

[REDACTED]
Invista Textiles (UK) Ltd
100 Barbirolli Square
Manchester
M2 3AB

Our ref: EA/EPR/BM2063IR/S006

Date: 30-09-10

Dear Mr [REDACTED]

Returning application for the surrender of a permit

Application reference: EA/EPR/BM2063IR/S006

Operator: Invista Textiles (UK) Ltd

Facility: Wilton Nylon Works

This letter relates to your surrender application EA/EPR/BM2063IR/S006. The following provides the framework guidance for the decision not to duly make this application and to return application to the operator.

Environmental Permitting Guidance Updated March 2010.

<http://www.defra.gov.uk/environment/policy/permits/documents/ep2010guidance.pdf>

7.21. The general requirements for permit surrender (Schedule 5, Part 1, paragraph 14) are that the regulator must accept the surrender of the Environmental Permit if it is satisfied that the necessary measures have been taken:

to avoid any pollution risk resulting from the operation of the regulated facility (paragraph 7.22 below), and to return the site of the regulated facility to a satisfactory state, having regard to the state of the site before the facility was put into operation (paragraphs 7.23 to 7.33 below).

These requirements do not apply to an application to surrender a permit authorising a radioactive substances activity at a nuclear site.

Avoiding pollution risk

7.22. The requirement to avoid any pollution risk must be interpreted in a proportionate way. In practical terms, operators should tackle the risks of any pollution that could occur, unless they are so small that further action is not justified. This might mean removal of tanks containing pollutants, as they could rust or get damaged, so releasing the pollutants.

The site of the regulated facility

7.23. The site of the regulated facility means all of the land on which any of the facilities covered by an Environmental Permit may be carried on. The site is the 'footprint' of the regulated facility. This includes any land that is integral to the satisfactory operation of the facility, for example, areas needed for the movement of materials by vehicles or other means, and the area around any associated pipe work.

7.33. The return of the site of the regulated facility to a satisfactory state should include:

- **the removal of any residual waste deposits (though clearly not for landfills or mining waste operations for the permanent deposit of extractive waste)**
- removing as far as is practical any contamination to return the site to the original condition, and
- where removal is not practical - treating or immobilising contamination remedying any harm the contamination may have caused, and mitigating the effects of any harm.

Permitting Support Centre EP team, Quadrant 2, 99 Parkway Avenue, Sheffield, S9 4WF
Customer services line: 08708 506 506
Email: enquiries@environment-agency.gov.uk
www.environment-agency.gov.uk

In addition the Environment Agency H5 SCR guidance on our website http://www.environment-agency.gov.uk/static/documents/Business/h5_scr_guidance_2099540.pdf

does state in Section 5: 'you investigated and remedied any risk of pollution caused by decommissioning.' and the template mentions decommissioning in Section 8 & 10. This is all in the past tense and therefore should be complete before a surrender application can be made.

Environment Agency internal Surrender guidance 233_06

Operators should aim to restore the land and groundwater to the state it was in prior to any operation starting. Operators should aim to show that the land is in a satisfactory state using records that they have collected throughout the life of the permit and gathered together to form a SCR. This will have built on information provided in the application SCR. They are responsible for identifying what information they will need at surrender to show that the condition of the land is in a satisfactory state, and, for collecting this information throughout the life of the permit. To show that the site is in a satisfactory state, these records must show that:

- measures taken to protect land have been effective, and
- pollution incidents that may have impacted on land have been investigated and remediated, and
- soil gas and/or water quality monitoring (if undertaken) shows no deterioration in the condition of the site or where deterioration has occurred this has been investigated and remediated, and
- decommissioning works and works to remove pollution risk have not caused any deterioration in the condition of the land, or where this is not the case, that this has been investigated and remediated.

If applicants are not able to show that the land is in a satisfactory state using this information (because records are not available, are incomplete or because they do not show that no deterioration has occurred) they are likely to need surrender reference data.

Conclusion

Currently the installation is not in a satisfactory state without the removal of chemical residues from KA plant vessels to allow it be returned to condition prior to permit determination (point 7.21 in Defra guidance above). This residue as per discussions already with site inspector is classified as waste and therefore Defra guidance above point 7.33 is not currently fulfilled.

As such the application is deemed not duly made and returned. There is insufficient information for permit determination and that situation will not change in the statutory period for a site surrender of three months from potential duly making.

Further to this de-commissioning of KA tanks could still cause contamination of groundwater and land even if a low risk. Either intrusive sampling needs to be repeated or evidence of procedures being followed and evidence of no contamination to land or ground water during vessel removal and final clean up needs to be provided (e.g. photographic evidence or site inspector checks).

In addition there are still concerns over elevated chemical levels in 2009 intrusive sampling linked to boreholes. These issues would not stop duly making but need to be addressed in the re-submission.

- BH304 – Elevated Total Organic Carbon levels
- BH1101 - Elevated SVOC levels
- BH 1104 -Elevated SVOC

The Environment Agency appreciates that additional borehole monitoring was done in 2009 and that arguments have been given that the elevated levels relative to original reference monitoring are due to historic contamination not related to the processes linked to your permit. However elevated levels are certain monitoring results still exist relative to the original 2002 benchmarks and need fuller investigation plus justification to prove not linked to permitted activities. In addition the date of complete plant clean down completion relevant to the intrusive monitoring needs to be more clearly defined to ensure no chemical contamination possible after July and November 2009 intrusive monitoring.

The Environment Agency appreciates this is not the approach you had hoped for to fast track your business objectives regarding this site. However the Environment Agency must sign off the surrender on basis of the installation returning to a satisfactory something which by your own plans will not be possible until after the vessel demolition and material removal January to April 2011. In addition in not duly making the application we are allowing for the return of the substantial surrender fee. Otherwise it is likely that the permit determination would not progress to permit issue with the loss of the fee.

Therefore the best cause of action for mutual benefit is for you to progress the tank demolition as a matter of urgency and resubmit after completion of this stage having regard to further information and evidence as listed above. It is accepted that a submission after chemical residue removal but prior to demolition of facilities not contaminated with permitted activity chemicals would be acceptable. The site inspector is willing to assist to inspect at key stages during the demolition as appropriate and safety allows. One final inspection will be required to confirm final chemical residue removal prior to permit determination.

Yours sincerely,


NPS Officer
Environment Agency