UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

MAR 2 ' 2016

Delivered Via Email (to Stephen.Caro@eco-services.com**)**
and
Certified Mail No.: 7014 1820 0000 4722 5072
Return Receipt Requested

In Reply Refer to:
Eco Services Operations LLC, Dominguez Plant
20720 S. Wilmington Ave., Long Beach, CA

Stephen J. Caro
Plant Manager
Eco Services Operations LLC, Dominguez Plant
20720 S. Wilmington Ave.
Long Beach, CA 90810

RE: Notification of Potential Enforcement Action for Apparent Violations of Section 304 of the Emergency Planning and Community Right-to-Know Act, Section 103 of the Comprehensive Environmental Response Compensation and Liability Act, and Section 112(r)(1) of the Clean Air Act

Dear Mr. Caro:

On February 27, 2014, representatives from the U.S. Environmental Protection Agency ("EPA"), Region 9, conducted an inspection of the former Solvay USA, Inc., now Eco-Services Operations, LLC (the "Company"), Dominguez Plant, located at 20720 S. Wilmington Avenue in Carson, CA (the "Facility"). The intent of the inspection was to determine the Facility's compliance with requirements under the Emergency Planning and Community Right-to-Know Act ("EPCRA") Sections 304-312, the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") Section 103, and the Risk Management Program and General Duty Clause requirements promulgated under Section 112(r) of the Clean Air Act ("CAA").

Based upon the information revealed during these inspections and gathered subsequent to those dates, EPA is preparing to bring a civil administrative action against the Company to ensure compliance and assess penalties, pursuant to Section 325 of EPCRA, as amended, 42 U.S.C. § 11045, Section 109 of CERCLA, as amended, 42 U.S.C. § 9609, and Section 113(d) of the CAA, 42 U.S.C. § 7413(d). The allegations being considered include violations of Section 304 of EPCRA, 42 U.S.C. § 11014, Section 103 of CERCLA, as amended, 42 U.S.C. § 9603, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), the "General Duty Clause".

Specifically, EPA is considering the following allegations against the Company:

1. The Company failed to immediately notify the National Response Center ("NRC") of a release of a reportable quantity of sulfur dioxide ("SO_2", CAS No. 7446-09-5) on November 18, 2013, in violation of Section 103 of CERCLA, as amended, 42 U.S.C. § 9603. On that date the Facility released approximately 64,049 pounds of sulfur dioxide over a five-hour period, yet did not provide notification to the NRC until approximately eight hours after becoming aware of the release.

2. The Company failed to immediately notify the California Office of Emergency Services of a release of a reportable quantity of SO_2 on November 18, 2013, in violation of Section 304 of EPCRA, as amended, 42 U.S.C. § 11004. On that date the Facility released approximately 64,049 pounds of SO_2 over a five-hour period, yet did not provide notification to the California Office of Emergency Services until approximately eight hours after becoming aware of the release.

3. The Company failed to comply with the General Duty Clause of the CAA, Section 112(r)(1), in that it failed to design and maintain a safe facility by taking such steps as are necessary to prevent releases.

   - The Facility's Incident Investigation Report of the November 19, 2013, SO_2 release identified the following root causes of the release:

     - The Facility failed to conduct a thorough Pre-Startup Safety Review prior to commencing startup operations, with the result that a valve, which should have been open, remained closed. The closed valve prevented air from being supplied to the sulfur control valve, thus preventing that control valve from opening. Flow of sulfur was impeded to the furnace and there was an insufficient amount of SO_2 for conversion to SO_3; and

     - The Facility's Preheater Checklist and Standard Operating Procedure (SOP) for startup operations was not followed in that sulfur feeds were introduced even though optimum startup temperatures in the Converter beds specified in the SOP were not reached.

   The unconverted SO_2 overwhelmed the available caustic in the scrubber and released SO_2 to the atmosphere.

   - The Facility's Incident Investigation Report identified additional factors contributing to the release, including:

     - Operator training was insufficient in that, leading up to and during the release, operators continued startup activities despite multiple alarms sounding, apparently assuming that the scrubber was working and would interlock and shut down operations if emissions exceeded a pre-determined

safe level, although the interlock system was not designed or installed with such functionality;

- The Facility's Distributed Control System ("DCS") did not accurately reflect the valve position on the Cold Exchanger, and although the DCS showed the valve fully closed, an actual field check showed that the valve was approximately 25% open during startup.

