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August 9, 2011

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Jeff Torkington
CEO Ambre Energy North America
170 S. Main St. # 700
Salt Lake City, UT 8410

President/Director Michael Mewing
Secretary Treasurer/ Director Michael Klein
Millennium Bulk Logistics, Inc.
Millennium Bulk Terminals Longview, LLC
170 S. Main St. # 700
Salt Lake City, UT 84101

Joseph A. Cannon
Chief Executive Officer
Millennium Bulk Terminals Longview, LLC
P.O. Box 2098
4029 Industrial Way
Longview WA 98632

RE: 60- day notice of suit for violations of the federal Clean Water Act at the Millennium Bulk Terminal in Longview, WA

Dear Sirs:

I am writing on behalf of the Rosemere Neighborhood Association and Land Owners and Citizens for a Safe Community (collectively "Rosemere") to provide you with sixty days' notice that Rosemere intends to file a citizen suit in federal court against Ambre Energy North America; Millennium Bulk Logistics, Inc.; Millenium Bulk Terminals Longview, LLC; Mike Mewing, President/Director Millennium Bulk Logistics, Inc./ Millennium Bulk Terminals-Longview, LLC; Joseph A. Cannon, Chief Executive Officer Millennium Bulk Terminals Longview, LLC; Michael Klein, Director/Secretary Treasurer of Millennium Bulk Logistics, Inc./ Millennium Bulk Terminals-Longview, LLC; and Jeff Torkington, CEO Ambre Energy North America (collectively referred to as "Ambre Energy").

This suit will be brought under Section 505 of the federal Clean Water Act ("CWA"), 33 U.S.C. § 1365. This notice is a prerequisite to suit required by the CWA and is in response to

water pollution violations that have occurred and are continuing to occur at Ambre Energy's Facility located on the shore of the Columbia River at 4029 Industrial Way Avenue in Longview, Washington, approximately three miles down river from the Lewis and Clark Bridge.

As the owners and operators of the Facility, Ambre Energy has violated and continues to violate Sections 301(a) and 402(p)(3)(a) of the CWA, by discharging pollutants related to its import, export, storage, transportation and handling of coal, pet coke and other pollutants despite a lack of any authority to discharge such pollutants under a National Pollutant Discharge Elimination System (NPDES) permit. 33 U.S.C. § 301(a); 402(p)(3)(a).

At the core of these violations is the fact that Ambre Energy has operated and is continuing to operate a flat transport and storage facility for the import, export, storage, and transportation of coal, pet coke, fly ash, and other bulk materials absent any permit authorization to discharge process and stormwater related to such activities. Rosemere is aware that Ambre Energy asserts it has halted the import and export of some of these materials, but that Ambre Energy continues to import coal by rail and export coal by truck.

NPDES Permit No. 000008-6- issued to Longview Aluminum ("Longview Aluminum Permit") only authorized discharges from an aluminum smelter that has not been operational for many years. Operation of a flat transport and storage facility under a permit for an aluminum smelter that was first issued in 1990 is inconsistent with the CWA and its implementing regulations. This is highlighted by the fact that Ambre Energy is operating under the limited monitoring and control requirements that were authorized for the former aluminum production site when it was under "temporary curtailment."

As the Washington Dept. of Ecology noted when Ambre Energy's predecessor Chinook Ventures inquired about whether this NPDES permit would cover process and stormwater discharges, "Chinook is operating a flat transport and storage facility under the old Longview Aluminum NPDES permit which was written to authorize discharges from an aluminum smelter. Therefore, the permit shield provision does not apply." Letter from Kim Wigfield, DOE, to Barry Oliver, Chinook Ventures. Dec. 15, 2009.

