



Matthew Rodriguez
Secretary for
Environmental Protection



Department of Toxic Substances Control

Barbara A. Lee, Director
1515 Tollhouse Road
Clovis, California 93611



Edmund G. Brown Jr.
Governor

October 13, 2016

CERTIFIED MAIL

Reyna Verdin, Environmental Manager
Chemical Waste Management, Incorporated
Kettleman Hills Facility (CWM-KHF)
35251 Old Skyline Road
Kettleman City, California 93239

Dear Ms. Verdin:

In a letter dated September 17, 2015 (enclosed), the Department of Toxic Substances Control ("DTSC") requested from CWM-KHF information regarding missing sampling analytical data and associated documents required under CWM-KHF's 2001 Site Specific Ground Water Monitoring Plan ("SSGWMP"). Based on CWM-KHF's response and groundwater monitoring results received (enclosed), DTSC concluded the groundwater data required, per Appendix IX within 40CFR, were not received for evaluation monitoring program (EMP) wells K12, K32R, K38, K44, K45, K47, K48, and K65 for the 2014 calendar year.

Additionally, wells within the Class I monitoring program are required to be sampled quarterly. Available groundwater monitoring reports indicated wells K12 and K58 were sampled and analyzed only during the first quarter of the 2014 calendar year.

DTSC has therefore determined CWM-KHF violated the following California Code of Regulations, Title 22 code sections:

Summary of Violations

Class I Violations

1. CWM-KHF violated California Code of Regulations, Title 22, Section 66264.91(c), 66264.98(f), and Part III, section 1(A) of its Hazardous Waste Facility Permit in that CWM-KHF failed to conduct sampling and analyses for the monitoring parameters listed in the Operation Plan of its Hazardous Waste Facility Permit. CWM-KHF's Operation Plan incorporates, by reference, the SSGWMP, which requires CWM-KHF to sample and analyze all EMP wells for

the Appendix IX analytes once during each calendar year. CWM-KHF is then required to send the sampling data to DTSC.

CWM-KHF failed to 1) sample and analyze wells K12, K32R, K38, K44, K45, K47, K48 and K65 using the Appendix IX analysis and, 2) submit analysis results to DTSC for the 2014 calendar year.

Corrective Action:

CWM-KHF shall immediately follow the conditions of their Hazardous Waste Facility Permit issued by DTSC, including the conditions in its Operation Plan and the 2001 SSGWMP. Any changes to the conditions of this permit must be made through a permit modification.

2. CWM-KHF violated California Code of Regulations, Title 22, Section 66264.91(c), 66264.98(f), and Part III, section 1(A) of its Hazardous Waste Facility Permit in that CWM-KHF failed to conduct sampling and analyses for the monitoring parameters listed in the Operation Plan of its Hazardous Waste Facility Permit. CWM-KHF's Operation Plan incorporates, by reference, the SSGWMP, which requires CWM-KHF to conduct quarterly sampling of wells within the Class I monitoring program.

CWM-KHF failed to sample, analyze and submit data to DTSC from monitoring wells K12 and K58 in the second, third, and fourth quarters of the 2014 calendar year.

Corrective action:

CWM-KHF shall immediately follow the conditions of their Hazardous Waste Facility Permit issued by DTSC, including the conditions in its Operation Plan and the 2001 SSGWMP. Any changes to the conditions of this permit must be made through a permit modification.

The issuance of this Summary of Violations does not preclude DTSC from taking administrative, civil, or criminal action as a result of the violations noted in the Summary of Violations or violations that have not been corrected within the time provided.

Reyna Verdin
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If you have any questions regarding this summary of violation letter, please contact LeeAnn Young, DTSC Environmental Scientist at (559) 297-3949.

Sincerely,

Maria Soria for

Dan Lynch
Senior Environmental Scientist (Supervisor)
Hazardous Waste Management Program – Enforcement Division

Enclosures

Certified Mail No.: 7011 2970 0001 8295 4473

cc: Chris Cho
Attorney III – Specialist
Office of Legal Affairs – Legal Counsel
Department of Toxic Substances Control
1001 I Street
Sacramento, CA 95814

Muzhda Ferouz
Supervising Hazardous Substances Engineer I
Hazardous Waste Management Program
Permitting Division - Sacramento
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826

Jeff Brown
Senior Engineering Geologist (Supervisor)
Geological Services Branch
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826

Matthew Farris
Engineering Geologist
Geological Services Branch
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826

Reyna Verdin
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Daniel L. Carlson, CEG, CHG
Senior Engineering Geologist
Central Valley Regional Water Quality Control Board
1685 E Street
Fresno, CA 93706

