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February 5, 2013

VIA EMAIL AND U.S. MAIL

Cynthia Brown, Esq.
brown.cynthia@epa.gov
Mr. Edwin Quinones
Quinones.edwin@epa.gov
United States Environmental
Protection Agency
Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Mr. Randy C. Smith
randycsmith1@cs.com
American Environmental Consultants
P.O. Box 310
Mount Vernon, New Hampshire 03057

Re: **U.S. Oil Recovery Superfund Site, Pasadena, Harris County, Texas**

Dear Ms. Brown, Mr. Quinones, and Mr. Smith:

I represent TransMontaigne Product Services, Inc., the successor-in-interest to Houston Marine Services, Inc. (collectively, "HMS"). HMS has received correspondence from you regarding the above-referenced sites, requesting that HMS join the PRP group and execute with them and USEPA a proposed administrative order on consent ("AOC") with respect to these sites.

I discussed this matter briefly with Ed Quinones last week and with Georgette Allard at AEC today. Georgette told me that Randy Smith with AEC is out of pocket until February 15.

In my conversations, I noted that the only information that HMS has regarding any CERCLA wastes consists of the attached waste manifest for 165 gallons of flammable waste that it believes to have sourced from a laboratory. This is the only waste manifest that was provided by USEPA as Enclosure B to its recent letters. If there is additional waste that you believe to be subject to CERCLA that originated from HMS, please let me know. But as it stands now, HMS believes that all other waste that went from HMS to the US Oil Recovery site was petroleum waste, unmixed with any CERCLA hazardous substance, and thus not subject to liability under CERCLA by reason of its petroleum exclusion.

Please also note that HMS wrote to Randy Smith on April 24, 2012 in response to an earlier communication from Mr. Smith inviting Transmontaigne/HMS to join the existing PRP group in signing the proposed AOC. As you can see in that letter, a copy of which is attached,

HMS expressed a potential interest in joining the group and signing on to the proposed AOC, but it requested reasonable additional background information to allow it to make a well-informed decision in that regard. Unfortunately, HMS received no response to that request.

HMS remains interested in considering joining the PRP group and signing on to the removal action AOC, but it still needs the previously-requested information to evaluate the wisdom of doing so. And if, as HMS believes, all but 165 gallons of its waste sent to the US Oil Recovery site was excluded petroleum waste, it seems to make more sense for HMS to enter a de micromis or de minimis settlement once those types of settlements have been proposed.

We look forward to hearing from you in these regards.

Sincerely,

Craig K. Pendergrast
TAYLOR ENGLISH DUMA LLP

CKP:tfd

Enclosure

cc: Georgette Allard (via facsimile)

TRANSMONTAIGNE
PRODUCT SERVICES INC.

April 24, 2012

Randy C. Smith
American Environmental Consultants
PO Box 310, 30 Purgatory Road
Mount Vernon, NH 03057

Re: US Oil Recovery and MCC Site Participation Agreement

Dear Mr. Smith:

As you know, TransMontaigne Product Services Inc. (TransMontaigne) is the successor-in-interest to Houston Marine Services, Inc. (HMS). We have reviewed the U.S. Oil Recovery PRP Group's Participation Agreement and Remediation Fund Escrow Agreement pursuant to the Confidentiality Agreement that TransMontaigne entered on April 3, 2012. While TransMontaigne is interested in the possibility of joining the PRP Group, we need additional information about the US Oil Recovery and MCC Site (the "Site"), HMS's connection to the Site, and the Site PRPs before making a final decision.

So that we can understand our connection to this Site, please provide us with all of the documentation that the PRP Group has regarding HMS's status as an alleged PRP at the Site, including but not limited to manifests, witness statements/testimony, transporter records, and records maintained at the Site. Please include any information that would indicate that the CERCLA petroleum exclusion would be inapplicable to any waste allegedly generated by HMS that may have been transported to the Site.

Please also provide us with summary information you have concerning the PRPs identified to date, including their waste types and volumes. This information should include EPA's March 2011 Volumetric Ranking as well as any other volumetric ranking performed by or on behalf of the PRP Group. Please also include any information regarding the status of any preliminary allocation work done by or on behalf of the Group.

Finally, please provide us with a copy of the Statement of Work (SOW) for a removal action contemplated by the Administrative Order on Consent and other information that would help us understand the circumstances of the Site and surrounding areas and the chemical and other drivers that dictate the potential need for additional response action. We would like to know the status of the work set forth in the SOW, the schedule of the work to be performed, and an itemized estimate of the prospective costs to be performed under the SOW. To the extent that a remedial action is contemplated subsequent to or concurrent with a removal action, please provide pertinent information regarding that possibility and its prospective costs, as well.

If you have any questions, please do not hesitate to give me a call at (303) 626-8219.

Dudley Tarlton, VP - ESOH
TransMontaigne Product Services Inc.

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