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Agency Secretary
Cal/EPA



Department of Toxic Substances Control

5796 Corporate Avenue
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Arnold Schwarzenegger
Governor

May 13, 2005

Ms. Tamara Zeier
Project Navigator, Ltd.
One Pointe Drive, Suite 320
Brea, California 92821

IMMINENT OR SUBSTANTIAL ENDANGERMENT DETERMINATION REGARDING THE ASCON LANDFILL SITE

Dear Ms. Zeier:

The Imminent and Substantial Endangerment Determination and Consent Order Between the Department of Toxic Substances Control (DTSC) and Settling Parties regarding the Ascon Landfill site (Site), Docket No. I&SE-CO 02/03-007 (Order), provides for response actions to be conducted at the Site. DTSC determines, as more specifically defined below, that response action at the Site is necessary because there may be an imminent or substantial endangerment to the public health or welfare and/or to the environment.

Basis of Imminent or Substantial Endangerment

The approximately 38-acre Site was a former landfill where industrial and oil field wastes were disposed into surface impoundments (currently referenced as "lagoons"), surrounded by berms to contain the waste materials. Along the north and northeast areas of the Site, an approximately 18-foot high earthen berm exists. This berm, constructed for the purpose of containing the waste materials of Lagoons 4 and 5 at the Site, was not built as an engineered fill with uniform materials.

The 2004 – 2005 winter season in Southern California, including the area of the Site, provided unprecedented rainfall levels (more than 25 inches from October 2004 through the present, as measured at the John Wayne - Orange County airport, approximately seven miles northeast of the Site) since the existence of the berm causing a concern for the berm integrity.

On January 14, 2005, DTSC expressed the concern of areas along Hamilton Avenue which remained wet several days after heavy rains and requested that action be taken

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to determine whether the water in these areas contain hazardous constituents, resulting as potential seepage from the Site. The source and mechanism(s) of the existence of the wet areas were not fully determined; however, the high volume of stormwater collected in Lagoon 4 at the Site may have resulted in additional pressure/stress on the berm, contributing to this situation. At the same time, the other lagoons at the Site had very high levels of stormwater and the forecast for more heavy rains was imminent. In a letter, dated February 10, 2005, DTSC directed that immediate action be taken to alleviate the imminent threat of the release of water from the lagoons at the Site. In response to this, stormwater was pumped from the lagoons and approximately 3.65 million gallons of water were discharged to the sanitary sewer.

GeoSyntec Consultants, engineering consultant for the Settling Parties, submitted a letter report, dated April 26, 2005, for discussion purposes, with a follow up finalized letter report (Letter Report), dated May 13, 2005. The Letter Report presents information regarding the current physical condition of the berm and an analysis of the integrity of the berm with respect to factors of safety, including a hypothetical scenario of future heavy rains. The Letter Report concluded that if the Site were to experience a similar level of rainfall in the 2005 – 2006 rainy season, the berm could potentially be unstable with a factor of safety below accepted standards. The Letter Report also states that the instability of the berm could result in localized failure within the berm through a series of events such as cracking, erosion, sliding or sloughing of berm material, further weakening the structural integrity of the remaining berm and potentially leading to berm failure. This type of failure could result in stormwater eroding a pathway that continues to gain in size and rate of erosion. The waste materials contained within the lagoons by the berm are flowable. In the event of a failure of the berm, the waste materials have the potential to flow off the Site along with stormwater that has come into contact with the wastes and impacted soil.

Based on the Letter Report and other information, DTSC concurs that there is a possibility of berm failure in the event of high water conditions as experienced in the 2005 – 2006 rainy season in Lagoons 4 or 5 at the Site (see the attached DTSC Engineering and Geological Service Branch's memorandum, dated May 12, 2005). The observations described in the Letter Report (i.e., cracking observed during the 2004 - 2005 rainy season and seepage at the toe of the slope) could indicate problems with the overall stability of the berm. These observations may also be indicative of more localized slope problems along the north face of the berm due to high moisture conditions. Moreover, the very low blow counts for the subsurface materials in nearby borings (which indicate very low shear strength), the results of the stability analysis, and the possibility of a deep-seated failure may lead to an unauthorized release of stormwater and waste material from the lagoons to Hamilton Avenue.

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As described in Section 2.4 of the Order, hazardous substances have been found in waste material in the lagoons at the Site; these hazardous substances include volatile organic compounds and metals. Health effects and routes of exposure of these hazardous substances are also described in Sections 2.5 and 2.6 of the Order.

The potentially impacted areas due to failure of the berm and associated populations at risk include: 1) Hamilton Avenue and Magnolia Street, immediately to the north and east of the berm, respectively, which include sidewalks and bike lanes used by vehicular traffic, pedestrians, and cyclists; 2) Edison Community Park, to the north of Hamilton Avenue, which is used by the general public; 3) Edison High School, immediately across the street to the northeast of the Site, which includes attendance of children and adults; 4) residential areas with single family homes, immediately across the street to the east and northwest of the Site; and 5) three buildings as part of an industrial business park, immediately west of the northern part of the Site, which is used by employees.

Section 5.1.1.2 of the Order provides, in part, that "[i]f necessary for the protection of public health and the environment, DTSC may require additional response actions not specified in this Consent Order to be performed as removal actions or separate operable units. Removal actions shall be implemented in accordance with a workplan and implementation schedule submitted by Respondents and approved by DTSC."

Similarly, section 25356.1(h)(1) of the Health and Safety Code states "[t]his section does not require the department or a regional board to prepare a remedial action plan if conditions present at a site present an imminent or substantial endangerment to the public health and safety or the environment ..."

Imminent or Substantial Endangerment Determination

DTSC hereby determines that response action is necessary because there may be an imminent or substantial endangerment to the public health or welfare or to the environment due to the current condition of the Site. More specifically, immediate action is necessary prior to the 2005 – 2006 rainy season to alleviate the potential threat of release of hazardous substances at the Site due to potential failure of the earthen berm along Hamilton Avenue, which may potentially cause an endangerment to public health or welfare and/or the environment.

With respect to the California Environmental Quality Act (CEQA), DTSC believes that the subject response action will be exempted from the requirements of CEQA because this is an emergency project. This exemption is based on the CEQA Guidelines, section 15269 of Title 14 California Code of Regulations, in that, the response action will be, in of itself, "specific actions necessary to prevent or mitigate an emergency."

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Action Required To Be Taken

DTSC is requiring the submittal of a workplan detailing the activities to alleviate the potential threat of berm failure, including an implementation schedule and an evaluation of response actions considered, by May 31, 2005. If additional time is needed, a request for an extension of time should be submitted in advance of May 31, 2005. All necessary activities should commence as soon as possible in order to alleviate most potential threat prior to the 2005 – 2006 rainy season. The workplan should also address additional public participation activities; DTSC will contact you soon to coordinate these associated public participation activities.

If you have any questions, please contact me at (714) 484-5459 or Ms. Christine Chiu at (714) 484-5470.

Sincerely,



Thomas M. Cota, Chief
Southern California Cleanup Operations Branch, Cypress

Enclosures

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