Maria Soria
Environmental Program Manager I
Hazardous Waste Management Program – Enforcement Division
700 Heinz Avenue
Berkeley, CA 94710



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Matthew Rodriguez
Secretary for
Environmental Protection

Barbara A. Lee, Director
8800 Cal Center Drive
Sacramento, California 95826-3200

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September 17, 2015

Mr. Paul Turek
Environmental Manager
Chemical Waste Management, Incorporated
Kettleman Hills Facility
Post Office Box 471
Kettleman City, California 93239

REVIEW OF 2014 GROUNDWATER AND UNSATURATED ZONE MONITORING REPORTS, CHEMICAL WASTE MANAGEMENT, INC., KETTLEMAN HILLS FACILITY, 35251 OLD SKYLINE ROAD, KETTLEMAN CITY, KINGS COUNTY, CALIFORNIA 93239, ENVIRONMENTAL PROTECTION AGENCY IDENTIFICATION NUMBER CAT000646117

Dear Mr. Turek:

On April 14, 2014 CWM submitted a Revised Site-Specific Groundwater Monitoring Plan (SSGWMP) and Revised Site-Specific Unsaturated Zone Monitoring Plan (SSUZMP). DTSC compared the 2014 plans with the approved 2001 SSGWMP and 2002 SSUZMP plans written by Geosyntec. Since no changes in monitoring frequency and changes in well assignment have been done through a permit modification in accordance with California Code of Regulations, title 22, division 4.5, chapter 20, Appendix I, CWM was given direction that they are to follow the 2001 SSGWMP and 2002 SSUZMP in their monitoring activity in order to adhere to regulatory requirements.

The Sacramento Geological Services Unit (GSU) of DTSC has completed review of the following recent Groundwater and Unsaturated Zone Monitoring Reports:

1. First Quarter 2014 Groundwater and Unsaturated Zone Monitoring Data Report, prepared by Amec Foster Wheeler Environment & Infrastructure, Incorporated, dated June 27, 2014.
2. First Semiannual 2014 Groundwater and Unsaturated Zone Monitoring Report For Class I Waste Management Units, prepared by Amec Foster Wheeler Environment & Infrastructure, Incorporated, dated September 26, 2014.

3. Third Quarter 2014 Groundwater and Unsaturated Zone Monitoring Data Report, prepared by Amec Foster Wheeler Environment & Infrastructure, Incorporated, dated December 8, 2014.
4. Second Semiannual 2014 Groundwater and Unsaturated Zone Monitoring Report For Class I Waste Management Units, prepared by Amec Foster Wheeler Environment & Infrastructure, Incorporated, dated February 23, 2015.

Their comments were submitted to the DTSC Office of Permitting in a memorandum dated June 5, 2015. The comments identify the following deviations from the approved site-specific groundwater monitoring plan (Geosyntec, 2001):

Future groundwater reports should include figures and tables which reflect the status of the wells per the approved 2001 SSGWMP. Additionally, discussion in the report is needed to describe the results from the detection monitoring program, evaluation monitoring program, and corrective action monitoring program as was done in reports prior to 2014.

Wells within the Class I evaluation monitoring program are required to be sampled once per year for Appendix IX analyses (2001 SSGWMP). Appendix IX sampling and analyses for evaluation monitoring wells K12, K32R, K38, K44, K45, K47, K48, and K65 were not included in the monitoring reports.

Wells within the Class I detection monitoring program and evaluation monitoring program are required to be sampled quarterly (2001 SSGWMP). Review of the recent monitoring reports indicates wells K12 and K58 were sampled only during the first quarter 2014.

If CWM sampled wells K12, K32R, K38, K44, K45, K47, K48, and K65 for Appendix IX analyses in 2014, please provide the analytical data, chain of custody paperwork, the field information forms, and the laboratory-supplied data submittal associated with sampling by October 2, 2015

If CWM sampled wells K12 and K58 wells within the second, third, and fourth quarters of 2014, please provide the analytical data, chain of custody paperwork, the field information forms, and the laboratory-supplied data submittal associated with sampling by October 2, 2015.

Mr. Paul Turek
September 17, 2015
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If you have any questions regarding this letter, please contact me at (916) 255-6413 or muzhda.ferouz@dtsc.ca.gov.

