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March 4, 2010

Via Certified Mail, Return Receipt Requested

Andrew Fan
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103

Barbara Brown, Project Coordinator
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, MD 21230

Environmental Enforcement Section
U.S. Department of Justice
Land and Natural Resources Division
Chief, Environmental Enforcement Section
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044
Attn: DOJ No. 90-7-1-830

Received

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Re: Consent Decree in the Matter of U.S. and The State of Maryland, Maryland Department of the Environment v. Bethlehem Steel Corporation, Civil Nos. JFM-97-559 and JFM-97-558; Partial Disproval of October 13, 2009 Work Plan Submission – Notice of Dispute

Dear Mr. Fan, Ms. Brown and U.S. DOJ:

On behalf of Severstal Sparrows Point LLC (“Severstal Sparrows”) we are responding to Abraham Ferdas’ Letter and Attachment to Russell Becker of Severstal Sparrows, dated February 3, 2010, disapproving, in part, the Work Plan, entitled *Sediment, Surface Water, and Groundwater Sampling Plan to Assess Current Groundwater Discharge Impacts to the Offshore Environment*, submitted by Severstal Sparrows on October 13, 2009, by timely submitting this written notice of dispute in accordance with section XX of the above-referenced Consent Decree. Pursuant to Section XX, this notice triggers an informal dispute period and accordingly Severstal Sparrows requests a meeting with representatives of U.S. EPA and Maryland Department of the Environment (“MDE”) at your earliest convenience to discuss and negotiate resolution of the issues identified below. Nevertheless, without waiving its right to dispute resolution, Severstal

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Sparrows will submit a revised Work Plan in accordance with the objections set forth below, within 60 days of receipt as requested by the letter and attachment.

In accordance with the requirements of Section XX of the Consent Decree, the nature of Severstal Sparrows' disputed issues with the partial disapproval of the Work Plan and the company's position regarding the dispute are as follows:

Objection 1: The Work Plan's Scope Must be Limited to an Evaluation of Current Releases From Identified SWMUs and AOCs

Severstal Sparrows objects to the Letter and Attachment to the extent it calls for an evaluation of historic releases and areas not encompassed by RCRA corrective action for the scope of work in the Work Plan. First, as outlined in the cover letter to the October 13, 2009 Work Plan, Severstal Sparrows has no obligation to address historic off-site disposal or releases that predate the April 23, 2003 Sale Order in Bethlehem Steel's bankruptcy. The Bankruptcy Court had the Consent Decree, and any claims filed by U.S. EPA or MDE before it when it issued this ruling. The cover letter to the October 13, 2009 Work Plan and all the arguments contained therein are hereby incorporated by reference.

Second, Severstal Sparrows objects to the extent that the Letter and Attachment call for an evaluation and investigation of areas not encompassed by the Consent Decree. The scope of the investigation was extensively negotiated between the parties and memorialized in the Consent Decree and its Attachments. The Consent Decree specifically states that the scope of the Site Wide Investigation is to identify, characterize and determine the impact of releases of any hazardous wastes or constituents from the SWMUs or AOCs:

The [Site Wide Investigation] SWI shall be a comprehensive evaluation of the potential for both current and future risk to human health and the environment from current and past releases of hazardous wastes and hazardous constituents at the Facility. Subject to EPA and MDE approval, *BSC may eliminate from evaluation any unit or area which was identified in the RFA as "not observed to be releasing", as well as a release allowed pursuant to the Clean Air Act, the Clean Water Act, RCRA, or any such program delegated to the State or for which the State has received authorization ("allowed releases")*. Also subject to EPA and MDE approval, BSC may propose to combine SWMUs into AOCs and/or divide the Facility into multiple Study Areas.

BSC will begin the SWI with an evaluation of the Solid Waste Management Units (SWMUs) and Areas of Concern (AOCs) listed

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in EPA's August 12, 1993 RCRA Facility Assessment (RFA). . . BSC may begin a phased, SWI at the perimeter of the Facility of the Facility to assess off-site releases. Certain portions of the work may be performed and evaluated on a site-wide basis (e.g. characterization of pathways). However, BSC remains responsible for identifying and evaluating all releases of hazardous wastes and hazardous constituents at or from the facility (i.e., releases from SWMUs and AOCs identified in the RFA and any additional SWMUs and AOCs identified during the pendency of this Consent Decree). Each release of hazardous wastes or hazardous constituents discovered during the SWI that can not be attributed to a SWMU or AOC identified in the RFA will be investigated and, unless the releases is an "allowed release" or is a release that has been or is being addressed under another program consistent with the purpose of the SWI, it will be incorporated into the SWI.

