



RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF LAND REVITALIZATION & SUSTAINABLE MATERIALS MANAGEMENT

235 Promenade Street, Providence, Rhode Island 02908

PIP PUBLIC COMMENTS & MEETING File No. SR-28-0143

October 4, 2024

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RE: PIP – Public Comments and Public Meeting
Rhode Island Recycled Metals, LLC
434 Allens Avenue, Providence, RI
Plat Map 47 / Lot 601
Plat Map 55 / Lot 10

Dear Attorney Nicholson:

On April 22, 2020, the Rhode Island Department of Environmental Management's (the Department) Office of Land Revitalization and Sustainable Materials Management (LRSMM) enacted the codified 250-RICR-140-30-1, Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases (the Remediation Regulations). The purpose of these regulations is to create an integrated program requiring reporting, investigation, and remediation of contaminated sites in order to eliminate and/or control threats to human health and the environment.

On February 23, 2024, the Department approved the Draft Public Involvement Plan (PIP) for public comment and review. A public meeting was held on August 6, 2024 for the purpose of presenting current information about the Site, present the draft PIP, solicit comments and feedback regarding the draft PIP, and to allow members of the public to speak. Representatives of the Department were in attendance. The transcript for the meeting was received by the Department on September 12, 2024, and the Department has reviewed the transcript and identified comments and

questions that require responses. In addition, the Department received two sets of written comments that also require responses. All comments have been consolidated and are attached to this letter. AARE, LLC as owner and Rhode Island Recycled Metals, LLC as operator are required to review the attached public comments and submit responses to each to the Department by **November 4, 2024**. Please note, some public comments require the Department to respond, and those comments are marked as such.

On September 9, 2024, the Department inquired by email about the status of the Post-Meeting Summary Report & transcript for the RIRM PIP public meeting held August 6, 2024 as Section 5.2 of the Department- approved Draft PIP states that “*RIRM will submit a written summary of all public meetings to RIDEM in hard copy and electronic format as soon as possible but no more than 30 days following the public meeting.*” Section 1.8.7(C)(3) of the Remediation Regulations requires written meeting summary reports to be submitted within 72 hours, however the department concurred with the 30-day timeframe proposed in the draft PIP. The Meeting Summary Report for the August 6, 2024 PIP public meeting was due September 6, 2024. To date, the Department has not received the meeting summary report.

If you have any questions regarding this letter, please contact me by telephone at (401) 537-4309, or by E-mail at ashley.blauvelt@dem.ri.gov.

Sincerely,



Ashley L. Blauvelt, P.E.
Environmental Engineer IV
Office of Land Revitalization &
Sustainable Materials Management

Public Comments Submitted to the Department

1. The DEM/RIRM URL contains links to 131 documents dated from 02/23/1988 to 07/12/2024. It is worth noting that there is a 9-year gap in the timeline of documents contained on the DEM/RIRM URL. This nine year gap begins with the link to a “05/20/2015 Memo to File – Field Inspection Notes” and ends with the link to a “03/30/2023 Meeting Minutes – DEM, RIDEM.” To provide a complete set of comments on the Draft PIP, it is imperative that the written record of Rhode Island’s regulatory oversight activities regarding the Site during this 9-year period be publicly provided and a new Community Meeting be scheduled and conducted as recommended below.

The Department will address comment #1.

2. Following the April 10 – 11, 2024, fire at the RIRM Site, RIDEM required additional site soil sampling at the RIRM Site.¹ LSE carried out this additional site soil sampling, and the results are reflected in the Site Investigation Report Addendum, dated June 17, 2024.² The results of this sampling were referenced during the Community Meeting. However, another fire at the RIRM Site occurred on July 10, 2024³ (2 days before the Public Notice for the PIP was published).⁴ For similar reasons that RIDEM required additional site soil sampling after the April 2024 fire, additional site soil sampling of the RIRM Site should have been conducted following the July 10, 2024, fire. Such additional sampling would have been reflected in another addendum to the Site Investigation Report and discussed during the Community Meeting. Without being presented with any information regarding the environmental effect of the July 10, 2024, fire on the RIRM Site, the current public process of the PIP is not in compliance with Section 1.8.7 of the Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases (“Rules and Regulations”).⁵ Accordingly, the PIP process should be suspended until such time as additional, appropriate site soil sampling of the RIRM Site is completed and such results are publicly made available in an addendum to the Site Investigation Report on the DEM/RIRM URL.

