

DOC/2017/03613-02

September 8, 2017



s.40(1)

Dear [REDACTED]: s.40(1)

**Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act, 2015* [Our File #: MAE/65/2017]**

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On August 25, 2017, the Department of Municipal Affairs and Environment received your request for access to the following records/information:

*"Any Fines, Charges or Directives, issued or pending, Against Newsul Enterprises Inc. relating to their operations of the Sulphur Prilling Plant in Come By Chance, NL."*

I am pleased to inform you that a decision has been made by the Deputy Minister to provide access to the requested information.

In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

The *Access to Information and Protection of Privacy Act* requires us to provide an advisory response within 10 days of receiving the request. As this request has been completed prior to day 10, this letter also serves as our Advisory Response.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the *Access to Information and Protection of Privacy Act* (the *Act*). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner  
2 Canada Drive

P. O. Box 13004, Stn. A  
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309  
Toll-Free: 1-877-729-6309  
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act*.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 709-729-3514 or by e-mail at [LisaS@gov.nl.ca](mailto:LisaS@gov.nl.ca).

Sincerely,



**LISA SULLIVAN**  
ATIPP Coordinator  
Policy and Strategic Planning

Enclosures

## **Access or correction complaint**

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.
- (2) A complaint under subsection (1) shall be filed in writing not later than 15 business days
- (a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or
  - (b) after the date the head of the public body is considered to have refused the request under subsection 16(2).
- (3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.
- (4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.
- (5) The commissioner may allow a longer time period for the filing of a complaint under this section.
- (6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.
- (7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.
- (8) A complaint shall not be filed under this section with respect to
- (a) a request that is disregarded under section 21;
  - (b) a decision respecting an extension of time under section 23;
  - (c) a variation of a procedure under section 24; or
  - (d) an estimate of costs or a decision not to waive a cost under section 26.
- (9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

## **Direct appeal to Trial Division by an applicant**

- 52.** (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.
- (2) An appeal shall be commenced under subsection (1) not later than 15 business days
- (a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or
  - (b) after the date the head of the public body is considered to have refused the request under subsection 16(2).
- (3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.
- (4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).



GOVERNMENT OF  
NEWFOUNDLAND AND LABRADOR

Department of Environment  
Pollution Prevention Division

File #: 712.118

May 3, 2004

Mr. Bruce Dyke  
NewSul Enterprises Inc.  
c/o Ocean Management & Trading Co. Ltd.  
P.O. Box 23058, 179 Water Street  
St. John's, Newfoundland A1B 4J9  
Fax-739-4317

Dear Mr. Dyke:

**RE: Newsul Inspection - Offsite Sulfur Deposition**

On April 30, 2004, I inspected your Newsul sulfur prilling facility in Come By Chance. This inspection stemmed from concerns, received by the Town of Come By Chance and forwarded to this Department for investigation, of sulfur product deposition outside the Newsul fence.

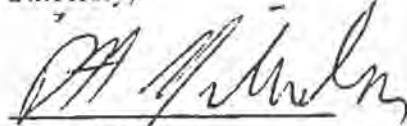
Sulfur was present across the road from this facility within the trees and brush in significant amounts. After talking to Fred Gough, he explained that severe winds blew some sulfur prills onto the road on a couple of occasions over the winter. Consequently the snowplow/blower crushed these prills and deposited the sulfur in the woods which became evident after the snow had melted.

While Mr. Gough stated that he was planning to hire students this summer to clean-up this sulfur, the Department will be requiring more immediate remedial action to avoid further stress on the vegetation as well as address the related aesthetic issues. We also require that the clean-up be done manually to avoid damage to the vegetation that is currently providing a buffer zone for the adjacent stream. These efforts should be done in consultation with the property owners and completed by **May 31, 2004**. The Department is also requesting an action plan to prevent such future occurrences. This action plan shall be submitted by **July 31, 2004**.

We would also like to remind your that the Contingency Plan and Site Decommissioning and Restoration Plan, as required under your Certificate of Approval of September 19, 2003, are past due. Please provide these documents by **May 31, 2004**.

If you have any further questions or comments please feel free to contact me at 729-6697 or "michielsend@gov.nl.ca".

