



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX – PACIFIC SOUTHWEST REGION
75 Hawthorne Street
San Francisco, CA 94105-3901

Sent via Email

Matthew Weisenberg
S & W Atlas Iron & Metal Co., Inc.
10019 S. Alameda Street
Los Angeles, CA 90003
matthew@atlasironandmetal.com

RE: Notice of Opportunity to Discuss Settlement for Violations of the Clean Water Act and California Industrial Storm Water General Permit No. CAS000001

Dear Matthew Weisenberg:

The United States Environmental Protection Agency, Region 9 (“EPA”) has information in its possession indicating that Atlas Iron and Metal Company, Inc. (“AIMC”) may have committed violations of the requirements of Section 301(a) and 402 of the Clean Water Act, 33 U.S.C. §§ 1311(a) and 1342, and the California Industrial General Permit No. CAS000001 (“IGP”). By this letter, EPA extends to you an opportunity to advise the Agency of any further information the EPA should consider with respect to the potential violations referenced below and to discuss the terms of settlement. EPA seeks to resolve this matter through an administrative settlement without litigation.

As background, AIMC is a scrap metal recycling company located in Los Angeles. Under the IGP, AIMC is required to develop, update, and comply with a Stormwater Pollution Prevention Plan (“SWPPP”) that includes minimum and advanced best management practices (“BMPs”). AIMC has incorporated several BMPs into its SWPPP, including manual and automated sweeping, but principally relies upon containment of stormwater onsite and eventual evaporation. When AIMC’s capacity to contain stormwater onsite is exceeded, the discharge is supposed to be pumped to, and treated by, a StormwaterRx treatment system before discharging into the Compton Creek, a tributary of the Los Angeles River. The Los Angeles River is an impaired waterbody for metals, including Copper, and has had a total daily maximum load (“TMDL”) expressed as an instantaneous maximum numeric effluent limit for Copper of 0.06749 mg/L since July 1, 2021.¹

During the 2015-2016 measurement period, AIMC had a Numeric Action Level (“NAL”) exceedance resulting in the facility moving to “Level 1” status for Copper.² During the 2017-

¹ IGP, Table E-2.

² The requirements for facilities entering Level 1 and Level 2 status can be found in section XII.C. and D. of the IGP, respectively.

2018, 2018-2019, and 2019-2020 measurement periods, AIMC had additional Copper NAL exceedances, resulting in the facility moving to “Level 2” status and the requirement to produce three Level 2 reports. AIMC has no sampling data for the 2020-2021 or 2021-2022 measurement periods and has asserted to EPA that there were no observed discharges during this period. As of this letter, AIMC is still in Level 2 status for Copper.

EPA inspected AIMC on April 1, 2022, to assess compliance with the IGP, SWPPP, and obligations of AIMC’s 2020 Level 2 Report. EPA observed compliance issues at the facility including the failure to maintain the automated sweeper, failure to maintain sweeping records, a gap in the southern perimeter wall, and broken zeolite wattles. EPA inspected AIMC again on January 5, 2023, following a large rain event. EPA observed stormwater discharging from the authorized outfall (following treatment) and from an unauthorized breach in the facility’s perimeter onto the Jordan High School property. The post-treatment discharge sampling results indicated 2.6 mg/L for Iron,³ 0.95 mg/L for Aluminum,⁴ 0.071 mg/L for Copper,⁵ and 160 mg/L for Chemical Oxygen Demand,⁶ all of which are above the NAL; the Copper result also exceeded the applicable TMDL.⁷ The January 5, 2023 sampling results from the untreated discharges onto Jordan High School indicated results above the NAL for Iron, Aluminum, Copper, Zinc, and Chemical Oxygen Demand; the Copper result also exceeded the applicable TMDL.

In the absence of further information that causes the Agency to reconsider its position, EPA may determine that an enforcement action is appropriate. Pursuant to Section 309 of the Clean Water Act, 33 U.S.C. § 1319, the United States can unilaterally seek compliance with the IGP and penalties for noncompliance with the IGP by initiating either: a) a civil action in federal district court or b) an administrative action, either of which may include a complaint, demand for civil penalties or an order for compliance. The daily maximum administrative penalty per violation of the Act is \$25,847 per day for all violations occurring after November 2, 2015, where penalties are assessed on or after January 6, 2023. The total maximum administrative penalty cap for violations of the Act is \$323,081. *See* 33 U.S.C. § 1319(g)(2)(B); 40 C.F.R. § 19.4.

To satisfy the requirements of this letter, please request an opportunity to confer with the EPA by contacting contact Juliana Gomez at (213) 244-1826 or by email at gomez.juliana@epa.gov, or have your legal counsel contact Daron Ravenborg in our Office of Regional Counsel at (415) 972-3866 or by email at ravenborg.daron@epa.gov by **April 14, 2023**.

If AIMC intends to submit documents or information to EPA, please be advised that you are entitled to assert a claim of business confidentiality (“CBI claim”) covering any part or all of the information you submit to EPA, however, any assertion of a CBI claim must be made in the manner described in 40 C.F.R. § 2.203(b). Information subject to a CBI claim will be made available to the public only in accordance with 40 C.F.R. Part 2, Subpart B. Unless a CBI claim

³ The NAL for Iron is 1.0 mg/L.

⁴ The NAL for Aluminum is 0.75 mg/L.

⁵ The NAL for Copper is 0.0332 mg/L.

⁶ The NAL for Chemical Oxygen Demand is 120 mg/L.

⁷ Section VII. of the IGP incorporates applicable TMDLs into the IGP.

is asserted at the time the information is submitted to EPA, EPA may make this information available to the public without further notice to AIMC.

Any submission of information or documentation to EPA relating to this matter must include the following certification signed by a responsible corporate officer or duly authorized representative as specified by 40 C.F.R. § 122.22:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this response to the Notice of Potential Violations and Opportunity to Confer and that, based on my inquiry of those individuals immediately responsible for obtaining or compiling the information, I believe that the submitted information is true, accurate, and complete. I recognize that there are significant penalties for submitting false and/or misleading information, including the possibility of fine and/or imprisonment.

Please note that to the extent there is ongoing noncompliance with the CWA, such violations or noncompliance should be corrected immediately. EPA specifically reserves the right to use any and all enforcement tools at its disposal to address ongoing violations by AIMC regardless of any future discussions in response to this letter.

We appreciate your cooperation and prompt attention to this matter and suggest that you carefully consider the settlement negotiation opportunities being made available through this letter.

Sincerely,

**ROBERTO
RODRIGUEZ**

Digitally signed by
ROBERTO RODRIGUEZ
Date: 2023.03.30 09:41:26
-07'00'

Roberto Rodriguez, Assistant Director
Enforcement and Compliance Assurance Division

cc: Hugh Marley, Los Angeles Regional Water Quality Control Board (via email)
Yvonne West, State Water Resources Control Board (via email)