



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 30 2016

REPLY TO THE ATTENTION OF

CERTIFIED MAIL 7009 1680 0000 7647 3453
RETURN RECEIPT REQUESTED

Gregory S. Rajek
Merrill Iron & Steel
900 Alderson Street
Schofield, Wisconsin 54476-0110

Re: Expedited Settlement Agreement and Final Order
Merrill Iron & Steel
EPA ID Number: WID 074780982
Docket Number: RCRA-05-2016-0020

Dear Mr. Rajek:

Enclosed please find an original signed fully-executed Expedited Settlement Agreement and Final Order in resolution of the above case. The original was filed on September 30, 2016 with the Regional Hearing Clerk (RHC).

Thank you for providing a receipt documenting your electronic payment of the \$6,000 penalty.

Enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Gary J. Victorine".

Gary J. Victorine, Chief
RCRA Branch

Enclosures

cc: Brenda Halminiak, WDNR (brenda.halminiak@wisconsin.gov)
Steven Sisbach, WDNR (steven.sisbach@wisconsin.gov)
Michael Ellenbecker, WDNR (michael.ellenbecker@wisconsin.gov)

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

Merrill Iron & Steel Inc.
EPA ID Number: WID074780982

Respondent.



Docket No. RCRA-05-2016-0020

**EXPEDITED SETTLEMENT
AGREEMENT AND
FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency alleges that Merrill Iron & Steel (“Respondent”), owner or operator of the facility at 900 Alderson Street in Schofield, Wisconsin (the “Facility”), failed to comply with regulations of the Resource Conservation and Recovery Act (RCRA) and the EPA approved and authorized State of Wisconsin hazardous waste management program as observed during a compliance evaluation inspection (CEI) conducted at the Facility on April 13-14, 2016.
2. A Notice of Violation (NOV) was issued to Respondent on June 13, 2016.
3. Respondent provided a response to the NOV (“NOV Response”) to EPA by letter dated July 19, 2016.
4. Under Wis. Admin. Code §§ NR 662.034(1)(d) [40 C.F.R. § 262.34(a)(4)], a large quantity generator of hazardous waste must provide a contingency plan for the facility that includes, among other things, the following:
 - a. An up-to-date list of all persons qualified to act as emergency coordinator. See, Wis. Admin Code § 665.0052(4) [40 C.F.R. § 265.52(d)]; and,
 - b. An evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes. See, Wis. Admin. Code § 665.0052(6) [40 C.F.R. § 265.52(f)].At the time of the CEI, the list of emergency coordinators in the Facility contingency plan was not up to date, and the plan did not include an evacuation plan. Respondent addressed this violation in the NOV Response by providing an updated copy of their contingency plan.
5. A large quantity generator of hazardous waste must provide an annual review of the hazardous waste management and contingency plan training required in Wis. Admin. Code § NR 665.0016(1) [40 C.F.R. § 265.16(a)]; See, Wis. Admin. Code §§ NR

662.034(1)(d); 665.0016(3) [40 C.F.R. §§ 262.34(a)(4); 265.16(c)]. At the time of the CEI, the training program was not being provided to all employees whose job duties included hazardous waste management. Respondent addressed this violation in the NOV Response by including all employees who manage hazardous waste in their training courses.

6. Under Wis. Admin. Code § NR 662.034(1)(d) [40 C.F.R. § 262.34(a)(4)], a large quantity generator must maintain the following personnel training documentation at the Facility:
 - a. Job titles and job description for each position at the facility related to hazardous waste management. See, Wis. Admin. Code § NR 665.0016(4)(a) [40 C.F.R. § 265.16(d)(1)];
 - b. The name of each employee filling hazardous waste management positions. See, Wis. Admin. Code § NR 665.0016(4)(b) [40 C.F.R. § 265.16(d)(2)]; and
 - c. Records of annual hazardous waste management and contingency plan training. See, Wis. Admin. Code § NR 665.0016(4)(d) [40 C.F.R. § 265.16(d)(4)].

At the time of the CEI, records of Respondent's job descriptions and annual training reviews were incomplete. Respondent addressed these violations in the NOV Response by providing updated job descriptions and updating their record-keeping procedures.

7. Under Wis. Admin. Code § NR 662.011 [40 C.F.R. § 262.11], a person who generates a solid waste must determine if his waste is hazardous. Documentation supporting determinations made pursuant to Wis. Admin. Code § NR 662.011 [40 C.F.R. § 262.11] must be maintained at the facility. See, Wis. Admin. Code § NR 662.040(3) [40 C.F.R. § 262.40(c)]. At the time of the CEI, Respondent did not provide waste determination documentation for oil absorbents that were being sent off-site for burning or for waste paint that was received from a company related to Respondent. Respondent addressed these violations in the NOV Response by providing documentation to support non-hazardous waste determinations for these wastes.
8. Under Wis. Admin. Code § NR 679.22(3)(a) [40 C.F.R. § 279.22(c)(1)], containers used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil." At the time of the CEI, Respondent failed to mark three containers of used oil with the words "Used Oil." Respondent addressed this violation in the NOV Response with photographs of these containers marked as "Used Oil."
9. A small quantity handler of universal waste is required, among other things, to do the following:
 - a. Contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamp. Such containers and packages must remain closed. See, Wis. Admin. Code § NR 673.13(4)(a) [40 C.F.R. § 273.13(d)(1)];
 - b. Mark or label universal waste batteries or the containers in which batteries are held, with any of the following phrases: "Universal Waste – Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)." See, Wis Admin. Code § NR 673.14(1) [40 C.F.R. § 273.14(a)];

- c. Mark or label containers of universal waste lamps with any of the following phrases: "Universal Waste – Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)." See, Wis. Admin. Code § NR 673.14(5) [40 C.F.R. § 273.14(e)].

