



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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January 24, 2018

Lisa Morden  
Senior Director, Global Sustainability  
Kimberly-Clark Worldwide, Inc.  
1400 Holcomb Bridge Road  
Roswell, GA 30076-2190

Re: Applicable State and Federal Laws for Demolition Waste at the K-C Worldwide Site

- **Site Name:** Kimberly-Clark Worldwide
- **Facility Site ID:** 9
- **Site Address:** 2600 Federal Avenue, Everett, Washington

Dear Ms. Morden:

The Washington State Department of Ecology (Ecology) has reviewed the applicable local, state, and federal laws for the demolition waste material that Kimberly-Clark (K-C) spread onto the upland area of the Kimberly-Clark Worldwide Site (Site), located at 2600 Federal Avenue, Everett, Washington. Under the Model Toxics Control Act (MTCA) cleanup process, cleanup actions shall comply with applicable laws as required by WAC 173-340-710. WAC 173-340-360(2)(a); *see also* WAC 173-340-350(9)(b).

### **Crushing and Spreading of Demolition Waste**

In 2013, K-C independently, and without the requisite permitting or Ecology approval, spread approximately 120,000 cubic yards of demolition waste across 30 plus acres of the Site. This activity took place after the demolition of the former K-C pulp and paper mill in Everett, Washington. K-C spread demolition waste throughout the Site and within 200 feet of the saltwater bodies East Waterway and Port Gardner Bay. K-C also placed some of the demolition waste at a depth that allowed it to come into direct contact with groundwater, and in other areas of the Site in close proximity to groundwater, allowing pollutants to enter groundwater via direct contact and rainwater infiltration. As acknowledged by K-C in April 2013, the crushing and spreading of the demolition waste throughout the Site was not a remedial action under MTCA and did not fall under Ecology's Agreed Order with K-C (Agreed Order No. DE 9476)

See April 19, 2013, email from Steve Germiot to Andrew Kallus, Cindy Jernigan, and Howard Sharfstein regarding the K-C demolition debris. A summary of the major issues with regard to the demolition waste is provided below.

- **Solid Waste Violation** – K-C did not acquire the proper solid waste landfill permits to dispose of approximately 120,000 cubic yards of contaminated crushed demolition waste on their property (and within 200 feet of the shoreline) in Everett, Washington. As a result, K-C received a solid waste notice of violation (NOV) from the Snohomish Health District. Analytical results of some of the demolition waste material remaining on-site show concentrations of pollutants above MCTA site-specific cleanup levels including metals, polychlorinated biphenyls (PCBs), total petroleum hydrocarbons (TPH), and carcinogenic polycyclic aromatic hydrocarbons (cPAHs). This waste constitutes as “solid waste” under the Solid Waste Management statute and the Solid Waste Handling regulations. The waste material does not meet the requirements for recycling or a “beneficial use” exemption, and is not “inert”.
- **Water Quality Violation** – After demolition of the former pulp and paper mill, the groundwater level at the Site increased about two feet. As a result, the demolition waste material (which contains in part crushed fresh cement) in some areas of the Site is in direct contact with groundwater, and in other areas of the Site the demolition waste material is in close proximity to groundwater. As a result of water being in contact with the crushed cement (via rainwater infiltration and direct contact with groundwater), pH levels measured in groundwater wells at the Site have increased since 2012 to concentrations above the state groundwater quality standard of 8.5 (WAC 173-200-040). K-C acknowledged in their draft remedial investigation and feasibility study (RI/FS) report that the placement of the crushed fresh cement at the Site allowed “...high pH infiltration to reach the water table”. Close to half of the wells sampled in 2016/2017 had a groundwater pH in excess of 8.5, and over 20 wells had a groundwater pH greater than 10.

High groundwater pH is a concern with respect to increased mobilization of metals. Groundwater sampling data at the Site before and during demolition (2012-2013), and after the demolition waste material was spread (2014-2017), show that dissolved metals (primarily arsenic, copper, mercury, and nickel) have increased in areas of high pH (i.e., greater than 8.5), and are greater than three to five times the groundwater cleanup level in some areas. It's acknowledged in the draft RI/FS that some of the groundwater metals exceedances “...are attributed to high groundwater pH resulting from shallow groundwater in close proximity to the surficial layer of cementitious recycled material.”

Because of the groundwater impacts described above, Ecology's Water Quality Program issued K-C an NOV for allowing demolition waste material to come into contact with groundwater and allowing the pollutants from the demolition waste material to negatively impact groundwater quality.

- **State Environmental Policy Act (SEPA) Issues** – The site-wide filling and grading of over 120,000 cubic yards of demolition waste was not identified in K-C's original SEPA-approved plans. As a result, the City of Everett (city) did not evaluate this filling activity as part of their SEPA determinations for the mill demolition. This filling activity would not have been permitted if it had been properly identified in the SEPA documents, and it's in violation of city zoning for this property. In August 2013, the city sent K-C a letter noting several unauthorized changes made to the original SEPA-approved plans.

## **Conclusion**

Based on its review, Ecology has determined that the demolition waste spread by K-C at the Site constitutes a "solid waste" under the Solid Waste Management statute (*see* RCW 70.95.030[22]) and the Solid Waste Handling regulations (*see* WAC 173-350-100). K-C spread this waste over the Site independently without permit or approval by Ecology, and it was not part of the Agreed Order. The solid waste is not a marketable recyclable product or material, is not inert, and has negatively impacted groundwater quality. By spreading and incorporating the demolition waste throughout the Site, K-C conducted unpermitted landfilling and failed to comply with and therefore violated the following regulations: the State of Washington Solid Waste Handling Standards (WAC 173-350), the Snohomish Health District Sanitary Code (Chapter 3.2), Water Pollution Control statute 90.48 RCW, Water Quality Standards for Groundwaters of the State of Washington (WAC 173-200), and the City of Everett's Shoreline Master Program. K-C's unpermitted landfill also violates the City of Everett's ordinance that prohibits landfills at the K-C property.

Ecology has determined that there is no viable path which allows the demolition waste to remain on-site and still be in compliance with applicable local, state, and federal laws mentioned above, which is a requirement under MTCA. This determination is based on the fact that the waste material was not permitted to be placed on the Site, it does not meet the Solid Waste requirements, and the city zoning for the property does not allow for the creation of a landfill. Local zoning, along with location standards defined under the solid waste regulations, would not allow a limited-purpose landfill to be permitted at this Site. The only option that reasonably complies with all of the requirements is to remove the material from the Site and either dispose of it at a permitted landfill, or attempt to recycle the material.

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Within twenty days of receipt of this letter, please let me know if K-C is willing to move forward with the full removal of the demolition waste on-site so that K-C can come into compliance with all of the legally applicable requirements identified above. We greatly appreciate the cleanup work conducted to date on the Site and look forward completing the RI/FS and draft cleanup action plan. If you have any questions regarding this notification, please contact me at (360) 407-7259 or at [andrew.kallus@ecy.wa.gov](mailto:andrew.kallus@ecy.wa.gov).

Sincerely,



Andy Kallus  
Site Manager  
Toxics Cleanup Program, Headquarters

By certified mail: 9171999991703646815914

cc: Heather Bartlett, Ecology  
Laurie Davies, Ecology  
Brian Knox, KL Gates  
John Level, ATG  
Jim Pendowski, Ecology  
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