- The Facility's Process Hazard Analysis ("PHA") for the SO_2 scrubber was deficient in that it failed to identify the need for an instantaneous concentration interlock as the PHA team did not identify a scenario resulting in a high concentration emission situation with offsite consequences..

4. The Company failed to comply with the General Duty Clause of the CAA, Section 112(r)(1), in that it failed to take such steps as are necessary to minimize the consequences of accidental releases which do occur.

- The Facility's Incident Investigation Report identified the following with respect to the November 19, 2013, SO_2 release:

  - The Facility's operations crew continued operating despite multiple alarms sounding, apparently because they incorrectly assumed that the scrubber was working and would interlock and shut down operations if emissions exceeded a pre-determined safe level.

  - Facility personnel were unaware of the offsite consequences of the release until the Los Angeles County Fire Department first responders arrived at the Facility.

Before filing a Determination of Violation, Compliance Order and Notice of Right to Request a Hearing ("Complaint"), EPA is extending to you the opportunity to advise EPA of any other information that we should consider. Relevant information may include any evidence of your reliance on compliance assistance, additional compliance tasks performed subsequent to the investigation, or financial factors bearing on your ability to pay a civil penalty.

Your response to this letter must be made by a letter, signed by a person or persons duly authorized to represent the Company. Please send your response by certified mail, return receipt requested, addressed to:

Jeremy Johnstone (SFD-9-3)
Environmental Engineer
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Please provide such information so that it is *received by* April 1, 2016. EPA anticipates filing a Complaint in this matter on or about May 1, 2016 unless the Company first advises EPA, with supporting information, of substantial reasons not to proceed as planned. Any penalty proposed for violation of the CAA will be calculated pursuant to EPA's June 2012 "Combined Enforcement Policy for Clean Air Act Section 112(r)(1), the General Duty Clause, and Clean Air Act Section 112(r)(7) and 40 C.F.R. Part 68, Chemical Accident Prevention Provisions."[1] Any penalty proposed for violations of CERCLA and its implementing regulations will be calculated pursuant to EPA's "Enforcement Response Policy for Sections 302, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response Compensation and Liability Act."[2] This latter policy is subject to inflation adjustments under the Civil Monetary Inflation Adjustment Rule, as well as other potential changes in EPA guidance.[3] Also, civil penalties may be mitigated, under the EPA "Supplemental Environmental Projects Policy" (SEP Policy),[4] which describes the terms under which a commitment to perform an environmental project may mitigate, in part, a civil penalty. Even if you are unaware of any mitigating or exculpatory factors, we are extending to you the opportunity to commence settlement discussions concerning the above-described violations.

In addition, with this letter and its enclosure ("Information Request"), EPA seeks additional information and documents concerning the Company's compliance with Section 112(r)(7) of the CAA. This Information Request is authorized pursuant to Section 114 of the CAA, 42 U.S.C. § 9614. Your responses to this letter must be made by a letter, signed by a person or persons duly authorized to represent the Company. Please send your responses via certified mail, return receipt requested, so that they are *received by* April 1, 2016. Address your submittal to:

Jeremy Johnstone (SFD-9-3)
Environmental Engineer
U.S. Environmental Protection Agency, Region 9
75 Hawthorne St.
San Francisco, CA 94105

Please note that, pursuant to regulations located at 40 C.F.R. Part 2, Subpart B, you are entitled to assert a business confidentiality claim covering any part of the submitted information as defined in 40 C.F.R. § 2.201(c). Asserting a business confidentiality claim does not relieve you from the obligation to fully respond to this letter. Failure to assert such a claim makes the submitted information subject to public disclosure upon request and without further notice to you, pursuant to the Freedom of Information Act, 5 U.S.C. § 552. Information subject to a business confidentiality claim may be available to the public only to the extent set forth in the above-cited regulation. EPA has the authority to use the information requested herein in an administrative, civil, or criminal action. In addition, EPA has not waived any rights to take enforcement action for past or future violations.

