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State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF SOLID AND HAZARDOUS WASTE

Michael O. Leavitt
Governor

Dianne R. Nielson, Ph.D.
Executive Director

Dennis R. Downs
Director

288 North 1460 West
P.O. Box 144880
Salt Lake City, Utah 84114-4880
(801) 538-6170 Voice
(801) 538-6715 Fax
(801) 536-4414 T.D.D.

Pearson

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HAZARDOUS WASTE BRANCH

January 13, 1997

Mr. Neal R. Olsen
Manager / Environmental Affairs
Dyno Nobel Inc.
Eleventh Floor Crossroads Tower
Salt Lake City, UT 84144

Re: **Responses to Notice of Violation No. 9610033 dated November 25, 1996 and December 18, 1996**

Dear Mr. Olsen:

The Division of Solid and Hazardous Waste (the Division) has received your initial response to Notice of Violation (NOV) No. 9610033 dated November 25, 1996 and the follow-up response dated December 18, 1996. Our replies to your responses to the cover letter items and violations are given below.

Item 1 The updated Notification of Regulated Waste Activity and Part A Hazardous Waste Permit Application submitted with the initial response were received and will be kept on file. In addition, page 3 of the Part A Permit Application that was submitted has been replaced with the revised page that was enclosed with the follow-up response. The Division considers this issue resolved.

Item 2 The Division agrees that if sludges derived from process wastewater are returned to the manufacturing process, waste analysis would not be required. However, since K044 sludge is treated, the waste analysis requirements apply to this waste stream. According to section 4.2 of Dyno Nobel's Waste Analysis Plan, it appears that chemical analyses of wastewater sludges are necessary in order to characterize them. If characterization of the K044 waste stream is based on product formulations from which it was derived, this should be clarified in the Waste Analysis Plan. This clarification would be required for approval of the Part B Application that the Division understands is currently being worked on by Dyno Nobel.

Item 3 Dyno Nobel is operating an interim status treatment unit. As such, Dyno Nobel must be addressing the inspection requirements of 40 CFR 265.15. The improvement of the unit over previous versions, or the substandard design are not valid reasons for failing to perform the required preventative inspections to ensure deteriorations, such as the identified crack, do not lead to releases of hazardous waste constituents to the environment.

Based on the Dyno Nobel's initial response, it is apparent that the unit, because of cracks and/or design, is incapable of preventing releases of burn ash and diesel from reaching the surrounding soils. This problem will be further evaluated during the closure of the unit. Nonetheless, the Division still expects Dyno Nobel to inspect and identify any future deteriorations of the concrete pad in the unit's inspection log. The revised Inspection Schedule and Inspection Log submitted with the follow-up response do not indicate that the pad will be inspected as required. The Division strongly recommends that Dyno Nobel incorporate the inspection of the burn pad into these documents and review the facility permit application to ensure inspections for deteriorations and malfunctions of the future treatment unit are included. Since Dyno Nobel personnel are already evaluating the site for safety hazards, the inspections should not be an additional time burden on the inspectors.

On the issue of resources, the Division agrees with Dyno Nobel that the facility should place its monetary resources into designing and constructing a replacement treatment unit as soon as possible, since the current unit is unpermittable.

Item 4 It is acknowledged that Dyno Nobel has revised the inspection schedule so that the communication system is inspected daily when in use. However, since the suggested change addressed in Item 3 above has not been made, it is expected that a revised Inspection Schedule and Log will be submitted to the Division.

Item 5 Based on the November 25th response to this item, it appears that the requirement for immediate access to an internal alarm or emergency communication device at the burn area is being met by Dyno Nobel.

Item 6 The revised Contingency Plan and copies of the Contingency Plan notifications sent out to the local response agencies were received with the follow-up response. The Division considers this issue resolved.

Item 7 Characteristic hazardous wastes treated at Dyno Nobel by open burning that no longer exhibit any of the characteristics of hazardous waste, are released from designation as a hazardous waste (although they are still subject to the land disposal restrictions).
However, as is stated in [40 CFR 261.3(c)(2)], unless a listed hazardous waste has been delisted in accordance with 260.20 and 260.22, any solid waste generated from the

treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate is a hazardous waste. Although the mixture of treated K044 and treated characteristic hazardous wastes may no longer exhibit any of the characteristics of hazardous waste, since it is a mixture of treatment residues, or ash, the exclusion specified in the initial response [40 CFR 261.3(a)(2)(iii)] does not apply. The Division has consistently held this position in regard to listed hazardous wastes that are treated.

Due to the low volume of K044 that is generated at the site, this problem could easily be remedied. One suggestion would be to burn this waste stream separately from the other materials, place the ash and residue in a satellite accumulation drum and manage it as hazardous waste. Another option, as mentioned above, would be to petition the Utah Solid and Hazardous Waste Control Board to have the waste stream delisted.

NOV 1 It is understood that Dyno Nobel will modify the station at which burn waste bags are filled in the Research Pilot Plant so that the containers may be kept closed.

The Division maintains that ash and residue derived from the open burning of a mixture of D001, D003 and K044 must be managed as hazardous waste while stored on-site for the reason provided in Item 7 above.

In regard to the cloth filter bag that is used to collect K044 sludge, the Division disagrees with Dyno Nobel's characterization of this device because it is used for waste management rather than a manufacturing process. Since the wastewater is discharged to the ground after flowing through the filter bag, the purpose of the bag is to accumulate the hazardous sludge and therefore, the container is subject to the regulations that apply to the accumulation of hazardous waste in containers. The filter bag could be considered as part of a wastewater treatment system if the wastewater was treated rather than discharged.

The Division considers the filter bag a closed container as is, and therefore, Dyno Nobel could easily be in compliance with the regulations by labeling or tagging the bag as hazardous waste and complying with the applicable satellite accumulation regulations under 40 CFR 262.34(c)(1).

NOV 2 The Division was under the impression that open burning occurred on the dates indicated in the NOV because, according to Dyno Nobel's Daily Inspection Log, the communication system was tested and the clearing index was recorded for those dates. Based on the comments in the initial response, the Division agrees that this violation did not occur.

NOV 3 Based on the initial response and the prior correspondence regarding this issue, the Division agrees that this violation has not occurred.

Your request for a hearing before the Utah Solid and Hazardous Waste Control Board to preserve Dyno Nobel's rights is acknowledged, although it is our hope that the remaining issues can be resolved between the Division and Dyno Nobel. Your response to the unresolved issues is requested by February 1, 1997. If you have any questions regarding the items outlined above, please contact Jeff Vandel at 538-9413.

Sincerely,

Dennis R. Downs, Executive Secretary
Utah Solid and Hazardous Waste Control Board

DRD/JCV/ll

c: Joseph K. Miner, MD, MSHP, Hlth. Off/Dept. Director, Utah County Hlth. Dept.
Janice Pearson, US EPA, Region VIII

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