1. Stormwater Discharges

Ambre Energy has violated Sections 301(a) and 402(p)(3)(a) of the CWA each and every day that it has discharged stormwater through any of the pollutant outfalls at the Facility, including but not limited to outfalls 001, 002, 003, 004, 005 and 006 as well as other unnamed discharges since purchasing the Facility on January 12, 2011. Based on the best information that Rosemere has to date, Ambre Energy has discharged stormwater from these outfalls and other unnamed point sources that has been exposed to coal, pet coke, fly ash, alumina and other bulk pollutants stored and managed at the facility. Coal, petcoke and other bulk materials are clearly exposed to rainfall at numerous locations across the Facility during import by train, export by truck, and on-site movement and management of such materials by conveyor, truck, and other bulk handling equipment. These products and their associated pollutants are discharged into the

Columbia River and the Longview Ditch, which are both navigable waters, through the above listed discharge pipes and other conduits that fall within the CWA's definition of a point source. 33 U.S.C. § 502(14).

These discharges are not authorized by any NPDES permit and have occurred on at least the days listed in Exhibit A when rainfall records show that the facility received more than a 1/10th of an inch of rainfall within a 24-hour period. Pollutants associated with the coal, pet coke and other bulk materials being managed on site and which are being discharged absent permission in an NPDES permit, include: coal, pet coke, fly ash, alumina as well as all materials, compounds and chemicals which are constituents in these materials including but not limited to: aluminum, antimony, arsenic, barium, bismuth, beryllium, boron, calcium, cadmium, chromium, copper, chromium, cobalt, cyanide, iron, lead, lithium, magnesium, manganese, mercury, nickel, selenium, silicon, silver, sodium, strontium, palladium, platinum, potassium, sulfur, tin, titanium, phosphorus, vanadium, zinc, acetone, acenaphthene, acenaphthylene, anthracene, benz(a)anthracene, benzene, 1,2,4-trimethylbenzene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)anthracene, benzo(a)anthracene, benzo(g,h,i)perylene, benzo(a)pyrene, butylbenzylphthalate, perylene, chrysene, dibenz(a,h)anthracene, dibenzofluoranthene, dibenzofuran, fluorine, fluoranthene, naphthalene, 1-methyl naphthalene, 2-methyl naphthalene, phenol, 2-methylphenol, 3+4 methylphenol, 2-4 dimethylphenol, phenanthrene, pyrene, toluene, indeno(1,2,3-cd-pyrene), m, p xylene, o xylene, additional PAHs, and other pollutants. Furthermore, coal, pet coke and other bulk materials now being imported, exported, stored and handled on site can have high turbidity levels, high BOD, high suspended solids, increased temperatures, and low pH.

2. Process Wastewater Discharges

Ambre Energy has also discharged and continues to discharge process-related wastewater containing the same pollutants described above in Section 1 related to its import, export, transport, storage, handling and management of coal, pet coke, fly ash, and other bulk materials through outfall 001. These discharges are also into the Columbia River and Longview Ditch. Process related wastewater used during the movement and storage of coal and pet coke to reduce dust, as well as, wastewater generated through wash water, facility maintenance, cleaning and other facility operations results in the comingling of the above-described pollutants with stormwater and sanitary wastewater which are discharged through at least outfalls 002 and 001, as well as, the other listed outfalls as well, each and every day that the facility is being operated. These discharges are not permitted by any NPDES permit and are therefore in violation of 301(a) of the CWA. 33 U.S.C. § 301(a). These violations include a total of at least 209 days starting on January 12, 2011 and extending through the date of this notice.

3. Operating without any NPDES Permit

Ambre Energy's attempt to seek coverage under Chinook Ventures' former permit for this facility is deficient. This is because the transfer failed to comply with EPA's regulatory

requirements for an effective permit transfer and therefore none of the pollutant discharges from the facility are authorized.

In order to effectuate an “automatic transfer” EPA rules at 40 C.F.R. § 122.61(b) require that:

- (1) The current permittee notifies the Director at least 30 days in advance of the proposed transfer date in paragraph (b)(2) of this section; [and]
- (2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them.