The Department will address comment #2.

3. Section 1.8.7(E) of the Rules and Regulations requires a PIP to be prepared for the RIRM Site and that the PIP “shall address all relevant and applicable requirements of [sections]

¹ Post-Fire Sampling Required – Letter, April 22, 2024; <https://dem.ri.gov/sites/g/files/xkgbur861/files/2024-04/SR-28-0143%20-%202024.04.22%20-%20Letter%20Requiring%20Post%20Fire%20Sampling.pdf>.

² SIR Addendum - Post-Fire Sampling, June 17, 2024; <https://dem.ri.gov/sites/g/files/xkgbur861/files/2024-06/SR-28-0143%20-%202024.06.17%20-%20SIR%20Addendum%20%28Post-Fire%29.pdf>.

³ *AG seeks court order to shut down South Providence scrapyard after blaze*, Rhode Island Current, July 10, 2024; <https://rhodeislandcurrent.com/2024/07/10/ag-seeks-court-order-to-shut-down-south-providence-scrapyard-after-blaze/>.

⁴ See footnote 3.

⁵ Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases; <https://rules.sos.ri.gov/regulations/part/250-140-30-1>.

1.8.7(A) through (D)” of the Rules and Regulations. Section 1.8.7(C) requires Community Meetings. As set forth in Section 1.8.7(C):

“The purpose of the meeting is to:

- a. Disseminate information about the Department’s Site Remediation program and the specific Contaminated-Site of interest;
- b. Document community comments and concerns about the investigation, clean-up, and reuse of the Contaminated-Site; and
- c. Engage in a dialogue with the public about the Contaminated-Site.”

Additionally, Section 1.8.7(C) states that at community meetings “[a]n atmosphere of ‘equal participation’ among all involved should be established – avoiding panels, head tables, or auditorium presentations.” In this regard, at a May 9, 2024, meeting of representatives of RIDEM and RIRM, it was specifically noted that “the purpose of the PIP is to inform the public and to allow participation in cleanup planning.”⁶

While the Rules and Regulations do not further define such terms as “engage in a dialogue with the public” and “equal participation,” RIDEM did adopt an Environmental Justice Policy (“EJ Policy”) on September 28, 2023, which provides specific guidance concerning these matters.⁷ According to its terms, RIDEM adopted the EJ Policy “to guide all programs within [RIDEM]” and the EJ policy represents “[RIDEM’s] commitment to the inclusion of equity and justice with all programs.” The EJ Policy applies to an “Environmental Justice Focus Area” as that term is defined in the EJ Policy. The residential neighborhoods near the RIRM Site all fit the definition of Environmental Justice Focus Areas (hereinafter collectively referred to as the “EJ Community”). Accordingly, the EJ Policy requires that the EJ Community be provided with “meaningful involvement” in the PIP. The EJ Policy defines “meaningful involvement” as “engagement and collaboration to address the adverse conditions caused by harmful environmental impact,” including “prioritizing community concerns.”

The August 6th Community Meeting failed miserably in meeting many of the Rules and Regulations and the EJ Policy requirements.

- The Community Meeting

The August 6th Community Meeting was set up and conducted as an auditorium presentation with a head table monopolized by a representative of LSE and the attorney for RIRM. From the outset of the community meeting, the EJ Community participants were told to hold all questions until the end of the presentation. The presentation

⁶ Meeting Summary for May 9, 2024, May 21, 2024; <https://dem.ri.gov/sites/g/files/xkgbur861/files/2024-06/SR-28-0143%20-%202024.05.21%20-%20May%209%2C%202021%20Meeting%20Summary.pdf>.

⁷ RIDEM Environmental Justice Policy, Version 1.4-September 28, 2023; https://dem.ri.gov/sites/g/files/xkgbur861/files/2023-09/ridem-environmental-justice-policy_0.pdf.

consisted of approximately 70 minutes of oral testimony on environmental technical terms and findings from the Site Investigation Report and its Addendum prepared by LSE. This oral testimony was supplemented by the LSE representative pointing his finger at images projected onto a screen, which the LSE representative insisted backed up LSE's technical terms and findings. The technical jargon was regularly tempered by assurances from legal counsel for RIRM that there are no environmental violations at the RIRM Site, that RIRM runs a clean and safe operation, and that RIRM wants only to be a good neighbor to the EJ Community.