Sincerely,



Dan Michielsen  
Environmental Biologist

cc. Derrick Maddocks  
Sam El-Gohary  
Cal Morgan, Community Health  
Town of Come By Chance





**NEWSUL**

## Newsul Enterprises Inc.

Bay View Cove @ 179 Water Street, Box 20150 Charlottetown Square PO  
St. John's, Newfoundland Canada A1B 4J9  
Telephone: 709-739-0336 Facsimile: 709-739-4317  
E-Mail: mdyke@ont.nf.net mdyke@port.nf.net spence@ont.nf.net hough@ont.nf.net

21 June 2004

Via Fax 729-6969

Department of Environment  
Pollution Control Division  
P.O. Box 8700  
St. John's, NL  
A1B 4J6

**Attention:** *Jan Michielsen - Environmental Biologist*

Dear Mr. Michielsen:

**Re:** *Offsite Sulphur Deposition*

We are pleased to inform you that we have completed the recovery of wind borne sulphur outside the Newsul fence and surrounding area. We feel confident that the bulk of the sulphur accumulated in significant amounts has been recovered.

Our approach to the recovery and remediation operation is outlined in the attached report for your perusal. You will note that several assumptions regarding the amount of fugitive sulphur were necessary to arrive at a reasonable calculation of the amount of neutralizing lime to be spread in the area. Based on the assumption that approximately 50% of the sulphur has been recovered, our calculations of the amount of lime to be spread is consistent with both the weight of sulphur and the manufacturer's recommendation for the area.

We will continue to monitor the area and provide additional remediation measures as required. In addition we will continue to look to better mechanisms to prevent future occurrences by way of adding more "fabric" barriers along the fence and perhaps at some future time to installing a new fence.

We request that you perform your due diligence to ascertain the appropriateness of our approach and the results of our clean up effort. Given that the issue resulted from concerns expressed by the Town of Come by Chance I would further request that the department provide written confirmation to Newsul that we have taken all practical measures and are in compliance with DOE directives and regulations. We would hope to have this in hand for the next scheduled meeting between the town members, NARL and DOE representatives.

If you have any comments or questions please contact me at your convenience.

Sincerely,

  
**MONTY DYKE**  
Manager

MD/cas



Newsul Entrep. Inc.  
 2 Basin Cove Waterfront  
 P.O. Box 2305 SPO  
 St. John's New Brunswick A1B 9B8  
 Phone (709) 400-7400 Fax (709) 731-1100

21 June 2004

## NEWSUL REPORT ON FUGITIVE SULPHUR CLEAN UP

### Background

The Newsul Sulphur processing plant has been in operation for since January 1999. Over this period and during time of extreme winds small amounts of fugitive sulphur became windborne and deposited outside Newsul's property notably across the main entrance roadway in the bushes. Newsul has regularly recovered sulphur on the shoulder of the roadway outside its property. On April 30, 2004 DOE officials inspected the site and noted significant accumulations of fugitive sulphur in the trees and bushes across the roadway.

Newsul immediately took steps to recover these accumulations and remediate the area. The following report outlines the actions undertaken and methodology used for treatment.

### Survey of area:

The affected area was first roped off in 10m by 10m sections. These sections were then mapped to show the areas of noticeable significant accumulations. See attached sketch.

### Sulphur recovery:

Personnel were tasked to recover sulphur by raking and shoveling accumulated sulphur along with leaves, twigs and stones, etc. into 20 litre pails for removal to the storage yard. A shop vac was also used to aid in recovery but was found to be inadequate. The majority of the significant accumulations were manually recovered in this manner. Owing to the density of the bushes and small trees it was determined that the best solution for a more complete recovery with minimal impact on the vegetation was by vacuum truck as the vacuum hose allowed sulphur to be recovered from otherwise unreachable areas. This also expedited recovery operations.

