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RESPONSE TO COMMENTS

XSTRATA RECYCLING, INC., SAN JOSE, CALIFORNIA STANDARDIZED HAZARDOUS WASTE FACILITY PERMIT

April 6, 2012

BACKGROUND

The Xstrata Recycling Inc. facility (Facility) is located at 1695 Monterey Highway in San Jose, California. The Facility processes different types of materials for metals recovery including the following: electronic scrap, components, manufacturing byproducts, wastes, concentrates, and residues. Tray furnaces are used to bake materials into a dry friable ash prior to physical processing and sampling. Physical processing consists of shredding, screening, and blending the waste in order to prepare a representative sample of incoming solid materials. The solid materials are subsequently prepared, packaged, and transported off-site for recovery at a primary smelter. Processing of solutions includes chemical stripping, refining, precipitation, and neutralization. Melting is conducted in gas-fired crucible furnaces and is used to partition recoverable metals and slag.

On November 1, 1994, DTSC issued a Hazardous Waste Facility Permit to Micro Metallics Corporation with an expiration date of October 30, 2005. The Facility changed its name from Micro Metallics to Noranda Recycling Inc. and then to Xstrata Recycling Inc. in 2007. Noranda (the predecessor to Xstrata) filed an application for new permit in a timely manner prior to October 30, 2005 and has been operating under the 1994 permit in accordance with the California Code of Regulations, title 22, section 66270.51.

DTSC reviewed the new permit application and determined the application to be deficient. The applicant revised the application numerous times to address DTSC's comments and subsequently, DTSC deemed the application to be technically complete on October 20, 2011. DTSC prepared a draft permit and proposed a Negative Declaration for the project in compliance with the California Environmental Quality Act. On October 21, 2011 DTSC informed the public of a 45-day public comment period for the draft permit and proposed Negative Declaration by publishing a display advertisement in the San Jose Mercury News (English newspaper) and La Oferta (Spanish newspaper). A radio advertisement was also aired on KGO radio. In addition, copies of a fact sheet were mailed to the facility mailing list. The public comment period ran from October 21, 2011 to December 5, 2011.

DTSC received comments from Mr. Mark TenBrink, General Manager of the Facility via electronic mail during the public comment period. This Response to Comments (RTC) document excerpts each of Mr. TenBrink's written comments verbatim and provides each response in italics. A copy of this RTC will be provided to Mr. TenBrink and will also be placed in information repositories for this project.

Response to Comments from Mark TenBrink received December 5, 2011

Comment 1:

Part III, General Conditions, Item 1 – Permit Application Documents.

The condition references “December 09, 2008 Operations Plan” submitted as permit application. The latest Operation Plan submitted to DTSC is dated as September 2010, revision 4 and should be changed to reflect this date.

Response 1:

DTSC agrees with this comment. Page 7 of the final Standardized Permit has been changed to reflect the Operation Plan, Revision 4, dated September 2010.

Comment 2:

Part IV, Permitted Units and Activities, Unit # 3, Activity Description

The condition describes that “Hazardous waste may be stored in a variety of containers including 5 to 10 gallon pails, 20-50 gallon drums, one cubic yard boxes and IBS bags of up to 5 cubic yard.”

The reference to “one cubic yard boxes” is misleading. In our operations plan, we referred to DOT rated cardboard boxes as cubic yard boxes since this is approximately the size and it avoided specific brand names (Tri-wall, Gaylord etc.). In actual practice they come in a variety of sizes, some of which are a bit larger than one cubic yard. For example, 1 cubic meter (approx. 1.3 yd³.) boxes rated for hazardous material shipments are also readily available. We feel the critical specifications are already in the regulations; “good condition”, “closed”, “labeled” etc. If a size must be specified, we suggest the reference to bags be modified to read;

‘... and intermediate Bulk Container (IBC) bags, boxes, and bins of up to 5 cubic yard.’

55-gallon drums are most commonly used in the industry and at our facility. We do not commonly receive overpacks, but overpacks of various sizes may be used if a drum were in poor condition.

Response 2:

DTSC agrees with this comment. The activity description of Unit # 3 has been revised to read as follows:

“This unit stores solid hazardous wastes such as sludge, filters, resins and wipes, bag house dusts, slag, solder dross, batteries, and Universal Waste Electronic Devices

(UWED's). Hazardous waste may be stored in a variety of containers including 5 to 10 gallon pails, 20 to 50 gallon drums, and Intermediate Bulk Container (IBC) bags, boxes and bins of up to 5 cubic yards.”