When the presentation ended, the participants were invited to ask questions of the LSE representative and attorney for RIRM but were reminded that the community meeting would end at 7:30 p.m. - leaving only 20 minutes for Q&A. Rather than using the Q&A as an opportunity to elicit EJ Community comments and concerns about the investigation, clean-up, and reuse of the RIRM Site, the attorney for RIRM treated questions and comments from the EJ Community as accusations that needed to be refuted. The Community Meeting was not structured to engage in dialogue, as Section 1.8.7(C) stipulates, but instead clearly demonstrated the power dynamics between presenter and audience. Rather than drawing out local knowledge about the RIRM Site, when one resident of the EJ Community with an advanced degree in public health expressed his disappointment with the Community Meeting structure, the PIP process, and lack of meaningful involvement, he was demeaned and his opinion openly ridiculed. The Q&A abruptly ended before all the participants with questions and comments had a chance to speak.

- On-going Fire Risk at the RIRM Site

The members of the EJ Community at the Community Meeting were very vocal about their concerns about future fires at the RIRM Site and the EJ Community's exposure to environmental risks from the last two fires. Rather than allay these concerns, the RIRM attorney representative claimed that there was no evidence that the EJ Community was in any way harmed by the two recent fires at the RIRM Site. Moreover, when specifically asked by members of the EJ Community to inform them of future RIRM Site security and fire risk mitigation measures, the RIRM attorney representative refused to disclose this information and stated that the EJ Community would not be involved in discussions involving such measures.

Following this display of lack of concern for both the Rules and Regulations and the EJ Community, CLF offers these recommendations:

- a. Require RIRM to conduct another Community Meeting to be hosted by a professional facilitator experienced in providing meaningful involvement of the EJ Community through engagement and collaboration in the PIP process with a goal of prioritizing EJ Community concerns.
- b. This new Community Meeting must engage with the EJ Community in a dialogue about, and equal participation in, cleanup planning and development of an

effective, EJ Community involved, security and fire risk management system that includes on-site, modern air monitors agreed upon by the EJ Community.

- c. Post the Focused Compliance Inspection Report of the RIRM Site immediately following the July 10, 2024, fire.
 - d. Require RIRM to conduct additional site soil sampling of the RIRM Site and publish the results of this sampling as an addendum to the Site Investigation Report.
4. Thank you for the opportunity to provide written comment on Rhode Island Recycled Metals' (RIRM) Public Involvement Plan (PIP), as required by RI DEM's Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases (Remediation Regulations). As you know, Save The Bay has been concerned about activities taking place at RIRM's Allens Avenue property for many years, particularly as they relate to a lack of required stormwater controls, disturbances to the site-wide cap, and more than a decade of scrap and ship-breaking operations without required permits that help protect the community and Providence River from environmental threats.

Our staff was in attendance at the public meeting held on August 6, 2024 at the Knight Memorial Library. We are concerned about RIRM's commitment to meeting the PIP stipulations as set forth in the Remediation Regulations §1.8.7 (A)-(D), and believe that further effort is warranted prior to RI DEM taking action on the applicant's Site Investigation Report or any remediation plans. Specific observations regarding RIRM's August 6 meeting include:

- a. The results of the applicant's draft Site Investigation Report were inadequately characterized and poorly explained during the public meeting. Several technical acronyms were used without explanation, and little to no context was given for the sampling results that were shared with members of the public in attendance. The applicant and their consultants could do a better job of explaining technical information to the audience and/or pause between slides to allow for clarifying questions (instead of holding all questions until the end.)
- b. Of the 36 Residents/Petitioners who expressed interest in the PIP, no more than five were in attendance at the meeting. This raises serious concerns about the applicant's outreach efforts. Community members present expressed frustration with the public notice procedures. Several members indicated that they found out about the meeting only hours before, and at least three people in attendance said they did not receive email notification of the meeting (despite being on the email distribution list.) Future such meeting notices should be shared with the media well in advance of a meeting to increase the likelihood that interested community members have enough notice to attend.
- c. The meeting's 90 minute timeline failed to provide adequate time to answer the questions of meeting participants, and many questions that were asked were met

by defensive statements by RIRM’s attorney, rather than quantitative answers from the contracted environmental consultants. More time should be provided for questions and discussion, and the use of an outside meeting facilitator with experience in public meetings could be helpful.