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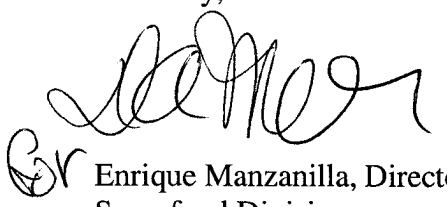
[1] www.epa.gov/sites/production/files/documents/112rcep062012.pdf
[2] www.epa.gov/sites/production/files/documents/epcra304.pdf
[3] *See* Penalty Policy Supplements Pursuant to the 2004 Civil Monetary Penalty Inflation Adjustment Rule, www.epa.gov/sites/production/files/2014-01/documents/guidancetoamendepapenaltypolicyforinflation.pdf
[4] www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf

The Company's compliance with this Information Request is mandatory. Failure to respond fully and truthfully may result in an enforcement action being taken in accordance with Section 113 of the CAA, 42 U.S.C. § 7413. This may include civil and administrative penalties of up to $37,500 per day of noncompliance. In addition, the submission of knowingly false or misleading statements may be punished by a fine pursuant to Title 18 of the U.S. Code, or by imprisonment for not more than two years, or both.

EPA encourages the Company to explore the possibility of settlement. If you are interested in commencing settlement negotiations or have any questions regarding the Information Request, please contact Jeremy Johnstone of my staff at (415) 972-3499 or johnstone.jeremy@epa.gov, or have your counsel contact Taly Jolish, Assistant Regional Counsel, at (415) 972-3925 or jolish.taly@epa.gov, to schedule a meeting or conference call. We thank you in advance for your cooperation.

Sincerely,



Enrique Manzanilla, Director
Superfund Division

Enclosures (2):
Information Request
CBI Requirements

cc (via email w/enclosure):
J. Johnstone, U.S. EPA Region IX
T. Jolish, U.S. EPA Region IX
M. Whitehead, LACFD

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Enclosure 1

Information Request
Eco Services Operations LLC, Dominguez Plant

INSTRUCTIONS

1. Please provide a separate response to each request, and identify each response by the number of the request to which it corresponds. For each document produced, identify the request to which it is responsive.

2. Knowledge or information that has not been memorialized in any document, but is nonetheless responsive to a request, must be provided in a narrative form.

3. The scope of this Information Request includes all information and documents obtained or independently developed by the Company, its attorneys, consultants or any of their agents, consultants, or employees.

4. The Company may not withhold any information from EPA on the grounds that it is confidential business information. EPA has promulgated regulations, under 40 CFR Part 2, Subpart B, to protect confidential business information that it receives. The Company may assert a business confidentiality claim (in the manner specified in 40 CFR § 2.203(b)) for all or part of the information requested by EPA. However, business information is entitled to confidential treatment only if it satisfies the criteria set forth in 40 CFR § 2.208. EPA will disclose business information entitled to confidential treatment only as authorized by 40 CFR Part 2, Subpart B. If no claim of confidentiality accompanies the information at the time EPA receives it, EPA may make it available to the public without further notice.

5. Notice is hereby given that, pursuant to 40 CFR § 2.301(h), EPA may disclose confidential information provided by the Company to EPA's authorized representatives, including its contractors. Confidential information may be disclosed to EPA's authorized representatives for the following reasons: to assist with document handling, inventory and indexing; to assist with document review and analysis for verification of completeness; and to provide expert technical review of the contents of the response. Pursuant to 40 CFR § 2.301(h), the Company may submit, along with its response to this Information Request, any comments regarding EPA's disclosure of confidential information to its authorized representatives.

6. If information or documents not known or available to the Company at the time of its response to this Information Request later become known or available to it, it must supplement its response to EPA. Moreover, should the Company find at any time after the submission of its response that any portion of the submitted information is false or misrepresents the truth, the Company must notify

EPA as soon as possible and provide EPA with a corrected response.

7. If information responsive to a request is not in the Company's possession, custody, or control, identify the persons or entities from whom such information may be obtained. For each individual or entity that possesses responsive information, please provide the following: name, last known or current address, telephone number, and affiliation with the Company or the Facility.

8. If you believe there are grounds for withholding information or documents that are responsive to this request, e.g., attorney-client privilege, you must identify the information or documents and state the basis for withholding.

DEFINITIONS

The following definitions apply to the following terms (words or phrases) as they appear in this Information Request. Defined terms are enclosed in quotation marks:

1. "You" or the "Company" shall mean Eco Services Operations LLC, or its officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents.

2. "Facility" means all buildings, equipment, structures, installations, pipes, or stationary items owned, leased, or operated by the Company, at the property or properties located at: 20720 S. Wilmington Avenue, Carson, CA 90810 or contiguous or adjacent to that address.

