



February 2, 2024

David Hauser
President/COO
Skana Aluminum
2009 Mirro Drive
Manitowoc, WI 54221

Subject: Liability Clarification Letter Concerning Environmental Liability
Skana Aluminum Property, 2009 Mirro Drive, Manitowoc, Wisconsin
BRRTS #s: 07-36-555269, 06-36-556282, 02-36-588656
BRRTS Activity Name: Skana Aluminum

Dear Mr. Hauser:

The purpose of this letter is to provide you with clarifications regarding the environmental liability that a current owner may have for a property located at 2009 Mirro Drive, Manitowoc, Wisconsin (“the Property”). The Property consists of approximately 132 acres. The Wisconsin Department of Natural Resources (“the DNR”) has agreed to provide you with a letter clarifying the environmental liability associated with contaminants detected at the Property and respond to your specific concerns.

Request

On January 24, 2024, you requested that the DNR address the environmental liability that a current owner of the Property may have related to any existing contamination at the Property. The DNR received the fee for providing assistance, as required by Wis. Admin. Code § NR 749.04(1).

Summary of Environmental Conditions

The Property, located at 2009 Mirro Drive in Manitowoc, was agricultural land since at least 1873. Aluminum Good Manufacturing Company originally developed the Property in 1956 and changed its name to Mirro Aluminum Company in 1957. Newell Operating Company purchased and operated the Mirro aluminum cookware manufacturing facilities in Manitowoc from 1983 to 2003. In 2006, Tramontina U.S. Cookware, Inc. began leasing portions of the larger building on the Property to manufacture aluminum cooking utensils and operated presses, porcelain, Silverstone, and Teflon coating lines.

Under Wis. Stat. § 292.15, the Voluntary Party Liability Exemption (VPLE) Certificate of Completion (COC) was issued by the DNR for the Property on March 5, 2012. Multiple investigations and cleanups occurred on the Property associated with seven environmental contamination cases (five Environmental Repair Program (ERP) cases and two Leaking Underground Storage Tank (LUST) cases). The DNR issues what is commonly referred to as a case closure letter once the site investigation and cleanup have been completed and case closure requirements have been met. It generally indicates that the DNR has determined that no further environmental response action is necessary at the site, based upon the information available to the DNR at that time. The VPLE process was undertaken by Skana Aluminum Company and the environmental investigation of the Property under VPLE was approved on September 8, 2011. The site investigation consisted of sampling soil and/or groundwater for volatile organic compounds (VOCs), Resource Conservation Recovery Act (RCRA) metals, polycyclic aromatic hydrocarbons (PAHs), and polychlorinated biphenyls (PCBs). DNR issued case closure letters for the Property on January 20, 2012. There are also older case closure letters applicable to the Property. The various environmental

contamination cases closed with continuing obligations for residual soil contamination, residual groundwater contamination, cap maintenance to prevent migration of contamination from soil to groundwater and/or to prevent direct contact with contamination, maintaining industrial land use, lost monitoring wells that need to be abandoned if found, and future vapor intrusion risk due to residual VOC contamination. These continuing obligations are requirements that the Property owner needs to follow to ensure that there is not exposure to residual contamination that was remaining on the Property after the cleanup actions were taken.

Sampling was completed on the Property by TRC, on behalf of the Property owner Skana Aluminum Company, for per-fluoroalkyl and poly-fluoroalkyl substances (PFAS) in October 2021 and submitted to the DNR. Under Wisconsin Statutes (Wis. Stat.) § 292.11(3), the DNR identified two causers of the PFAS contamination, Newell Operating Company and Tramontina U.S. Cookware, Inc. On February 25, 2022, both parties received a responsible party letter from the DNR. The Property owner, Skana Aluminum Company, was not identified as a responsible party because the company has the VPLE. The PFAS site investigation is currently ongoing by the responsible parties.

Liability Clarification

This letter will clarify the DNR's position on environmental liability associated with the Property.

Liability for PFAS Contamination

On March 5, 2012, a VPLE COC was issued to Skana Aluminum Company after the DNR determined the necessary response actions based on industrial use of the land had been completed. The issuance of the VPLE COC exempted the voluntary party from the provisions of Wis. Stats. §§ 289.05(1), (2), (3) and (4), 289.42(1), 289.67, 291.25(1) to (5), 291.29, 291.37, 292.11(3), (4), and (7)(b) and (c) and 292.31(8), with respect to the existence of hazardous substances on or originating from the Property, the release of which occurred prior to the date the DNR approved the environmental investigation required under Wis. Stat. § 292.15(2)(ae)1. Once a VPLE COC is issued, the party proceeding under the VPLE program (the voluntary party) and any subsequent Property owners have an exemption from future liability for hazardous releases that occurred prior to the date the site investigation was approved by the DNR. This exemption would apply even if, in the future, environmental standards change, the cleanup action fails, or the contamination that was subject of the VPLE investigation is discovered to be more extensive than originally thought.