- d. The community meeting also failed to make an effort to “draw out local knowledge about the contaminated site” (Remediation Regulations §1.8.7.C.3). Regardless, the community members in attendance were clear about their concerns about the investigation conducted, past and proposed cleanup plans, and the reuse plan. We also heard a clear request for additional community dialogue that more clearly lays out and explains the results of the SIR and makes more of an effort to include interested and impacted community members.

Based on our observations of the community meeting, the numerous concerns of members that went unanswered, and the ineffectiveness of the applicant’s public outreach, Save The Bay does not believe that RIRM has met the standards set forth in the Remediation Regulations for a Public Involvement Plan. We urge RI DEM to require the applicant to place additional time and effort towards meaningfully engaging the affected community through educational dialogue with an “atmosphere of equal participation” (as required by Remediation Regulations §1.8.7.C.2.) The applicant should be required to make an effort towards better understanding the needs and concerns of South Providence residents and those who wish to see the RIRM site brought into compliance with all applicable laws and regulations.

Comments from the PIP Public Meeting Transcript

5. LSE: “And, in addition, we analyzed for 13 metals, heavy metals.”
VOICE: “What are they?”
6. VOICE: “So I have a couple of questions. Just to go back. I know that you mentioned there were 13 metals that went under lab analysis. What are those metals, and then were those metals tested both for the soil and water samples? I didn't see nothing for a water sample slide.”

Department Comments Regarding the Meeting

1. Risk Communication

During the public meeting, LSE and the Attorney for RIRM made the following statements regarding risk to the public:

“So, essentially, you know, the outcome of the investigation determined that the regulated contaminants in the soil are what is typically found in an urban area and, as I mentioned, coal ash, wood ash, asphalt, and they're not mobile generally in soil and ground. They're not volatile, so if they're kept in place, they generally

do not -- they don't pose a risk. And for that reason, those contaminants don't present a risk to the surrounding community.”

“What I will say is that as a result of these tests, it demonstrates that this site does not pose a risk to the community. The environmental tests and the results therefrom are pretty clear. The community is not at risk. Air quality, land, water not a threat as a result of RIRM, my client, operating on the site.”

“There's been a lot of information that's been disseminated, and you hear second-hand and third-hand, and there's a lot of information out there that candidly is just not accurate. But you now have access to the report that DEM has reviewed with satisfaction, and we are happy to report this site does not pose a threat of risk to the community.”

None of these statements pertaining to risk are accurate. Please refrain from making sweeping generalizations or presenting inaccuracies, particularly to the community. Soils containing contaminants above the Department's Direct Exposure Criteria at the Site are not encapsulated and there are not any dust control measures employed or vehicle decontamination occurring before vehicles leave the Site. As a result, contaminated soils are leaving the Site boundaries thereby posing a risk to the surrounding community.

2. **Opportunity for Public Participation at Public Meeting**

During the public meeting, it was evident that the public was not provided enough time to speak and comment, without interruption. This is supported by the meeting transcript and the public comments submitted to the Department following the meeting. As such, the Department is requiring a second PIP public meeting be held in the community during which all attendees may speak, if they wish, without interruption. The objective of this public meeting shall be to listen and make note of all public concerns and/or comments, particularly with respect to site remediation and the draft PIP. This public meeting shall be held no later than **November 18, 2024**.

The meeting date and location must be selected and confirmed by **October 28, 2024**. Notification of the meeting shall be completed no less than 10-days before the scheduled meeting through paper mailings, email, and community postings at libraries, community centers, and at the Site itself. Notification shall also be made to elected officials and known community leaders. A stenographer is required for the meeting to ensure, in part, that all public comments recorded so they may be addressed in a subsequent response to public comments. The Department requires that a representative of LSE contact the Site Remediation project manager by **October 14, 2024** to discuss planning for a suitable location for the public meeting.