### Sulphur recovery calculations:

In all approximately 2500 kg of material was recovered consisting of sulphur particles, leaves, twigs, stones and soil. This aggregated material was segregated by passing it through a 1/4" screen to separate the sulphur/soil material from the larger stones and organic matter. The remaining mixture of sulphur and soil was weighed, sub-samples taken and the sulphur/soil ratio estimated. The following are the results:

### Calculations of recovered materials

Total material recovered	100%	2500 Kg
Leaves, sticks, stones, etc	56%	1400 Kg
Sulphur-soil mixture	44%	1100 Kg
Sulphur: soil ratio	1.3	
Sulphur weight	33.3%	366 Kg
Total sulphur	15%	





Newsul Enterprises Inc.  
 2000 Water Street  
 P.O. Box 2205  
 St. John's, NL A1B 4X4 Canada  
 Phone: 709 739 4317 Fax: 709 739 4317

### Treatment of area calculations:

#### By weight

Assuming a 50% recovery rate the residual amount of sulphur to be treated is 366 Kg

Lime: sulphur ratio recommended is 1

Amount of lime required is 366 Kg

#### By area:

The area involved was broken down into 3 sub-areas as follows:

Area I	Between Newsul fence and roadway	approximately 372 m <sup>2</sup>
Area II	Between road and NARL fence	approximately 883 m <sup>2</sup>
Area III	Between NARL fence and limit of sulphur	approximately 1283 m <sup>2</sup>
Total area		approximately 2358 m <sup>2</sup>

Manufacturer's specification for spreading of Dolomite Lime to neutralize acidic soil is 1 x 40lb bag per 1000 ft<sup>2</sup> (18 Kg per 900 m<sup>2</sup>) or approximately 200 g per m<sup>2</sup>.

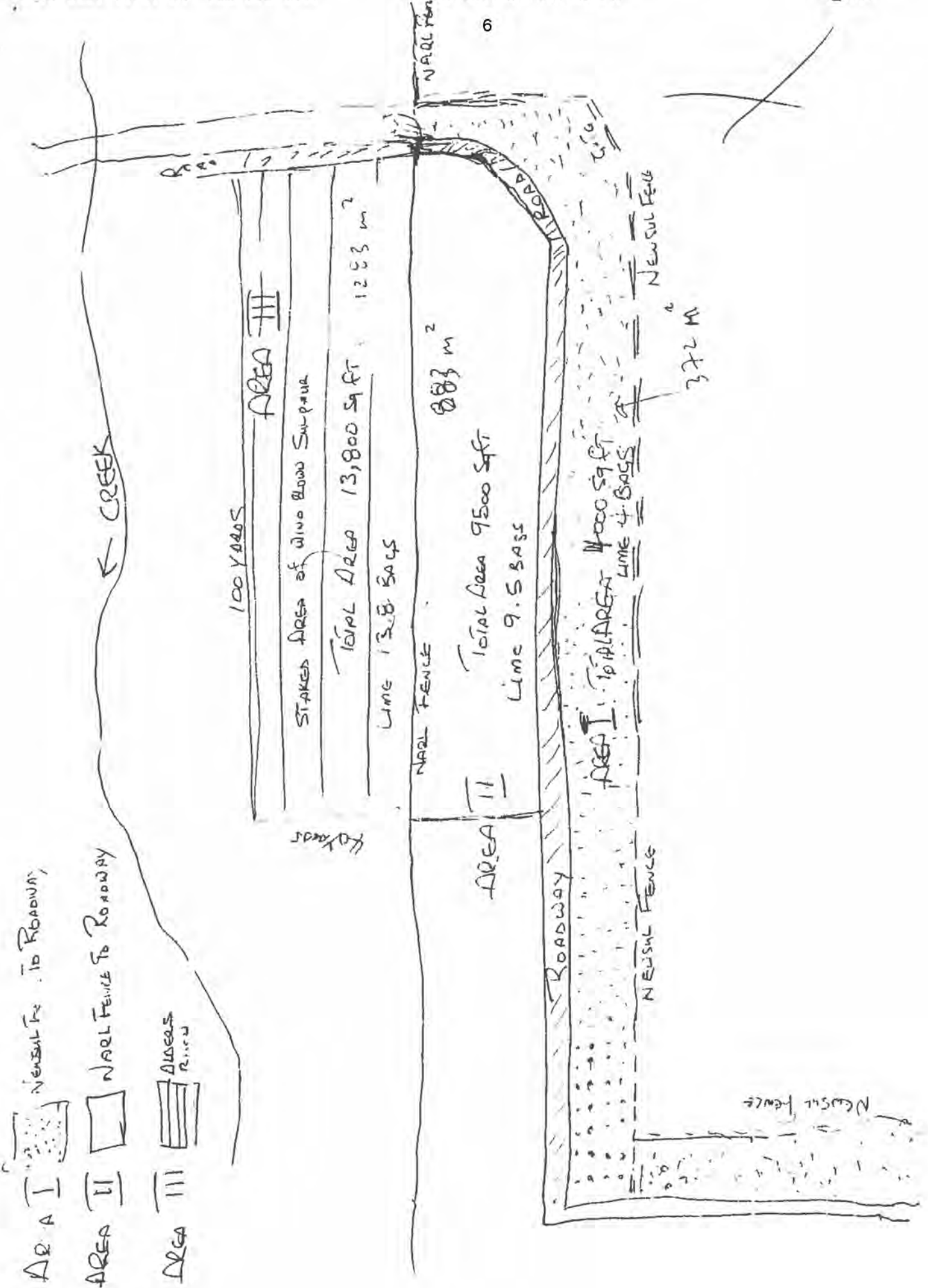
Total area	2358 m <sup>2</sup>
Lime	200g per m <sup>2</sup>
Total lime required	507 Kg
Amount lime applied	510 Kg