At the time of the CEI, Respondent failed to close and label universal waste containers of lamps as well as failed to label universal waste batteries as required. Respondent addressed these violations in the NOV Response with photographs of containers of universal waste closed and labeled.

10. EPA and Respondent agree that settlement of this matter for a penalty of six thousand dollars (\$6,000) is in the public interest.
11. EPA is authorized to enter in this Expedited Settlement Agreement ("Agreement") pursuant to Section 3008 of RCRA and 40 C.F.R. § 22.13(b).
12. In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; and (5) waives any right to contest the allegations contained herein.
13. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) Respondent is complying with the applicable sections of RCRA, and its implementing regulations, and (2) Respondent is submitting proof of payment of the civil penalty with this Agreement.
14. Within 30 days after the effective date of this Agreement, Respondent shall pay a civil penalty of six thousand dollars (\$6,000) for the RCRA violations identified in this Agreement by sending a cashier's or certified check, payable to "Treasurer, United States of America" to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

The check must state the case title ("In the Matter of Merrill Iron & Steel, Inc.") and the docket number of this Agreement.

To pay online go to:

www.pay.gov

Use the Search Public Forms option and enter 'sfo 1.1' in the search field.
Open form and complete required fields.

Respondent must send a notice of payment that states Respondent's name, complete address, and the case docket number (along with a photocopy of the check or a statement of affirmation regarding electronic funds transfer) to EPA at the following addresses, when it pays the penalty:

Regional Hearing Clerk
U.S. EPA, Region 5
77 West Jackson Boulevard (E-19J)
Chicago, IL 60604

Brenda Whitney
U.S. EPA, Region 5
77 West Jackson Boulevard (LR-8J)
Chicago, IL 60604

Susan Perdomo
U.S. EPA, Region 5
77 West Jackson Boulevard (C-14J)
Chicago, IL 60604

15. The civil penalty is not deductible for federal tax purposes.
16. If the Respondent does not pay timely the civil penalty, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.
17. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this Agreement. Interest will accrue on any amount overdue at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a fifteen dollar (\$15) handling charge each month that any portion of the penalty is more than thirty (30) days past due. In addition, Respondent must pay a six percent (6%) per year penalty on any principal amount ninety (90) days past due.
18. This Agreement resolves Respondent's liability for federal civil penalties for the violations alleged in the Agreement.
19. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claim alleged herein.
20. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute of regulation, or this Agreement.

21. Upon signing and returning this Agreement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 3008(b) of RCRA.

22. Each party shall bear its own costs and fees, if any.

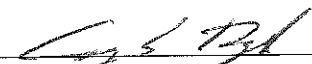
23. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. 22.31(b), is effective upon filing.

IT IS SO AGREED,

APPROVED BY RESPONDENT:

Name (print): GREGORY S. RAJEK

Title (print): ENVIRONMENTAL COMPLIANCE OFFICER

Signature: 

Date: 8/20/2016

APPROVED BY EPA:



Margaret Guerriero, Director
Land and Chemicals Division

Date: 9/26/2016

FINAL ORDER

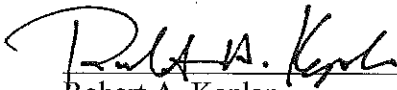
In the Matter of:

Merrill Iron & Steel, Inc.

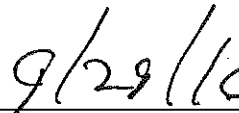
Docket Number RCRA-05-2016-0020

This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Expedited Settlement Agreement and Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED:



Robert A. Kaplan
Acting Regional Administrator
United States Environmental Protection Agency
Region 5



Date

In the matter of: Merrill Iron & Steel
Docket Number: RCRA-05-2016-0020

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement**, which was filed on September 30, 2016, this day, in the following manner to the addressees:

Copy by certified mail
return-receipt requested:

Gregory S. Rajek
Merrill Iron & Steel
900 Alderson Street
Schofield, Wisconsin 54476-0110

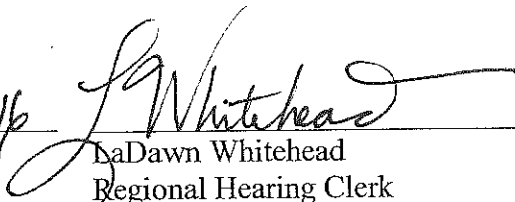
Copy by e-mail to
Attorney for Complainant:

Susan Perdomo
Perdomo.Susan@epa.gov

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: September 30, 2016



DaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

7009 1680 0000 7647 3453