

United States of America v. Magnesium Corp. of America, et al.

Case No. 2:01CV0040B

Consent Decree

Appendix No. 12

Statement of Work
for the CERCLA Response Action

APPENDIX 12

STATEMENT OF WORK FOR THE CERCLA RESPONSE ACTION

1. INTRODUCTION

- 1.1 Purpose of the SOW.** This Statement of Work (SOW) sets forth the procedures and requirements for implementing the Retrofitted Waste Pond (RWP) CERCLA Response Action. This SOW is being coordinated and coincides with issuance of a State groundwater discharge permit (GWDP) issued by the Utah Division of Water Quality (DWQ) Groundwater Program that will serve as post-removal site control.
- 1.2 Description of Work to be Performed.** USM will perform all actions necessary to retrofit the waste ponds to control, minimize or eliminate, to the extent necessary to protect human health and the environment, releases of hazardous substances from the current and old waste pond system as described in the GWDP.
- 1.3** The terms used in this SOW that are defined in CERCLA, in regulations promulgated under CERCLA, or in the Consent Decree, have the meanings assigned to them in CERCLA, in such regulations, or in the Consent Decree, except that the term “Paragraph” means a paragraph of the SOW, and the term “Section” means a section of the SOW, unless otherwise stated.

2. RETROFITTED WASTE POND WORK PLAN

- 2.1** Under the GWDP, USM will submit to DWQ final plans and specifications for the RWP for the initial and subsequent construction phases for the RWP and obtain a construction permit for each phase. USM will submit copies of such plans and specifications to EPA at the same time it submits them to DWQ. EPA will review the submittals and coordinate with DWQ. Each construction permit issued by DWQ with EPA concurrence will be incorporated into and serve as the approved RWP Work Plan for the CERCLA Response Action.
- 2.2** On August 12, 2020, the DWQ issued a Construction Permit for Construction of the Embankment for Phase 1 of the RWP. The DWQ Construction Permit incorporates the Issued for Construction (IFC) drawings for Phase 1 of the RWP. On November 30, 2020, USM submitted to DWQ and simultaneously to EPA, the Phase 2 Hydraulic Barrier Wall (HBW) design deliverable.
- 2.3** Pursuant to Paragraphs 38 (Disbursement of EPA Special Account Funds) and 39 (Requests for Disbursement of EPA Special Account Funds) of the Consent Decree, USM may seek reimbursement from EPA Special Account Funds up to twice per calendar year after completion of each work milestone as set forth in this CERCLA SOW. Work milestones consist of the extent of construction completed after the Effective Date of the Consent Decree in accordance with this CERCLA SOW and the GWDP as of the dates USM submits a reimbursement request.

- 2.4 Respondents will meet with EPA to discuss design issues if requested by EPA.

3. DELIVERABLES

- 3.1 **Applicability.** USM will submit deliverables for EPA approval in accordance with Section XI of the Consent Decree. In addition, USM will submit quarterly reports to DWQ as specified in GWDP Section II.G.1. USM will submit copies of the GWDP quarterly reports to EPA at the same time it submits them to DWQ.

3.2 General Requirements for Deliverables

- (a) USM will direct all deliverables required by this SOW to the EPA OSC and Alternate OSC in accordance with Section XI of the Consent Decree.
- (b) All deliverables provided to UDEQ in accordance with Section XI of the Consent Decree will be directed to the UDEQ representatives listed in Section XX of the Consent Decree.
- (c) USM will submit deliverables to EPA in electronic form. If any deliverable includes maps, drawings, or other exhibits that are larger than 11" by 17", then USM will also provide EPA with paper copies of such exhibits.

- 3.3 **Supporting Deliverables.** USM will submit each of the following supporting deliverables for EPA approval, except as specifically provided below. USM will develop the deliverables in accordance with all applicable regulations. The supporting deliverables will be consistent with guidance and policies (see Section 5 (References)). USM will update each of these supporting deliverables as necessary or appropriate during the course of the Work, and/or as requested by EPA.

- (a) **Health and Safety Plan.** A Health and Safety Plan (HASP) will be developed specific to the construction of the RWP that describes all activities to be performed to protect personnel performing the Work specified in Paragraph 2.1 from physical, chemical, and any other identified hazards posed by construction/performance of the CERCLA Response Action. USM or its contractor/subcontractor will develop the HASP in accordance with Occupational Safety and Health Administration (OSHA) requirements under 29 C.F.R. §§ 1910 and 1926. EPA will not approve the HASP but will review it to ensure that all necessary elements are included and that the plan provides for the protection of human health.
- (b) **Emergency Response Plan.** An Emergency Response Plan (ERP) will be developed specific to the construction of the RWP that describes procedures to be used in the event of accident or emergency that occurs during construction of the RWP (for example, water impoundment failure, slope failure, etc.).

4. SCHEDULES

All deliverables and tasks required under this SOW will be submitted or completed by the deadlines or within the time periods listed in the EPA-approved RWP Work Plan. USM will submit proposed revisions to the schedule for EPA approval.

5. REFERENCES

For any regulation or guidance referenced in the Consent Decree or SOW, the reference will be read to include any subsequent modification, amendment, or replacement of such regulation or guidance. Such modifications, amendments, or replacements apply to the Work only after USM receives notification from EPA of the modification, amendment, or replacement.