Magnate's Response to EPA Rebuttal
of
September 26, 2019

Exhibit A

CERCLA Statute 104 (a)

Clearly states:

1)Whenever (A) any hazardous substance is released or there is a substantial threat of such a release into the environment, or (B) there is a release or substantial threat of release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, the President is authorized to act, consistent with the national contingency plan, to remove or arrange for the removal of, and provide for remedial action relating to such hazardous substance, pollutant, or contaminant at any time (including its removal from any contaminated natural resource), or take any other response measure consistent with the national contingency plan which the President deems necessary to protect the public health or welfare or the environment. When the President determines that such action will be done properly and promptly by the owner or operator of the facility or vessel or by any other responsible party, the President may allow such person to carry out the action, conduct the remedial investigation, or conduct the feasibility study in accordance with section 9622 of this title. No remedial investigation or feasibility study (RI/FS) shall be authorized except on a determination by the President that the party is qualified to conduct the RI/FS and only if the President contracts with or arranges for a qualified person to assist the President in overseeing and reviewing the conduct of such RI/FS and if the responsible party agrees to reimburse the Fund for any cost incurred by the President under, or in connection with, the oversight contract or arrangement. In no event shall a potentially responsible party be subject to a lesser standard of liability, receive preferential treatment, or in any other way, whether direct or indirect, benefit from any such arrangements as a response action

contractor, or as a person hired or retained by such a response action contractor, with respect to the release or facility in question. The President shall give primary attention to those releases which the President deems may present a public health threat.

Magnate asserts that there was "never" a substantial release or threat of release to the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare.

The pictorial evidence presented by Weston Solutions does not show evidence rising to the level of "substantial release or threat presenting imminent and substantial danger to the public or welfare".

The three point determination by EPA;

1) Pile 3 (southeast corner). Remove and properly dispose.

2) Area 5 (northeast building). Area where some pipe insulation fell onto ground within building. Remove and properly dispose.

3) Area 10 (basement). Remove all loose asbestos and bagged asbestos. Remove PCBs above 50. Properly dispose. Seal off all access to basement to prevent occupancy and migration of hazardous substances left behind (PCBs and asbestos contaminated materials).

Also, does not show evidence rising to the level of "substantial release or threat presenting imminent and substantial danger to the public or welfare".

Magnate is assured that, if this evidence was presented to the President of the United States, Donald J. Trump, whom is the absolute authority in this matter, that he would agree that evidence shown, does not show evidence rising to the level of "substantial release or threat presenting imminent and substantial danger to the public or welfare" If presented with the entire EPA investigation, he would be using words like "witch hunt","hoax", "waste of taxpayer's money", "abuse of power", and "government overreach".

Magnate further asserts that the EPA/OSC was aware of the lack of evidence rising to the level of "substantial release or threat presenting imminent and substantial danger to the public or welfare, in that he

failed to notify the public, failed to do a feasibility study, risk assessment, and failed to give Magnate opportunity to present evidence as to the "cause" of the supposed threat and PRP.

Magnate, also asserts that there was no determination of threat based on the evidence above, due to a "determination of threat" made in February 2018, based on evidence collected in May and November of 2016. This would demonstrate a total lack of "Due Care with respect to the Hazardous Substance" on the part of OSC/EPA. No Protector of the Environment would ever allow a "threat of substantial release or threat presenting imminent and substantial danger to the public or welfare" to stand vital for over 500 days, if they actually had a basis to believe the threat was real. During the 500 days, Magnate made many offers to qualify evidence, offers to remediate the supposed threat, and offered conditional access to EPA where it was due. Magnate was more than willing to give access to property within the confines of "due process".

Whereas CERCLA is an administrative action, without applicable due process, it is still required to act within the norms of evidentiary findings and the norms of common sense. When evidence found in February of 2016 is deemed "inconclusive" for six month until higher levels of PBCs can be found, any reasonable person might want to know why or how. Even the CERCLA statute offers some degree of due process found in Upon notification of a potentially hazardous waste site, the EPA conducts a Preliminary Assessment/Site Inspection (PA/SI), which involves records reviews, interviews, visual inspections, and limited field sampling.[28]Information from the PA/SI is used by the EPA to develop a Hazard Ranking System (HRS) score to determine the CERCLA status of the site.[29] Sites that score high enough to be listed typically proceed to a Remedial Investigation/Feasibility Study (RI/FS).

The RI includes an extensive sampling program and risk assessment that defines the nature and extent of the site contamination and risks. The FS is used to develop and evaluate various remediation alternatives. The preferred alternative is presented in a Proposed Plan for public review and comment, followed by a selected alternative in a ROD. The site then enters into a Remedial Design

phase and then the Remedial Action phase. Many sites include Long-Term Monitoring. 5-year reviews once the Remedial Action has been completed are required whenever hazardous substances are left onsite above levels safe for unrestricted use. And even this minimal procedural process was avoided.

EPA Does Not Have a Reasonable Basis to Perfect Lien

EPA's basis for perfect lien is based on an unwarranted response action, based on flawed evidence without due process.

Whereas EPA's perfecting of lien will result in depriving of Magnate's property, this action will need to be adjudicated in a court of law, not as an administrative action.

Magnate also asserts that there has been a complete deprivation of due process, failure to accept exculpatory evidence, and the obfuscation of the evidentiary process.

Magnate further asserts that the failure to reveal the original author of the complaint was to conceal the record of the complaint.

Magnates further asserts that the cancelling of a meeting requested by Magnate and scheduled for October 11, 2017, was cancelled in order to conceal the evidence that the meeting would have revealed. The meeting was replaced with an offsite meeting where Magnate was presented letters of Potential Liability.

Magnate further asserts that the failure by Myles Bartos to respond to the F.O.I.A. request dated May 14, 2018, was an effort to conceal the record.

Magnate also asserts that Myles Bartos notified Magnate of a scheduled meeting on June 6, 2019, when in fact the meeting was scheduled for June 5, 2019. This was done to deprive Magnate of and conceal the record from Magnate.