The rules are in addition to the State of Washington permit transfer rules and must be complied with in order to effectuate a permit transfer. Millennium, however, provided notice to the Washington Dept. of Ecology (DOE) that it intended to transfer NPDES permit No. WA 000008-6 from Chinook Ventures in a letter on January 13, 2011. It attached a DOE form for automatic permit transfer which indicated that the intended date for the transfer was January 12, 2011. The notice, which was a day after the proposed date for permit transfer, did not comply with EPA’s explicit regulatory requirement that the notice of transfer be “at least 30 days in advance of the proposed transfer date.” The transfer therefore did not comply with EPA regulations and was thus ineffective. To the extent Ambre may assert that some prior notification to Ecology constituted an effective notice under 40 C.F.R. § 122.61(b) that argument fails because any prior notice lacked the written agreement regarding liability and a “specific date for transfer of permit liability” required by 40 C.F.R. § 122.61(b)(2).

As a result, Ambre Energy is operating without any NPDES permit and thus all pollutant discharges from the Facility are in violation of sections 301(a) and 402(p)(3)(a) of the CWA. 33 U.S.C. § 301(a); 402(p)(3)(a). Ambre Energy has thus discharged a broad spectrum of pollutants including process wastewater, stormwater, and sanitary waste on every day of operation since it acquired the Facility on January 12, 2011. These pollutants include, but are not limited to fluoride, aluminum, TSS, heat, turbidity, benzopyrene, nickel, cyanide, oil and grease, antimony, B(a)P, cyanide, chlorine, materials impacting biological oxygen demand, cadmium, copper, lead, zinc, coal, pet coke, fly ash, as well as the diversity of other pollutants, including many identified in Section 1 above.

4. Violations of NPDES permit WA 000008-6

To the extent that Ambre Energy asserts that its discharges are covered by NPDES Permit No. 000008-6 (which Rosemere disputes), Ambre Energy has violated multiple permit requirements in this permit in violation of Section 301(a) of the CWA and EPA implementing regulations 40 C.F.R. § 122.41(a) which prohibit discharges in violation of permit requirements.

These violations include:

A. Failure to submit detailed plans or receive approval for waste water control facilities

NPDES permit No. WA 000008-6 requires that, "Prior to constructing or modifying any wastewater control facilities, detailed plans shall be submitted to the Department for approval in accordance with Chapter 173-240 WAC. Facilities shall be constructed and operated in accordance with the approved plan."

The term "wastewater control facilities" is broadly defined under DOE regulations to include "all structures, equipment, or processes required to collect, carry away, treat, reclaim or dispose of industrial wastewater." WAC 173-240-020(9). The term "industrial wastewater" specifically includes process wastewater and contaminated stormwater. WAC 173-240-020(9).

Since taking control of the Facility Ambre Energy has modified and/or constructed "wastewater control facilities" prior to submitting any "detailed plans" required by the Longview Aluminum permit or receiving any approval for such detailed plans as required by the Longview Aluminum permit and the requirements of Chapter 173-240. This includes, but is not limited to the requirement in WAC 173-240-110(1) that, "Before constructing or modifying industrial wastewater facilities, engineering reports and plans and specifications for the project must be submitted to and approved by the department."

The constructed and/or modified wastewater control facilities include, but are not limited to, a berm and collection system intended to manage stormwater and process water around exposed coal and pet coke piles. It also includes all other measures intended to address or control process and stormwater discharges related to the import, receiving, loading/unloading, export, and on-site management/transportation of coal, pet coke and other bulk materials handled at the Facility.

Rosemere intends to assert that violations of this permit requirement began on by at least January 12, 2011, when Ambre Energy took control of the Facility, and have continued each and every day that discharges have occurred through the date of this notice. Because the facility has daily discharges Rosemere believes there have been daily violations since January 12, 2011 with a total of at least 209 violations to date.

B. Failure to submit a new permit application or supplement

NPDES permit No. WA 000008-6 requires that. "[t]he permittee shall submit a new application or supplement to the previous application where facility expansion, production increases, or process modifications will 1) result in new or substantially increased discharges of pollutants or a change in the nature of the discharge of pollutants, or 2) violates the terms and conditions of this permit." At p. 28.