The amount of lime applied is within requirements whether calculated by weight or area. The Dolomite lime is a slow release type and better suited to the slow gradual bio-degradation of sulphur. The lime was broadcast with a manual spreader with additional lime spread directly on small clumps of sulphur.

Testing of running water in the surrounding area shows the pH to be in the range of 5.0 to 6.0 which is consistent with the nature of bog water. Newsul will continue to monitor the pH of waters surrounding the area and if appropriate provide additional neutralization in the affected area of fugitive sulphur.

### Materials and Equipment:

- chemical sprayer
- HD Shop Vac
- Hand held broadcast spreader
- spool twine
- 5 gal pails
- small shovel
- portable generator
- vacuum truck
- 1/4" screene
- Dolomite Lime
- pH strips



- AREA I [Symbol]
  - AREA II [Symbol]
  - AREA III [Symbol]
- NEW SUL FENCE TO ROADWAY  
 NARL FENCE TO ROADWAY  
 ALDERS RIVER

7

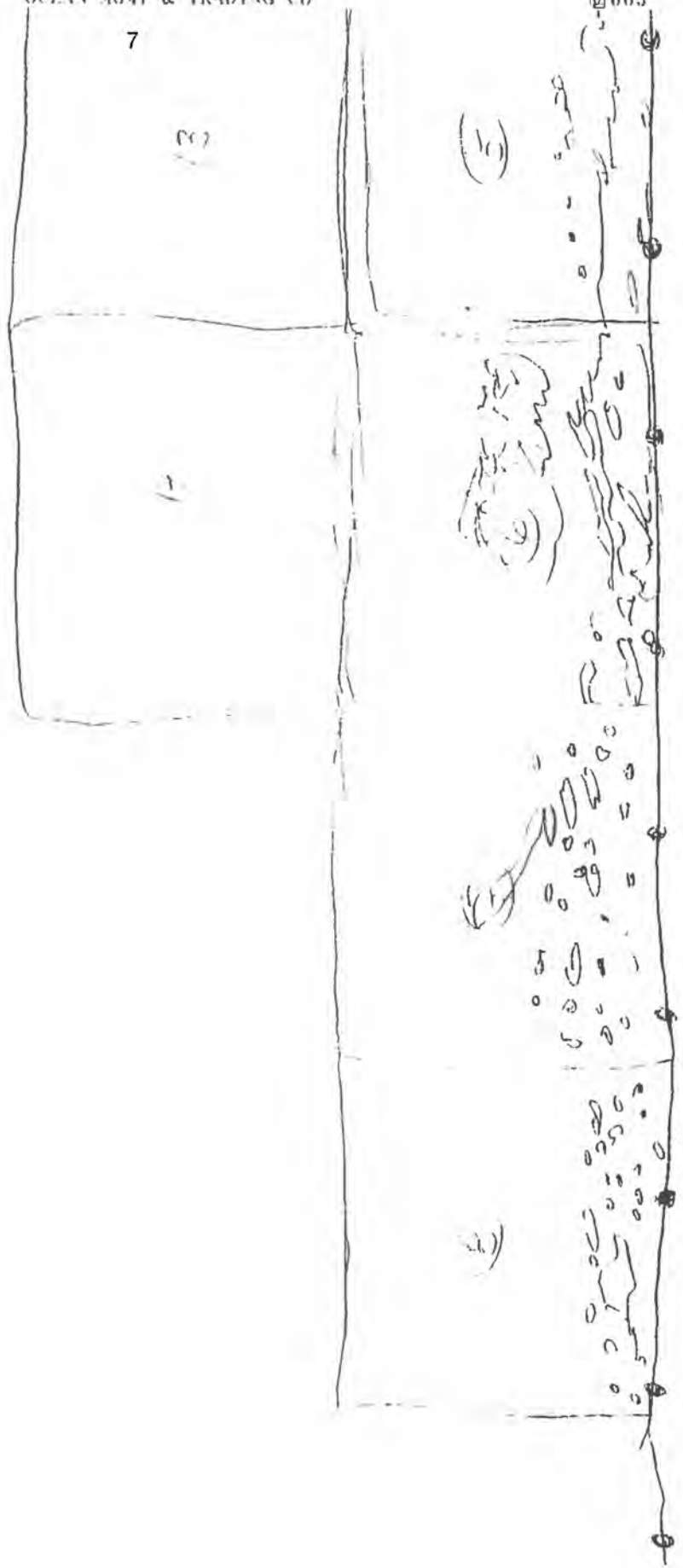
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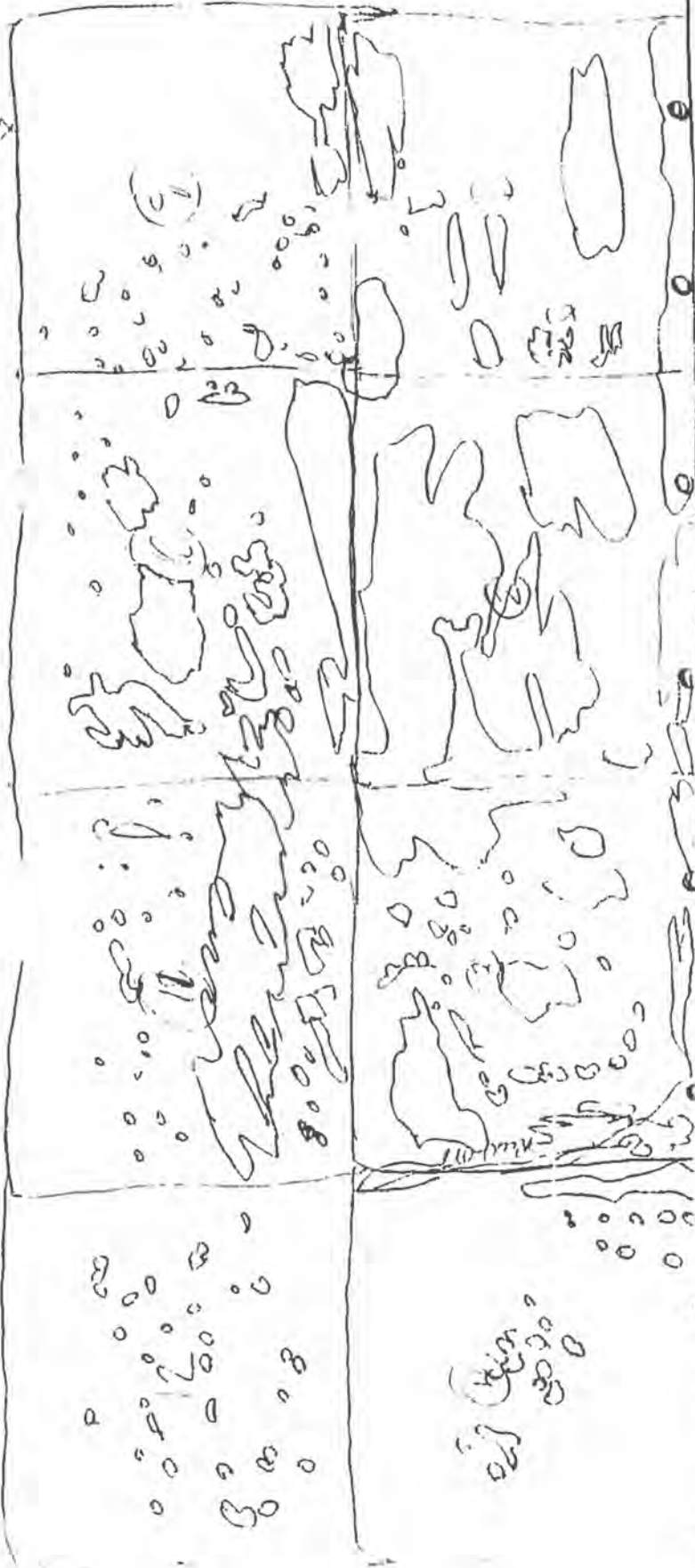