The person who owns or controls the Property would no longer qualify for this liability exemption if that person fails to maintain or monitor the Property as required by the conditions in the VPLE COC and associated case closure letters, Wis. Stats. § 292.12, and administrative rules promulgated by the DNR. Also, any discharges of a hazardous substance to or from the Property that occur after the date that the environmental investigation was approved may be the responsibility of the current Property owner and any other person who possesses or controls that discharge and any person who caused the discharge.

The DNR has determined that the contamination discovered on the Property in 2021, which consists of the PFAS contamination, was discharged before the environmental investigation of the Property was approved (before September 8, 2011), before Skana Aluminum began operations on the Property, and was not caused by the operations of Skana Aluminum. The liability exemption under Wis. Stats. § 292.15(2)(ae) is still in effect. As a result, Skana Aluminum is not responsible for the investigation or remediation of the PFAS contamination. The two identified responsible parties for the PFAS contamination, Newell Operating Company and Tramontina U.S. Cookware, are required to take appropriate response actions under the Spills law and the DNR will not hold Skana Aluminum responsible for PFAS contamination, regardless of the progress or action taken by the two responsible parties. In order to maintain the liability exemption, the owner of the Property must comply with the continuing obligations on the Property, as described in the VPLE COC and related closure letters.

Liability of Future Property Owners

Under Wis. Stat. § 292.15(3), the environmental liability exemption conveyed by a VPLE COC runs with the land, is transferrable, and applies to any successor or assignee of the voluntary party. If a party purchases a VPLE property after a VPLE COC is issued, that party is a successor and will be protected by the liability exemption for discharges that occurred prior to the date the VPLE site investigation was approved.

Potential Environmental Liability Protection for Lenders

Lenders may obtain an exemption from certain responsibilities under Wis. Stat. § 292.11, and potentially other environmental laws, if they comply with the terms and conditions listed in Wis. Stat. § 292.21(1). This exemption is commonly referred to as the “lender liability exemption” to the Spill Law. The circumstances under which a lender may be deemed exempt are further explained on this DNR webpage:

<https://dnr.wisconsin.gov/topic/Brownfields/Lenders.html>.

At your Property, the DNR would not hold a lender responsible for environmental cleanup if the lender meets the definition of a “lender” set forth in Wis. Stat. § 292.01(8) and complies with the terms and conditions listed in Wis. Stat. § 292.21(1). In general, a lender that meets the corresponding statutory conditions is eligible for a limited environmental liability exemption under Wis. Stat. § 292.11 when:

- Engaging in lending activities;
- Acquiring title to, or possession or control of real property through enforcement of a security interest;
- Enforcing a security interest in personal property or fixtures; and/or
- Inspecting, assessing, and investigating environmental contamination prior to acquisition.

The lender liability exemption statute includes the conditions that must be met for each category of action listed above. Lenders that acquire title to real property through enforcement of a security interest must meet the conditions in Wis. Stat. § 292.21(1)(c); these conditions include the completion of an “environmental assessment” that meets the requirements and the completion and submittal timeframes described in the statute. Lenders can request a letter from the DNR clarifying their liability.

Site, case-related information, and DNR contacts can be found online in the Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web (BOTW); go to dnr.wi.gov and search “BOTW.” Use the BRRTS ID #s found at the top of this letter. The site can also be found on the map view, Remediation and Redevelopment Sites Map (RRSM) by searching “RRSM.”

The DNR hopes that this letter helps clarify what known areas of contamination are on the Property under Wisconsin law, and who is responsible for conducting these actions. If you have any questions, please contact Tauren Beggs at (920) 510-3472, or by email at Tauren.Beggs@wisconsin.gov.

Sincerely,



Roxanne Chronert
Team Supervisor, Northeast Region
Remediation and Redevelopment Program

cc: Tauren Beggs, DNR, Remediation & Redevelopment Program, Tauren.Beggs@wisconsin.gov
Michael Prager, DNR, Remediation & Redevelopment Program, Michael.Prager@wisconsin.gov