Ambre Energy's use of the Facility for the import, export, transport, storage and handling of coal, pet coke and other materials and pollutants with a high potential for causing water pollution constitutes a facility expansion, process modification, and a production increase at the Facility that has resulted in new or substantially increased discharges of pollutants and has caused a change in the nature of the discharge of pollutants from the facility. Ambre Energy, however, has not submitted a new or supplemental permit application to DOE that reflects the conversion of the Facility from an aluminum smelter to a flat storage facility for coal, pet coke and other bulk products. Rosemere intends to assert that violations of this permit requirement began on January 12, 2011, when Ambre Energy took control of the Facility, and have continued each and every day through the date of this notice. Because the facility has daily discharges Rosemere believes there have been daily violations since January 12, 2011 with at least 209 violations to date.

C. Violation of reporting requirements of 40 C.F.R. § 122.41(l)

EPA regulations implementing the CWA include specific reporting requirements that Ambre Energy should have made prior to making alterations and additions to the Facility. While Rosemere recognizes that some alterations and additions were first made by Ambre Energy's predecessor at the facility, Amber Energy continues to maintain and modify these physical alterations. Ambre Energy continues to maintain large and exposed coal and pet coke piles, import and export coal from the site, and operate and maintain the facilities for receiving, handling, transporting and managing coal, pet coke and other bulk materials. Ambre Energy thus has liability under the CWA for failing to properly notify DOE prior to such activities.

40 CFR 122.41(l) states:

Reporting requirements —(1) *Planned changes*. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in §122.29(b); or

(ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under §122.42(a)(1).

The physical alterations and additions made by Ambre Energy to the facility meet one or more of the criteria under 40 C.F.R. § 122.29(b) for determining whether a facility is a new source. Specifically, “[i]ts processes are substantially independent of an existing source at the same site” pursuant to 40 C.F.R. § 122.29(b)(iii). Use of the Facility as a flat transport and storage facility are clearly “substantially independent” from any existing sources at the Facility that were related to the aluminum smelting operations previously permitted under NPDES permit No. WA 000008-6.

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Furthermore, alterations Ambre Energy has made and is maintaining at the facility could significantly change the nature or increase the quantity of pollutants discharged since both process water and stormwater now come into contact with coal, petcoke and other bulk products being stored and managed at the Ambre Energy facility.

5. Contact Information

The full name, address and telephone number of the parties providing this Notice are:

Dvija Bertish, Director of Environment and Conservation
Rosemere Neighborhood Association
P.O. Box 61471
Vancouver, WA 98666
(360) 906-8810

Gayle Kiser, President
Landowners and Citizens For a Safe Community
P. O. Box 2484
Longview, WA 98632
(360) 703-2200

The lead attorney representing Rosemere in this matter is:

R. Scott Jerger
Field Jerger LLP
621 SW Morrison, Suite 1225
Portland, Oregon 97205
(503) 228-9115

6. Conclusion

The above-described violations are based upon the best information currently available to Rosemere. Rosemere expects that discovery will identify additional CWA violations. Ambre Energy has consistently violated and continues to violate the CWA. Rosemere intends to sue for all violations, including those yet to be uncovered and those ongoing violations committed after the date of this notice. Due to the chronic and persistent nature of this facility's violations, there is more than a reasonable likelihood of ongoing violations in the future.

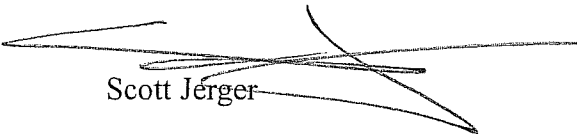
Rosemere believes that all of the violations alleged above are continuing to occur. Rosemere intends to seek injunctive and declaratory relief as allowed under Section 505 of the CWA to end these discharges. They also intend to seek civil penalties of up to \$37,500 a day per each day of violation as provided by Section 309(d) of the CWA 33 U.S.C § 309(d), as well as, attorney fees and costs, as allowed by the Section 505(d) of the CWA. 33 U.S.C. § 505(d). The 209 days of violations alleged here represent at least \$ 7.8 million in potential civil penalties, but this number does not include violations that occur after the date of this notice.