8/07/04

CRICK.

EVIDENCE

CF JUSTING



FENCE LINE.

A2

**From:** "Monty Dyke" <mdyke@omt.nf.net>  
**To:** "Dan Michielsen" <MichielsenD@gov.nl.ca>  
**Date:** Tue, Jul 6, 2004 2:22 PM  
**Subject:** Re: Fw: Newsul Site Remediation

Dan,  
Thanks again for prompt reply.

- 1) I believe you had mentioned to Fred Gough that you wanted additional clean up in the area outside the fence. He will co-ordinate this with you as necessary.
- 2) We will address the area inside NARL fence in the near future.
- 3) Pleased to see that you are in agreement with our methodology but stress that the operable word is "reasonable"! Our individual views on this may differ but rest assured that we will make every effort to ensure that the area is remediated to the DOE's satisfaction.
- 4) We also would prefer to not have to effect another clean up next year and will submit a more definalive action plan to prevent further occurrences.

Regards,  
Monty Dyke  
----- Original Message -----  
From: Dan Michielsen  
To: mdyke@omt.nf.net  
Cc: Sam El-Gohary  
Sent: Tuesday, July 06, 2004 12:41 PM  
Subject: Re: Fw: Newsul Site Remediation

Monty,

We regards to the clean-up efforts I offer the following comments;

- 1) I have inspected the clean-up and have found areas where more work is required. I agree that not all sulphur can be recovered, there comes a point when you are just retrieving stained gravel. However, there are some areas (only a few) where sulphur remains at high densities and can be recovered.
- 2) Areas on the opposite side of the road , within the confines of the refinery fence, have some dense patches of sulphur. These have not been addressed.
- 3) I agree with you treatment methodology provided that each individual area treated has undergone reasonable efforts to recover the sulphur.
- 4) A more definite action plan must be submitted to ensure prevention of future airborne sulphur deposition around the facility. This plan shall provide design and material details as well as scheduled completion dates. Neither of us want to see Newsul cleaning up fugitive sulphur deposits again next year, and this may be a reality if proper pollution prevention strategies are not carried out.

I will perform a follow-up inspection before the end of July. Please contact me if you have any further questions.

Cheers,

Dan

>>> "Monty Dyke" <mdyke@omt.nf.net> 07/06/04 12:00PM >>>

Dan,

Thanks for prompt reply. I will await your comments on the site remediation plan prior to formal submission.

The "environmental note" has not been released but I thought it might be appropriate to inform the general public of some of the uses and properties of sulphur.

I had previously sent you a report on the recent clean up exercise. Can you provide any guidance on the acceptability of the procedures employed for calculation and treatment of remaining or residual sulphur?

Regards,  
Monty Dyke

----- Original Message -----

From: Dan Michielsens  
To: mdyke@omt.nf.net  
Sent: Tuesday, July 06, 2004 11:31 AM  
Subject: Re: Fw: Newsul Site Remediation

Monty,

I have not reviewed the decommissioning plan yet, I will get back to you once I have. As for the Environmental notes, all facts must be referenced to ensure their accuracy.

