Fort Smith, Arkansas Facility: Arkansas Department of Energy and Environment - Division of Environmental Quality and Motors Manufacturing Facility Enter into Elective Site Cleanup Agreement



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The Arkansas Department of Energy and Environment – Division of Environmental Quality ("DEQ") and ABB Motors & Mechanical Inc. ("ABB") entered into an October 2nd Elective Site Cleanup Agreement ("ESCA"). See LIS No. 24-145.

The ESCA addresses a facility located in Fort Smith, Arkansas ("Site").

The ESCA describes the Site as having been a motors manufacturing facility in Fort Smith, Arkansas since 1970 until the present.

Various federal and state programs (including ESCA and others in Arkansas) use risk-based corrective action remediation standards to tailor cleanup levels according to site-specific factors. Such programs often take into account criteria such as to what extent the site is characterized and/or land use features. Typically, superimposed upon these various procedures are site-specific analyses and the requirement that the standards be protective of human health and the environment.

An Agency may be willing in some circumstances to provide a blessing (subject to certain caveats) of a site's conditions if they deem contaminants adequately delineated and/or isolated from potential exposure. The approval of site conditions will likely be based on a combination of acceptability under applicable screening levels and/or whether the property uses are compatible with these conditions. The incorporation of enforceable institutional controls (i.e., deed restrictions, restrictive covenants, or easements) or controls such as barriers (pavement in a certain area, etc.) might be used to ensure continued adherence to the restrictions by the current and future real property owner.

ABB states that in 2019 voluntary self-assessments by the company detected coolant and solvents present in the subsurface consisting primarily of petroleum hydrocarbons, perchloroethylene, trichloroethylene, and degradation byproducts. Degreasing operations are stated to have ceased in the 1980's.

ABB is stated to have voluntarily investigated the coolant and solvent releases and contacted DEQ to enroll in the ESCA program.

The ESCA provides sequential tasks for ABB to undertake which include:

- Within 60 calendar days of the effective date of this ESCA, submit a Sampling and Analysis Plan (SAP) designed to determine the horizontal and vertical extent, rate of migration, type, and concentration of any hazardous substance or pollutant present in the environment.
- Implementation of the SAP upon written approval of DEQ.
- If DEQ notifies ABB the SAP implementation fails to accomplish an adequate determination as referenced above, then additional sampling and analysis will be required within 60 days of receiving notification.
- Progress and findings report as agreed upon in the SAP schedule.
- If it is determined that following implementation of the SAP that upon identification of contamination, that remediation is necessary to protect human health and the environment, within 90 calendar days of notification by DEQ a Remedial Action Plan ("RAP") using a risk-based approach shall be submitted to DEQ and implemented upon approval by the agency.
- If DEQ determines that the RAP implementation fails to accomplish remediation sufficient to protect human health and the environment, then upon receiving written notification from DEQ, additional remedial activities as the agency deems necessary shall be undertaken.
- Within 60 calendar days of notification by DEQ, ABB shall submit for review a deed restriction for the Site if necessary, addressing activities and uses at the Site that will be restricted to protect the integrity of any remedial action measures.
- Withing 45 calendar days of written approval by DEQ of the draft deed restrictions, a file marked copy shall be submitted to DEQ.
- Upon approval of the Completion Report, and receipt of deed restrictions if required, DEQ will issue a "No Further Action" determination to ABB.
- Unless terminated in writing by DEQ or ABB the agreement shall be reviewed by the agency on its fifth anniversary.

ABB is required to take all steps as necessary throughout the ESCA process to prevent aggregating or contributing to the contamination of air, land, or water, including downward migration of contamination from any existing contamination on the Site. Further, nothing contained in the ESCA is deemed a waiver of DEQ's enforcement authority over current or future alleged violations not specifically addressed by the document.

Subsequent owners are required to receive a copy of the ESCA from ABB and shall not develop or use the Site in a manner inconsistent with its terms and procedures.

A copy of the ESCA can be downloaded here.