Attachment B to the Consent Decree, Conceptual Plan for the SWI, at p. 2-3. Furthermore, Attachment B refers only to the evaluation of releases from the SWMUs and AOCs to air, groundwater, surface water, sediment and soil throughout the Facility. Therefore, SWMUs, AOCs and historic contamination located outside of the boundary of the Facility (defined today as property currently owned by Severstal Sparrows) do not fall within the scope of Severstal's obligation to evaluate releases throughout the Facility.

As shown by the Consent Decree, the agreed-upon investigation under the Consent Decree is a combination of a site-wide investigation ("SWI") and an investigation of the Solid Waste Management Units ("SWMUs") and Areas of Concern ("AOCs") identified in U.S. EPA's RCRA Facility Assessment. If, in the course of conducting the RCRA Facility Investigation (including the site-wide investigation), a release is discovered that could not be attributed to a SWMU or AOC in U.S. EPA's RCRA Facility Assessment, the release is to be evaluated. This evaluation could lead to the identification of another SWMU or AOC, in which case it would be incorporated into the SWI.

In addition to the RCRA Facility Assessment, a Current Conditions Report ("CCR") was completed for the Facility in 1998 that identified several additional SWMUs and AOCs. Further, consistent with the approach outlined above for the Consent Decree, sampling from groundwater monitoring wells along the perimeter and shoreline of the Facility has already occurred. These groundwater monitoring wells were installed to assess the nature and extent of potential groundwater contamination from the five Special Study Areas as approved by the agencies. Based on these results, no additional potential SWMUs or AOCs have been identified. Since the time that this sampling has occurred, there has been no indication, either through data, facility

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knowledge or any through other information, that any additional areas should be identified as a SWMU or AOC.

Thus, the agencies and the Facility's current and previous owners have already identified the SWMUs and AOCs to be included as part of the corrective action under the Consent Decree and there is no additional data or any other information that would demonstrate that releases from the SWMUs or AOCs not otherwise previously identified have impacted (or are currently impacting) other areas of the Facility. Therefore, absent new information suggesting a release not otherwise identified, it is unreasonable now to require Severstal Sparrows to perform investigations, evaluations or corrective action activities in any other areas of the Sparrows Point Facility unless they involve releases from the identified SWMUs and AOCs.

Third, Severstal Sparrows objects to the extent that the Letter and Attachment call for an evaluation and investigation of areas outside of the agency-approved five Special Study Areas. In order to show demonstrable progress and as discussed and agreed to by the agencies, Severstal Sparrows has been focusing all of its current efforts into completing the corrective action investigations and activities for these five Special Study Areas. Severstal Sparrows believes that it is inappropriate to dilute these current efforts and to expand efforts until these investigations are completed.

Finally, Severstal Sparrows has no obligation to conduct any evaluation of the shipyard portion of the Sparrows Point shoreline because this area is not owned by Severstal Sparrows and because this area has been specifically removed from the Consent Decree. The shipyard portion of the Sparrows Point Shoreline was purchased from Bethlehem Steel by Baltimore Marine prior to Bethlehem Steel's bankruptcy in 2003. SPS Partnership Limited LLC bought the shipyard in March of 2004 as the result of Baltimore Marine's bankruptcy and still owns this property today. Additionally, SPS filed an application for the inclusion of the shipyard in Maryland's Voluntary Cleanup Program. In support of SPS's participation in Maryland's Voluntary Cleanup Program, ISG Sparrows Point LLC, one of Severstal Sparrows' predecessors in interest, requested that the shipyard be removed from the above-referenced Consent Decree. This request was granted by U.S. EPA and the MDE on June 15, 2006. As such, Severstal Sparrows has no responsibility to conduct any evaluation of the shipyard due to the fact that Severstal Sparrows has never owned the shipyard, releases the shipyard (if any) result from prebankruptcy contamination and because the shipyard has been specifically removed from the Consent Decree.

Accordingly, any evaluation contained in the revised Work Plan must be tied to current releases from the identified SWMUs and AOCs within the five Special Study Areas that have not been previously investigated.