Cheers,

Dan

>>> "Monty Dyke" <mdyke@omt.nf.net> 07/06/04 10:59AM >>>

Dan,

Do you have any comments on the attached?

Please call to discuss at your convenience.

Regards,

Monty Dyke  
709 739-4036



----- Original Message -----

From: Monty Dyke

To: Dan Michielsen

Sent: Thursday, June 17, 2004 2:18 PM

Subject: Re: Newsul Site Remediation

Dear Dan,

Please review the following update to Newsul's activities:

#### Site Remediation:

Fugitive sulphur inside and outside the fence has been recovered by manual means with the assistance of a vacuum truck to expedite recovery. The recovered mixture of sulphur, leaves, gravel, etc is segregated in out storage yard. Since the fugitive sulphur has resulted from windborne distribution it is quite small (<1mm). We are currently screening this material through a 1/4" screen to segregate the larger debris from the fraction containing the bulk of sulphur. This will aid in estimating the loading on the affected area. The area has been treated with lime to neutralize any immediate effects. Further treatment will follow if warranted by the the measurements underway.

For the sake of expediency we are assuming a 50% recovery rate and thus a measure of recovered sulphur will equate to residual remaining sulphur. By factoring in the affected areas and appropriate treatment ratio we can apply the right amount of lime.

The procedure is well documented with pictures and measurements. A complete report will be sent to you within the coming week when complete.

#### Site Restoration and Remediation Plan:

A draft plan has been prepared for DOE review and approval. A preliminary copy is attached for your perusal. We welcome your initial comments prior to tabling with DOE. Please feel free to make appropriate comments and suggestions.

#### Contingency Plan:

I have begun to revise our contingency plan. I hope to have a draft ready for your perusal within a week or so.

Thanks for your assistance in these matters. Hopefully we can have all these plans submitted, reviewed and approved in the near future.

On the subject of the recently completed clean up and remediation I am requesting that you inspect the area as required and review our report at your earliest convenience. We also ask for your written confirmation that our actions meet the regulations. We would want to have this confirmation prior to the next town meeting to show our responsiveness and compliance. We have also drafted a Newsul Environmental Note for appropriate distribution to locals and other concerned parties outlining the properties of sulphur to alleviate any concerns they may have. A copy of this draft is also attached for you information.

Thanks and regards,

Monty Dyke

**Ahmad, Mansoor**

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**From:** Ahmad, Mansoor  
**Sent:** Monday, December 03, 2012 3:15 PM  
**To:** 'fgough@omt.nf.net'  
**Cc:** 'mdyke@omt.nf.net'  
**Subject:** Site Visit/Inspection

Hi Fred,

First of all, I would to thank you, Monty Dyke and Bruce Dyke for taking the time out and meet me on October 25, 2012 for site visit/inspection. During the site visit/inspection it was discussed and requested by NewSul to remind them of the key points/action items arises from this visit/inspection and or discussion. The action items are:

1. NewSul has to provide justification to why the "External Remelter" as suggested in NewSul "Waste Sulphur management Plan", is not in operation.
2. Also, as per "Waste Sulphur Management Plan", NewSul has to provide justification/explanation of how much (volume/quantity) of the waste sulphur has been alternatively used/dispose of.
3. It was suggested during the site visit/inspection to keep the Department updated via e-mail regarding the sulphur prills stored and ship of site every month, and
4. Provide updates on the segregated waste sulphur, it was explained by NewSul that these segregated waste sulphur piles will be tested, after tests the piles will be dispose of accordingly in consultation with the Department.

Please provide explanations/updates for the above action items ASAP.

Once again thank you very much for taking me out for the site visit, and I hope the above fully reflect what we have discussed and observed during the site visit/inspection.

Regards,

**Mansoor Ahmad**, M.A.Sc, M. Eng, P. Eng (AB)

Environmental Engineer (ICS)  
Department of Environment and Conservation  
Government of Newfoundland & Labrador  
West Block, 4th Floor, Confederation Building  
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Ph (709) 729-1811  
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