

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2018 SEP -8 AM 10:43

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:
US Magnesium Site
Rowley, Utah

AMENDMENT TO ADMINISTRATIVE
SETTLEMENT AGREEMENT AND
ORDER ON CONSENT FOR REMEDIAL
INVESTIGATION/FEASIBILITY STUDY

US Magnesium LLC,

U.S. EPA Region 8
CERCLA Docket No.:
CERCLA-08-2011-0013

Respondent.

Proceeding Under Sections 104, 107 and
122 of the Comprehensive Environmental
Response, Compensation, and Liability Act,
as amended, 42 U.S.C. §§ 9604, 9607 and
9622.

**AMENDMENT TO ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER
ON CONSENT FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY
FOR THE US MAGNESIUM SITE**

On August 4, 2011, the U.S. Environmental Protection Agency (EPA) and US Magnesium LLC (Respondent) entered into an Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study (AOC) for the US Magnesium Superfund Site, located in Tooele County, Utah. Section XVIII of the AOC provides that Respondent shall pay all of the EPA's RI/FS Response Costs incurred under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 *et seq.* that are not inconsistent with the National Contingency Plan, 40 C.F.R part 300.

Pursuant to paragraph 74 (a) of the AOC, the EPA periodically sends Respondent a bill consisting of a standard, regionally-prepared cost report, and Respondent is to pay the billed costs within thirty (30) days of receiving the bill. Pursuant to paragraph 75 of the AOC, if the Respondent does not pay response costs owed within 30 days of receiving the bill, Interest shall accrue on the unpaid balance.

The following is a summary of the billing and payment history.

Billing Period	Billing Date	Amount Due	Due Date	Payment Date	Amount Collected	Balance Due
8/4/11 through 9/30/12	4/3/13 9/26/13	\$1,182,662.21	9/26/13	9/12/13	\$1,182,662.21	\$0.00
10/1/12 through 9/30/13	7/30/14	1,694,290.22	9/5/2014	10/31/14	1,694,290.22	3,426.20 (interest due on late payment through 8/31/16)
10/1/13 through 9/30/14	7/14/15	1,772,803.43	8/14/15	Not Paid	0.00	1,772,803.43 plus interest of 14,021.63 through 8/31/16 Total: \$1,786,825.06
10/1/14 through 9/30/15	5/10/16	1,793,408.35	6/15/16	Not Paid	0.00	1,793,408.35 plus interest of 3,805.01 through 8/31/16 Total: \$1,797,213.36
Total					\$2,876,952.43	\$3,587,464.62

Pursuant to AOC Section XXIX (Effective Date and Subsequent Modification), the EPA and Respondent hereby amend Paragraph 74 of Section XVII (Payment of RI/FS Response Costs) as follows:

74. Payment of RI/FS Response Costs

- a. Respondent shall pay the EPA all RI/FS Response Costs not inconsistent with the NCP. Respondent currently owes EPA \$3,566,211.78 for RI/FS Response Costs billed by the EPA to Respondent on July 14, 2015, and May 10, 2016, in addition to accrued Interest as of August 31, 2016 of \$21,252.84. The total amount due of \$3,587,464.62 shall be paid as follows.

Within fifteen (15) days after this Amendment is fully executed by the Parties, Respondent shall pay to the EPA \$1,000,000.

The principal balance of \$2,587,464.62 shall be paid in twelve equal monthly installments due on or before the fifteenth day of each month beginning on October 15, 2016. Interest shall accrue on the principal balance at the rate specified in paragraph 10(f) of the AOC as of September 1, 2016.

If Respondent defaults on any installment payment, the entire remaining balance of all outstanding RI/FS Response Costs and Interest owed by Respondent shall immediately become due and payable as of the date of default.

For RI/FS Response Costs incurred and to be incurred after September 30, 2015, on a periodic basis, the EPA will send Respondent an electronic billing notification to the following email address:

ttripp@usmagnesium.com

The billing notification will include a standard regionally-prepared cost report with the direct and indirect costs incurred by the EPA and its contractors. Respondent shall pay each bill in six equal monthly installments with the first installment due on or before thirty days after the billing notification and each subsequent installment due thirty days thereafter, except as otherwise provided in Paragraph 76 of this Settlement Agreement. Respondent shall make payments using one of the payment methods set forth in the electronic billing notification.

Respondent may change its email billing address by providing notice of the new address to:

Financial Management Officer
US EPA Region 8 (TMS-FMP)
1595 Wynkoop Street
Denver, Colorado 80202

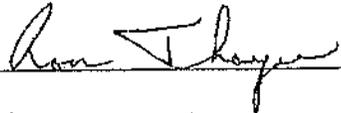
If the electronic billing notification is undeliverable, the EPA will mail a paper copy of the billing notification to Respondent at the following address:

US Magnesium LLC
c/o Tom Tripp
238 North 2200 West
Salt Lake City, Utah 84116-2921

All other provisions of the AOC shall remain unchanged.

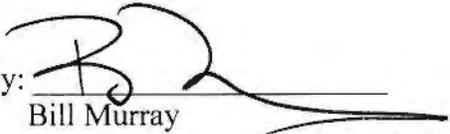
Agreed this 31st day of August, 2016.

For Respondent
US Magnesium LLC

By: 
Title: PRESIDENT

It is so ORDERED AND AGREED this ___ day of August, 2016.

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 8

By: 
Bill Murray
Director, Superfund Remedial Program
Office of Ecosystems Protection
and Remediation

Date: 9/8/16

By: 
Aaron Urdiales
Director, Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Date: 9/8/16

By: 
Andrea Madigan
Supervisory Attorney, Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Date: 9/8/16