Sincerely,

original signed by Muzhda Ferouz


Muzhda Ferouz
Hazardous Substances Engineer
Department of Toxic Substances Control

cc: Mr. Dan Carlson
Regional Water Quality Control Board
Central Valley Region
1685 "E" Street
Fresno, California 93706-2025

Ms. Kristen Gomes
Regional Water Quality Control Board
Central Valley Region
1685 "E" Street
Fresno, California 93706-2025

Mr. John Moody
Waste Management Division (WST-4)
US Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, California 94105-3901



WASTE MANAGEMENT

35251 Old Skyline Road
P.O. Box 471
Kettleman City, CA 93239

October 1, 2015

CERTIFIED MAIL (7012 1640 0001 2541 1685)

Muzhda Ferouz
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3268

**CHEMICAL WASTE MANAGEMENT, INC. - KETTLEMAN HILLS FACILITY
RE: REVIEW OF 2014 GROUNDWATER AND UNSATURATED ZONE MONITORING
REPORTS – INFORMATION REQUEST**

Dear Ms. Ferouz,

This letter is in response to your information request letter, dated September 17, 2015. In your letter you requested groundwater data including analytical data, chain of custody paperwork, field information forms and laboratory-supplied data for eight wells regarding Appendix IX analyses in 2014 and two wells regarding second, third, and fourth quarter analyses in 2014. This information was to be provided, if available, by October 2, 2015.

As you aware, in January 2014 the CVRWQCB issued a new WDR/M&RP for KHF, which required KHF to submit a revised SSGWMP and a revised SSUZMP within 90 days. These plans were revised to satisfy the conditions contained in the new WDR/M&RP and submitted timely to both the CVRWQCB and to DTSC in April 2014, when they were immediately implemented. The new WDR/M&RP provides the most up to date analytical methods for analyzing groundwater and considered the changes in the groundwater program due to historical analytical results, engineering feasibility studies and cell development.

The new WDR/M&RP also consolidated and updated the changes in well classifications that had occurred since 2001 and which had been submitted and approved by the CVRWQCB, with DTSC having received copies and concurring in the changes. As you know, however, in the summer of 2014, KHF and DTSC legal counsel began discussing the apparent conflicting interpretations of the new WDRs, the recently-issued DTSC permit, and the old and new monitoring plans. KHF legal counsel explained KHF's position to DTSC several times, most notably in an e-mail to Richard Driscoll on August 19, 2014. Fundamentally, KHF understood the DTSC permit to mean exactly what it stated, namely that it was incorporating by reference the requirements of the WDRs – including the M&RP – that had been recently adopted by the CVRWQCB.

For the next three months, DTSC had "internal dialogue" on this issue, until November 7th, when Mr. Driscoll stated that DTSC had not changed its interpretation, but provided no further explanation. At



October 1, 2015

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KHF's request, we met with Director Lee on January 7, 2015 to discuss this issue. While the meeting with Director Lee was very productive, it did not result in DTSC agreeing with KHF's position.

KHF summarizes this background to explain that we believe that there was – and still is – a legitimate disagreement as to the interpretation and reconciliation of the various WDRs, DTSC permits, and monitoring plans. Nonetheless, even though the new WDR/M&RP only required semi-annual sampling and semi-annual reporting, KHF continued quarterly sampling and the quarterly reporting based on the well designations in the 2014 WDR/M&RP. KHF continued this practice until KHF met with DTSC in January 2015. At the January 2015 meeting, DTSC made it clear that KHF should follow both the new WDR/M&RP and the rescinded WDR/M&RP. In March 2015, both DTSC and KHF traded clarification letters and in 2Q2015, KHF, in spite of our contrary interpretation, implemented both WDR/M&RPs as directed by DTSC.

In response to your request for sample results for K12, K32R, K38, K44, K45, K47, K48 and K65 for Appendix IX analyses in 2014 and sample results for K12 and K58 for the second, third, and fourth quarters of 2014, the information requested was not part of the new WDR/M&RP and therefore not collected. In other words, and as DTSC was aware, KHF did not interpret the new DTSC permit to obligate KHF to sample under both the old, rescinded WDR/M&RP as well as under the newly issued WDR/M&RP.

Please let me know if you have any additional requests.

Sincerely,
Chemical Waste Management, Inc.

original signed by Paul Turek

Paul Turek
Environmental Manager



October 1, 2015

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cc: Daniel Carlson
Regional Water Quality Control Board
Central Valley Region
1685 "E" Street
Fresno, California 93706-2025

Kristen Gomes
Regional Water Quality Control Board
Central Valley Region
1685 "E" Street
Fresno, California 93706-2025

John Moody
Waste Management Division (WST-4)
U.S. EPA - Region IX
75 Hawthorne Street
San Francisco, California 94105