Comment 3:

Unit # 4, Activity Description

The Operations Plan discussed the shipment of treated residual cyanide solutions by tanker truck. We are concerned that as written into the permit, it appears that this is our only option. In practice we expect to generate a diminishing quantity of waste solution and intend to recycle it back into other on-site permitted processes. While we appreciate the option of continuing to ship solutions in tanker trucks, constructing a Loading and Unloading Area is a substantial burden. We are currently investigating costs but in all likelihood will switch our shipment to drums or intermediate bulk containers. We propose that the last two sentences of the Activity Description be revised as follows;

“Once treatment is completed, the solution is shipped to another authorized treatment storage and disposal (TSD) facility or to another on-site permitted unit in drums or IBCs. Off site transfers may also be made via bulk tanker truck. The bulk tanker truck is located in the yard area adjacent to this unit for this type of transfer.”

We also request that the requirement to build a Loading and Unloading area as described in Part V Special Condition 9, be clarified to be conditional requirement. It should only be applicable if tanker transfers are to continue. This could be specified in the special conditions for this unit or Part V.

Response 3:

DTSC agrees the Activity Description and the Special Condition should be revised, but, DTSC has revised the text as follows:

“The spent solution resulting from the precipitation and stripping operation is transferred to this Unit, which is the designated storage area for cyanide and caustic wastes generated in the Cyanide Stripping Room. Four tanks (Z1, Z2, Z3, and Z4) are used for treating and storing spent Cyanide and compatible caustic solutions. Once treatment is completed, the Facility ships the solution off-site in drums, IBCs, or bulk tanker trucks to another authorized treatment, storage and disposal (TSD) facility. When unloading from the tank to a tanker truck, the tanker truck is placed in the yard area adjacent to Unit #4. The Facility may also move the solution to another on-site permitted unit in drums or IBCs.”

Part V Special Condition 9 as presented in the draft Permit was already conditional because it only applied if the Permittee chose to construct a new loading and unloading

area. Nonetheless, DTSC agrees the condition should be revised to be more clear and to ensure that any containment system (in existing as well as new loading and unloading areas) provides sufficient volume. Therefore, the title of Special Condition 9 has been changed to clarify that the special condition applies to all loading and unloading areas.

Special Condition 9(a) has been revised to read as follows:

“Prior to conducting transfer activities in any loading and unloading area, the Permittee shall ensure that the loading and unloading area has a containment system with sufficient volume to contain 10% of the largest transport vehicle (i.e., vacuum truck, tanker trailer, etc.) or container to be used.”

The text in new Special Condition 9(b) (based on Special Condition 9(a) in the Draft permit) has been revised to clearly apply to new loading and unloading areas as follows:

If, the Permittee wants to modify an existing loading and unloading area or construct a new loading and unloading area, the Permittee shall proceed in accordance with Special Conditions 9(c) through (g) in order to satisfy Special Condition 9(a)

Finally, Special Conditions 9(b) through 9(f) in the Draft Permit have been revised to become 9(c) through 9(g) in the Final Permit.

Comment 4:

Unit # 8, Physical Description

Some of the text written in the present tense refers to proposed modifications. The first 6 sentences describing chambers relationships and gas cleaning is accurate and will not change. The description beginning with the 7th sentence which starts “The furnaces have two individual primary chambers...” is in error. We propose replacing the description from this point forward with the following;

“Each furnace currently has a single primary chamber with two burners and two side by side racks. The Permittee proposes to install a center partition and modify the burners, doors and controls so that each side of furnace number 2 can operate as an independent chamber. As a separate or concurrent alteration, the Permittee proposes to modify the doors and racking to allow stacking of trays for a maximum of ten (10) trays per primary chamber.”

While the Department did not note it in the draft permit we would like to point out that the capacities referenced in the Operations plan and the current draft permit already reflect these changes.

Response 4:

DTSC agrees with this comment. The Physical Description of Unit #8 has been revised to read as follows:

“This Unit consists of two (2) tray furnaces (See Figure 12). Each tray furnace consists of a primary chamber, a secondary or afterburner chamber, and a dropout chamber. The primary chamber is heated by a set of burners that bake, roast or dry materials held in trays. The secondary chamber, also referred to as the afterburner, serves as an abatement device destroying organic vapors and gases that are formed in the primary chamber from roasting combustible materials such as filter media, resins, adhesives, electronic scrap, etc. The gases from the secondary chamber pass through a drop out chamber, which allows any large embers to drop out of the gas stream without passing on to the bag house. The bag house collects particulates before releasing the cleaned gas stream to the atmosphere. Each furnace currently has a single primary chamber with two burners and two side by side racks. The Permittee proposes to install a center partition and modify the burners, doors, and controls so that each side of Tray Furnace 2 can operate as an independent chamber. As a separate or concurrent alteration, the Permittee proposes to modify the doors and racking to allow stacking of trays for a maximum of ten (10) trays per primary chamber.”