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Rosemere believes that a number of individuals within Ambre Energy and its subsidiaries Millennium Bulk Terminals Longview LLC, Millennium Bulk Logistics Inc. share responsibility with the corporate entities addressed above for the violations alleged here. These include the corporate officers, directors and staff named in the first paragraph of this letter as well as other managers and staff with responsibility and control over the day-to-day operations of the Facility and compliance with environmental laws and regulations.

If you wish to discuss any aspect of this notice or the discuss options for resolving the illegal discharges described please contact the undersigned. Because Rosemere does not intend to delay the filing of a complaint past the end of the 60-day period, even if negotiations were in progress at that time, any interest in such discussions should be expressed at your earliest possible convenience.

Very truly yours,



Scott Jerger

cc:

Hon. Lisa Jackson
Administrator, U.S. EPA
Ariel Rios Bldg.
1200 Pennsylvania Ave NW
Washington, D.C. 20460

Dennis McLerran, Regional Administrator
U.S. EPA Region 10
1200 6th Ave., Suite 900
Seattle, WA. 98101

Ted Sturdevant, Director
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Registered Agent for Millennium Bulk Terminals-Longview, LLC and
Millennium Bulk Logistics, Inc.
C T Corporation System
1801 West Bay Dr. NW Ste # 206
Olympia, WA 98502

60-Day Notice Letter to Ambre Energy

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Registered Agent for Ambre Energy North America

Michael Mewing

170 S. Main St. # 700

Salt Lake City, UT 84101

Appendix A

Based on National Weather Service rainfall data from Longview weather station

January 2011

| Date | 24-hour rainfall total |
|-------------|-----------------------------------|
| 12 | .65 |
| 13 | .76 |
| 14 | .15 |
| 15 | .43 |
| 16 | 2.49 |
| 18 | .21 |
| 21 | .33 |
| 24 | .12 |
| 29 | .26 |

February 2011

| Date | 24-hour rainfall total |
|-------------|-----------------------------------|
| 4 | .11 |
| 7 | .38 |
| 8 | .11 |
| 13 | .42 |
| 14 | .21 |
| 15 | .51 |
| 16 | .28 |
| 17 | .11 |
| 18 | .19 |
| 22 | .55 |
| 23 | .31 |
| 24 | .15 |
| 25 | .38 |
| 28 | 1.53 |

March 2011

| Date | 24-hour rainfall total |
|-------------|-----------------------------------|
|-------------|-----------------------------------|

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| | |
|----|-----|
| 1 | .7 |
| 2 | .22 |
| 4 | .1 |
| 5 | .14 |
| 9 | .26 |
| 10 | .75 |
| 12 | .27 |
| 13 | .35 |
| 14 | .35 |
| 15 | .25 |
| 16 | .36 |
| 17 | .11 |
| 18 | .15 |
| 21 | .24 |
| 24 | .11 |
| 25 | .35 |
| 26 | .31 |
| 27 | .32 |
| 28 | .12 |
| 29 | .4 |
| 30 | .62 |
| 31 | .35 |

April 2011

| Date | 24-hour rainfall total |
|-------------|-----------------------------------|
| 2 | .17 |
| 4 | .62 |
| 5 | .5 |
| 6 | .4 |
| 10 | .14 |
| 11 | .34 |
| 13 | .11 |
| 14 | .26 |
| 15 | .66 |
| 19 | .1 |
| 24 | .32 |
| 25 | .8 |
| 26 | .7 |
| 28 | .85 |

29 .11

May 2011

| Date | 24-hour rainfall total |
|-------------|-----------------------------------|
| 2 | .21 |
| 3 | .12 |
| 5 | .13 |
| 6 | .11 |
| 7 | .43 |
| 8 | .29 |
| 11 | .33 |
| 15 | .75 |
| 23 | .13 |
| 25 | .2 |
| 26 | .22 |
| 27 | .33 |
| 28 | .72 |
| 31 | .14 |