ensure that STT does not burn hazardous waste. Otherwise, it is putting STT's neighbors at risk.

Nor does it suffice for the permit to say that "During a phone conversation

on April 7, 2021, the Permittee indicated that soils contaminated with chlorinated compounds may be treated on a case-by-case basis following approval by the Department's Division of Spill Prevention and Response, Contaminated Sites Program (CSP)." STT's vague "indicat[ion]" that CSP will review and approve the treatment of chlorinated solvents falls far short of ensuring that STT does not burn hazardous wastes. First, a statement of what STT has "indicated" is not a requirement of any kind. Second, neither CSP nor ADEC nor the people living near STT have any way of knowing whether STT will actually alert CSP and seek approval before it treats waste contaminated with chlorinated compounds, let alone whether those wastes are actually hazardous wastes for which a RCRA permit would be required. Third, the permit does not say what criteria CSP would apply in deciding to allow STT to treat wastes contaminated with chlorinated compounds, and provides no reason to expect that CSP's decisions will be adequately protective of public health and the environment.

B. Even if It Does Not Treat Hazardous Waste, STT's Facility Is an Industrial Waste Incinerator That Must Comply With Clean Air Act Incinerator Standards.

Assuming *arguendo* that SST will not be burning hazardous waste, it will be burning solid waste and is therefore subject to the Clean Air Act's requirements for solid waste incineration units.

ADEC states that the contaminated soil will first be cooked at 700 degrees Fahrenheit in a "rotary dryer drum." The stated purpose of the rotary dryer drum, however, is not to dry the contaminated soil but to "volatilize" the volatile organic compounds contaminating it. The same high high-temperatures that volatilize these compounds will also, necessarily, combust some of them. Because there at least some combustion will occur in it, the so-called "dryer drum" is in fact a combust unit. And because the soil being combusted in that unit, it is a solid waste incineration unit within the meaning of Clean Air Act § 129(g), 42 U.S.C. § 7429(g). Section 129(g) provides "[t]he term "[solid waste incineration unit](#)" means a distinct operating unit of any facility which combusts any [solid waste](#) material from commercial or industrial establishments or the general public (including single and multiple residences, hotels, and motels)." *Id.* It is well established that the term "any" means "any."

Even if solid waste combustion will not occur in the "rotary drum dryer," it will occur in the thermal oxidizer. ADEC states the exhaust gases from the "dryer" – which by ADEC's admission could include chlorinated organic compounds – will be burned in a "thermal oxidizer." Gases contained within STT's thermal oxidizer

are “contained” gases that come from the waste that STT puts in the dryer. They are, therefore, solid waste within the meaning of RCRA and the Clean Air Act. The Clean Air Act provides that “solid waste” has the meaning established by EPA pursuant to RCRA, 42 U.S.C. § 7429(g)(6), and RCRA provides expressly that “[t]he term “solid waste” means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities,” 42 U.S.C. § 6903(27). Because it burns these contained gases, STT’s unit is a solid waste incineration unit.

Lastly, even if the dryer and thermal oxidizer could be viewed as something other than incinerators individually, they must be viewed together as a “distinct operating unit” of STT’s facility. Viewed together, they are a solid waste incineration unit that must meet the requirements of Clean Air Act § 129.

Because the Clean Air Act’s incinerator requirements apply unambiguously to all solid waste incineration units of any kind, STT must obtain a Clean Air Act Title V permit and meet all the requirements of EPA’s Clean Air Act for industrial incinerators. STT cannot avoid these requirements by obtaining a “minor” permit. Section 129 applies to all incinerators, regardless of their size. Indeed, Congress’ decision not to provide a size cutoff for the incinerator requirements in § 129 reflects its understanding that the pollution from all incinerators is especially dangerous even in small quantities and needs to be controlled, monitored, and reported to the public.

The Operations Plans falsely claims that it is protective of human health and the environment. There are major deficiencies in the Operations Plan, including:

- Failure to prevent excessive releases of hazardous air pollutants in close proximity to a residential area, school, and recreational trails. There are homes, wells, a school, a seafood processing plant and other small businesses, and recreational paths in the near vicinity of the proposed facility. This is unacceptable. These hazardous air pollutants threaten human health.
- Failure to adequately demonstrate that it can prevent contamination of drinking water sources, including public and private wells in the area. The operations plan must include a hydrological analysis.
- Failure to adequately demonstrate how it will protect wetlands, surface waters, and wildlife, including aquatic life, bald eagles, sandhill cranes, moose, and other species.

- P 6—the operations plan does not specify how it is determined that the material has had an adequate retention time in the dryer.
- P 7—the operations plan does not define for what “beneficial uses” the treated soils will be used.
- P 7—the operations plan does not provide a sufficient explanation for the safe disposal of the concentrated, contaminated dust and particles from the filter bags.
- P 8—the operations plan states that “clean gases are exhausted to the atmosphere at approximately 800 degrees F.” What are these “clean” gases?
- P 8—it is not acceptable to merely inspect water collected in the catch basin before discharging it onto the post-treated pile. The water should be sampled to ensure it meets appropriate water quality standards.
- P 11—soils contaminated with chlorinated hydrocarbons should never be burned in a facility such as this (for reasons stated above). On P 12, it states that STT will not accept any characteristic or RCRA hazardous waste, yet it is proposed that the facility might accept soils contaminated with chlorinated solvents. This is a contradiction.
- P-15—who determines if soil is “no longer deemed “contaminated?”
- P 2 of 43—the number of samples per cubic yard is totally inadequate to properly characterize the post-treatment excavated soil.
- The operations plan fails to address and identify measures to prevent safety hazards such as fires and explosions (e.g. originating in baghouse or other parts of the facility).
- STT could remediate hazardous materials outside of DEC’s knowledge. The operators do not have a demonstrated record of safe operations or compliance. There is a lack of public trust in STT as reflected in public comments on the proposed permit.

Based on the threat to public and environmental health, the permit (AQ1657MSS01) should be revoked, and the proposed operations plan rejected. Safe non-combustion alternatives should be required for the destruction of contaminated soils.

Comments prepared by Pamela Miller, Executive Director and Senior Scientist with Alaska Community Action on Toxics, in consultation with James Pew, Senior Attorney with the public interest environmental law firm Earthjustice.

CC EPA Region 10 Office of Air and Radiation, and RCRA Program

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