Comment 5:

Part V Special Conditions, Condition 5

It is clear that as a “standardize permit” holder we would be prohibited from conducting activities that require RCRA permit. The intent of the specific samples regarding light tubes and universal wastes is unclear and seems unnecessary. We are concerned that these references may inadvertently prohibit activities which would be permitted or even unregulated at other facilities. More specifically it is easy to envision circumstances where light tubes would fail TCLP but not require a RCRA permit.

Response 5:

Condition 5 was included to ensure that facilities, such as Xstrata, are aware that only non-RCRA hazardous waste can be stored and treated under the authority of this Permit. Any HID light tubes, fluorescent light tubes, and any other light tubes that fail the Toxic Characteristic Leaching Procedure (TCLP) criteria are considered RCRA hazardous waste unless specifically exempted by federal law (i.e., household hazardous waste). However, because Xstrata is not a destination facility for this category of waste, Xstrata may manage these types of waste in accordance with the provisions of California Code of Regulations, title 22, Chapter 23, Article 3. DTSC understands how there may be a misunderstanding as to what may be prohibited activities. Therefore, Condition 5 has been revised to read as follows:

“The Permittee shall not conduct any hazardous waste management activities that would require a permit to be issued under RCRA or a RCRA-equivalent Hazardous Waste Facility Permit to be issued by DTSC.”

Comments regarding activities that may be permitted or unregulated at other facilities are irrelevant.

Comment 6:

Part V Special Conditions, Condition # 10

Limiting parking of a transport vehicle in a loading and unloading vehicle to 8 hours is unnecessary and is more restrictive than parking a hazardous waste vehicle on a public street. We would propose changing the time limit to 10 days to conform with Section 66263.18 (b)(1).

We also propose that the phrase “any transport vehicle” be replaced with “any transport vehicle holding hazardous waste”. We routinely park our scrap “transport vehicle” at the loading dock over the weekend.

Response 6:

Health and Safety Code, section 25200.19 (c)(1) allows a facility to hold hazardous waste outside of an authorized unit for no more than 10 days and requires the facility to meet secondary containment requirements established in the permit. You requested that this special condition be revised to conform with the 10-day time limit in California Code of Regulations, Title 22, Section 66263.18 and to clarify that this time limit would be applicable only to trucks holding hazardous waste. Because California law already imposes a 10-day time limit in the loading and unloading area, DTSC will remove this condition from the permit.

Comment 7:

Treatment and Storage Tanks

Tank T1 has been replaced with the new one. Correspondence related to the closure and new tank installation has been submitted to you in August, 2011. Following this change table T-5-1, of Operations Plan was revised and submitted. The table in the draft permit does not reflect the change in tank parameters. Specifically the Service date should be change to 2011 and the wall thickness should be change to 3/4 inch. This table should be revised to reflect the new parameters. Table T-5-1 of the operations plan is enclosed for your reference.

Response 7:

DTSC agrees with this comment. Table T-5-1, and Table 2 in the Permit, has been revised accordingly.

Comment 8:

Table 3 – Miscellaneous Processing Units

Unit No. 10, Refinery Furnaces

The table shows incorrect design capacity for RF – 1 and RF – 2. RF – 1 has a capacity of 75 lbs/hr, and RF – 2 has a capacity of 300 lbs/hr. The permit table should be revised to reflect parameters of the new furnace as shown in table T-5-2 of the Operations Plan enclosed for your reference. Table T-5-2 enclosed here should be replaced in your copy of the Operations Plan.

Response 8:

DTSC agrees with this comment. Table T-5-2, and Table 3 in the Permit, has been revised accordingly.

Comment 9:

Figure 3, Plot Plan

Map 7 – Permitted Hazardous Waste Processing, Handling and Storage Areas & Units have been revised per your request, to include draft permit Unit #s. This Figure should be replaced with the revised Map 7. Revised Map 7, of operations plan is enclosed for your reference.

Response 9:

DTSC agrees with this comment. Map 7 in the Operation Plan has been replaced with the revised Map 7 and Figure 3, Plot Plan, in the final Standardized Permit has been updated accordingly.

Comment 10:

Figure 14, Unit 10

The photo should be change to reflect the installation of new refinery furnace, RF – 2. The new photo is enclosed (Appendix B – Photos, Photo 11 of Operations Plan). Your copy of Operations Plan should also be revised by replacing the attached photo.

Response 10:

DTSC has updated the Operation Plan to include the new photo, which shows the installation of new refinery furnace, RF-2. Figure 14 of the final Standardized Permit has been updated accordingly.

Comment 11:

Figure 16, Units 11 and 12

One of the photos is of the Blender which was recently removed with DTSC oversight. A new mixer is being installed in its place. We will provide an updated photo soon as the installation is complete.

Response 11:

DTSC has removed the blender from Figure 16 to show that the Blender was recently removed with DTSC's oversight. DTSC will include the photo of the new mixer under a Class 1 Modification to the permit once the mixer is installed and Xstrata provides all of the required information for the installation.