3. As used here, "document" and "documents" shall include writings of any kind, formal or informal, whether or not wholly or partially in handwriting (included by the way of illustration and not by way of limitation), any invoice, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memoranda of telephone and other conversations (including meetings, agreements and the like), diary, calendar, desk pad, scrap book, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intra office communications, photo-stat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any disc or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such disc other type of memory). The terms "document" and "documents" include (a) every copy of each document that is not an exact duplicate of a document which is produced, (b) every copy that has any writing, figure or notation, annotation or the like, (c) drafts, (d) attachments to or enclosures with any documents and (e) every document referred to in any other document.

4. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in the Clean Air Act or its implementing regulations at 40 CFR Part 68, in which case the statutory or regulatory definitions shall apply.

INFORMATION REQUEST QUESTIONS

Provide the following:

1. Provide a response to each proposed allegation in the transmittal letter accompanying this Information Request, indicating if the Company accepts or disputes the Finding.

    i. If the Company agrees with the allegation, indicate if the Company is presently in compliance with the cited requirement.

        1. If the Company is presently in compliance with the cited requirement provide the following information:
            a. The Company's first date of non-compliance;
            b. a description of what activities the Company undertook to come into compliance; and
            c. the date on which the Company came into compliance.

        2. If the Company is presently not in compliance with the cited requirement provide the following information:
            a. The Company's first date of non-compliance;
            b. indicate what actions the Company will undertake in order to come into compliance; and
            c. the date by which compliance will be achieved.

    ii. If the Company disputes the allegation or any portion of the allegation, including the dates asserted for each potential violation, provide the basis and supporting documentation for each such assertion.

2. For each allegation provide cost information relating to work undertaken, planned, or considered to correct identified deficiencies. Cost information may be either actual or estimated and shall be disaggregated by: a) one-time costs (such as for engineering and permitting); b) capital costs (such as for equipment); and c) incremental annual operation and maintenance costs relative to the Company's level of effort as that existed in October 2013. For each cost item provided indicate if actual or estimated.

3. Provide a statement and supporting documentation indicating both the Company's present net worth and gross revenues for calendar and/or fiscal year 2015.

ENCLOSURE 2:

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering all or part of the information requested in response to this information request, as provided in 40 C.F.R. Section 2.203(b). You may assert a business confidentiality claim covering such information by placing on (or attaching to) the information you desire to assert a confidentiality claim, at the time it is submitted to EPA, a cover sheet, stamped, or typed legend (or other suitable form of notice) employing language such as "trade secret," "proprietary," "company confidential." Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by EPA. If you desire confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state. Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Section 114(c) of the Clean Air Act (the Act) and 40 C.F.R. Part 2. EPA will construe the failure to furnish a confidentiality claim with your response to EPA's request for information as a waiver of that claim, and the information may be made available to the public without further notice to you.

B. Substantiation Requirements

All confidentiality claims are subject to EPA verification in accordance with 40 C.F.R. Part 2, Subpart B. The criteria for determining whether material claimed as confidential is entitled to such treatment are set forth at 40 C.F.R. Sections 2.208 and 2.301, which provide, in part, that you must satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; that the information is not and has not been reasonably obtainable by legitimate means without your consent; and the disclosure of the information is likely to cause substantial harm to your business's competitive edge.

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may at any time send you a letter asking you to substantiate fully your CBI claim. If you receive such a letter, you must provide EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time would be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information. If you receive such a letter, EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being subject to CBI, you must answer the following questions, giving as much detail as possible, in accordance with 40 C.F.R. 2.204(e).

1. What specific portions of the information are alleged to be entitled to confidential treatment? For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.

2. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your responses?

3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?

4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not to release to the public?

5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.

6. For each category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.

8. Any other issue you deem relevant

Please note that emission data provided under Section 114 of the Act, 42 U.S.C. Section 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B.

Emission data means, with reference to any source of emission of any substance into the air:

(A) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;

(B) Information necessary to determine the identity, amount, frequency, concentration or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and

(C) A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. Sections 2.301(a)(2)(i)(A), (B), and (C).

If you receive a request for a substantiation letter from the EPA, you bear the burden of substantiating your confidentiality claim. Conclusory allegations will be given little or no weight in the determination. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.