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Objection 2: Perimeter Well Screening Item in Attachment A.1

Severstal Sparrows objects to the request item in Attachment A.1, relating to perimeter well screening for the entire property perimeter, to the extent that it requires sampling and/or evaluation in the Shipyard property or outside of current releases from the identified AOCs and SWMUs as discussed in Objection 1 above. Severstal Sparrows has already screened groundwater monitoring results for wells near the property shoreline against the EPA Region III BTAG marine surface water benchmarks, or comparable values for chemicals with BTAG benchmarks (*Screening Level Ecological Risk Assessment for On-Site Areas Final, URS April 2009*). Thus, Severstal Sparrows objects to any requirement or suggestion to install and sample additional groundwater monitoring wells.

Objection 3: Stormwater Release Evaluation in Attachment A.2

In accordance with Objection 1 above, Severstal Sparrows objects to this request item requiring an evaluation of stormwater releases to the extent that it requires sampling and evaluation outside of current releases from identified AOCs and SWMUs or at the Shipyard property. Further, in accordance with Objection 1, Severstal Sparrows obligations are limited to evaluation of current stormwater discharges from the identified AOCs and SWMUs which are located on property owned by Severstal Sparrows.

Objection 4: Bathymetric Survey in Attachment A.4

In accordance with Objection 1 above, Severstal Sparrows objects to this request item to the extent that it calls for a bathymetric survey that is not limited to areas impacted by current releases from the identified AOCs and SWMUs which are located on property owned by Severstal Sparrows.

Objection 5: Ecological Risk Assessment in Attachment B.1

In addition to the objection set forth in Objection 1 above, Severstal Sparrows objects to this request item in B.1 in the Attachment because it is vague and ambiguous due to undefined terms such as “really representative” and “appropriately biased.” Severstal Sparrows also objects to this item request to the extent that it requires an ecological risk assessment that is not limited to areas impacted by current releases from identified SWMUs and AOCs which are located on property owned by Severstal Sparrows in accordance with Objection 1 above.

Additionally, Severstal Sparrows specifically objects to any sampling for offsite subsurface NAPL as it is historic contaminant for which Severstal Sparrows is not responsible due to the Bankruptcy Sale Order as outlined in Objection 1. Finally, Severstal Sparrows objects to this request to the extent that it calls for an unnecessary ecological risk assessment.

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Ecological risk assessments will focus only on areas where there is a co-occurrence of viable habitat and current releases from RCRA-related SWMUs or AOCs. Assessment will also be guided by the selection of appropriate endpoints and receptors based on the presence of viable habitat favorable for the establishment of sustainable ecological function

Objection 6: Surface Water Sampling in Attachment B.2

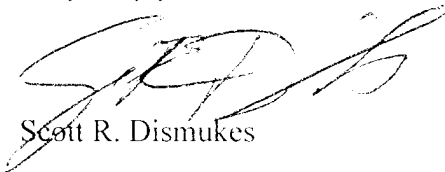
In accordance with Objection 1 above, Severstal Sparrows objects to this request item to the extent that it calls for an evaluation of historical releases or any other releases for which Severstal Sparrows is not responsible, specifically in the statement that “[t]he broad trends of surface water contamination are important to establish.” Severstal Sparrows will only evaluate “surface water contamination” to the extent that it is in an area impacted by a current release from an identified SWMU or AOC which are located on property owned by Severstal Sparrows.

Objection 7: Sediment Pore Water Sampling in Attachment B.3

Severstal Sparrows objects to this item request to the extent that it suggests that pore water sampling not be limited to areas that are impacted by current releases from identified SWMUs and AOCs which are located on property owned by Severstal Sparrows in accordance with Objection 1 above.

We hope to discuss these issues with you in the very near future and request that we promptly commence scheduling discussions regarding these issues. Additionally, as stated above, Severstal Sparrows will be submitting a revised Work Plan in accordance with these objections within 60 days of the receipt of the letter and attachment. In the meantime, should you wish to discuss this matter further, please contact us directly.

Very truly yours,



Scott R. Dismukes

cc: Tom Russo
Russell Becker
Martin Szymanski, Esq.
Christina Archer, Esq.
Susan Hodges, Esq.
Mathew Zimmerman, Esq.