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July 27, 2021

Scott Hooton
Environmental Project Manager
Port of Tacoma
PO Box 1837
Tacoma, WA 98402-1837

Re: Response to Port of Tacoma June 2, 2021, letter regarding USG Taylor Way Plant Site Agreed Order No. DE3405; Expansion of Scope for Remedial Actions

- **Site Name:** USG Taylor Way Plant Site
- **Site Address:** 2301 Taylor Way, Tacoma, WA 98421
- **Facility/Site ID:** 1260
- **Cleanup Site ID:** 5003

Dear Scott Hooton:

This letter is in response to your letter addressed to me, dated June 2, 2021 (enclosed). Your letter relates to Washington State Department of Ecology's (Ecology's) decision letter to Port of Tacoma (Port) and USG Interiors, Inc. (USG) dated January 13, 2021. Ecology's January 13, 2021, letter directs the Port and USG to expand the scope of cleanup under USG Agreed Order No. DE 3405 to include contamination in an area called the "North Boundary Area" (NBA). The NBA is an area with elevated concentrations of arsenic and lead in soils, located on property owned by the Port adjacent to the property where the USG mineral fiber plant formerly operated.¹ In particular, the Port objected to the soil contamination requirement in item # 5 of the Framework section in Ecology's January 13, 2021, letter which states:

The focused FS [feasibility study] shall include the proposed boundaries of the NBA remediation area(s). Ecology expects that the remediation area(s) will include areas of soil contamination on the NBA that are contiguous with portions of the 2301 Taylor Way property where current or already-excavated soils contain or contained arsenic and/or lead above MTCA industrial cleanup levels.
Ecology expects that other areas of contamination in the general vicinity of the NBA that are not contiguous with contamination on the 2301 Taylor

¹ The North Boundary Area geographic extent is shown on Figure 2 from the Public Review Draft Feasibility Study for the USG Taylor Way Plant Site. See documents link at: <https://apps.ecology.wa.gov/gsp/sitepage.aspx?csid=5003>

Way property would not be included. (emphasis added by Port in June 2, 2021 letter).

Background

Prior to sending the June 2, 2021, letter to Ecology, Port staff verbally requested that me and my supervisor Andy Smith elevate the Port's objection to the 'contiguous' directive to the Southwest Region, Toxics Cleanup Program, Section Manager, Rebecca S. Lawson. Ecology then held internal meetings and carefully considered the request, and determined that it would be appropriate to eliminate the 'contiguous' provision in the interest of ensuring a faster and more thorough cleanup at the NBA.

Because USG had not been party to the verbal discussions between the Port and Ecology, Ecology requested the Port submit a letter formally requesting that the contiguous provision be removed. We requested that the letter be provided to all parties; and that the letter should not be used to advance the Port's position that USG is the primary source of contamination at the NBA. We thereafter received the Port's June 2, 2021, letter and are providing this reply.

Decision

Ecology agrees to rescind the soil contamination directive in item #5 from our January 13, 2021, letter which will allow expansion of the scope of the NBA cleanup under Agreed Order No. DE 3405 to include non-contiguous areas of arsenic and lead contamination at the NBA.

Ecology concerns about June 2, 2021, letter

In spite of our approval of the Port's request, Ecology believes it is important to set the record straight related to some statements in your June 2, 2021, letter. As the Port is well aware, Ecology declines to weigh in on the dispute between the Port and USG related to the source of, and liability for, the contamination in the NBA. We have also made it clear over the past several years that Ecology expects the financial liability for the NBA to be worked out between the liable parties through the legal system.

We believe that the below statement from the fourth paragraph of your June 2, 2021, letter is misleading and mischaracterizes our verbal discussions, especially given Ecology's long-standing position that the liable parties should work out liability through the legal process.

*After thorough discussion and evaluation of this matter on May 11, 2021, **Ecology concurred that the NBA FS should include USG's areas of contamination**, both contiguous and non-contiguous, to maximize the benefit of a future remedial action and allow for the selection of a practicable and implementable remedial alternative (emphasis added).*

Ecology did not concur that contamination in the NBA is from USG. In our conversations related to the subject of the June 2, 2021, letter we made it clear to the Port that Ecology's primary interest is for the area to be cleaned up as soon and as effectively as possible.

Also, contrary to our request for your letter not to be used to advance the Port's position about the source of contamination, the following statement was included in your letter:

The adjective “contiguous” thwarts this policy, and effectively precludes the comprehensive evaluation of the nature and extent of contamination associated with the USG Site that has otherwise come to be located within the NBA.

Additionally, you did not copy the letter to the USG representatives, which we had asked you to do.

Ecology values the good working relationship we have with the Port. We understand and respect that Port staff is always working toward the Port’s best interest, even when our opinions and approaches differ. However, we believe it is important to be fair and transparent with both parties to the USG Agreed Order, so are pointing out these concerns to ensure that Ecology’s position is clear.

Sincerely,



Joyce Mercuri
Cleanup Project Manager
Toxics Cleanup Program
Southwest Regional Office

Enclosure: June 2, 2021, Port letter to Ecology

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Ecology Site File