From:	Phil Chandler
To:	Singh, Mike@DTSC; Rohlfes, Larry@DTSC
Subject:	INFLATION ADJUSTMENTS OF ASSURANCE OF FINANCIAL REPONSIBILITY (AFR) AT FACILITIES UNDER THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL'S OVERSIGHT WHERE AFR IS REQUIRED BY STATUTE AND REGULATION
Date:	Wednesday, July 13, 2016 1:34:08 PM
Attachments:	june 30 1999 Annual Adjustment 1.pdf

I wrote a letter to former Director Debbie Raphael on Assurance of Financial Responsibility in 2014 and received no response and am now asking the Independent Review Panel (IRP) to address the issue of a response and to address the underlying premise of the letter. I work for the Department of Toxic Substances Control's (DTSC) in the Brownfields and Environmental Restoration Program (BERP) at Chatsworth. However, this communication to the IRP is written as a member of the concerned public not as a State of California employee.

Assurance of financial responsibility (AFR) for closure and post-closure is required by the Health and Safety Code (H&SC) and by Title 22, California Code of Regulations (22CCR) as is an annual update of that AFR for inflation. Quite frankly, I suspect that since the Hazardous Waste Management Program (HWMP) was reorganized into wreckage by Maureen Gorsen her helpers, many things slipped between the cracks. So, I asked for an explanation of how the AFR inflation adjustment requirements have been dealt with at DTSC over the past then-seven years of the "reorganized" HWMP. In particular, I asked DTSC to please provide as accurately as could be done, the names of DTSC facilities regulated under Chapter 6.5 that are required to maintain any form of AFR, the type of AFR and indicate for which years, if any, over the past then-seven years they have updated their AFR for the annual inflation factor. I request that the IRP expand this request to cover inflation adjustments from the time any of the facilities submitted their first AFR.

I noted that AFR is also required for Chapter 6.8 sites that have an approved O&M plan. There appear to be many problems with implementation of the governing statute, but in particular there appears to be confusion in regards to some former Site Mitigation Program facilities as to what constitutes AFR. Nevertheless, the statute cites Chapter 6.5 AFR regulations and adjures DTSC to utilize them on Chapter 6.8 sites. Those regulations include the requirement for annual inflation adjustments. Therefore, I requested a separate listing of any such annual adjustments that have been done for DTSC's Chapter 6.8 sites. I request that the IRP expand this request to cover inflation adjustments from the time any of the facilities submitted their first AFR.
Attached is an old 1999 letter sent from the now-defunct BKK stating that no adjustment was necessary. I remember this same letter being submitted over and over and no apparent ever being done. This occurred over a 17-year period---NO INFLATION FOR!& YEARS?????----and then BKK handed DTSC the keys by claiming insolvency. DTSC promptly went out and got 15 million dollars from the legislature to "stabilize" the situation. Please have DTSC evaluate the inflation over the lifetime of BKK post-closure care and determine how much money DTSC left on the table with its handling of the situation.
Thank you for your consideration.

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BKK CORPORATION

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JUL 1

June 30, 1999

Via Certified Mail Z 419 350 727

Jamshid G. Shahi, Ph.D.
Associate Hazardous Materials Specialist
DEPARTMENT OF TOXIC SUBSTANCES CONTROL
Southern California Region
1011 North Grandview Avenue
Glendale, CA 91201

Re: 1999 Annual Adjustment of Closure and Postclosure Cost Estimates
BKK Closed Class I Landfill and Operational Leachate Treatment Plant
USEPA ID No. CAD067786749

Dear Dr. Shahi:

BKK Corporation is herein providing the Department with an annual adjustment to the following two cost estimates:

- the postclosure cost estimate for the closed Class I landfill, adjusted pursuant to 22 CCR 66265.144(b); and
- the closure cost estimate for the operational leachate treatment plant (LTP), adjusted pursuant to 22 CCR 66264.142(b).

As you know, no closure cost estimate is provided for the landfill because it was already closed long ago, and no postclosure cost estimate is provided for the LTP because it will be "clean closed" with no waste remaining after closure.

Today's annual adjustment is provided within one year of the most recent previous adjustment which was submitted in my June 30, 1998 letter to you.

As provided in regulation, rather than blindly applying an inflation factor to last year's numbers, for 1999 we are recalculating the estimated costs to perform the work in current dollars. Current market conditions in southern California include: (a) continuing price competition in the local landfill and remediation field, resulting in stable or downward pressure on prices; (b) continuing attrition in the local landfill and remediation field, resulting in increased labor availability at attractive rates; and (c) an overall very low inflation rate. These factors, coupled with further reassurance on the continuing validity of the cost estimate gained through performing yet another year of postclosure care on the closed landfill, combine to support our assessment that last year's estimates remain wholly appropriate and require no upward adjustment for this year. The 1998 cost estimates

remain valid today. For reference purposes, those estimates are presented below:

- Continue to perform postclosure care on the closed Class I landfill for the remaining 20 years[1] of the 30-year postclosure period: $26,899,193;[2] and

- Perform closure construction on the LTP: $160,680.

We will reevaluate these costs again next year and adjust them then as necessary. If you have any questions or need further information, please call me at 626/965-0911x361.

Sincerely,
BKK CORPORATION

Christopher W. Hansen, P.E., Director
Engineering and Environmental Programs

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[1] The remaining 20 years of the 30-year postclosure period are comprised of Year 11 (ending May 31, 2000) through Year 30 (ending May 31, 2019).

[2] This figure reflects the $30,145,851 grand total balance for the 22 years of Year 9 through Year 30 presented in Section 3.7.2.2 of the *Permit Application for Operation of the Leachate Treatment Plant and Post-Closure Care of the Class I Landfill at BKK Landfill, West Covina, California* (BKK Corporation, Revised June 30, 1997), minus the $1,707,603 and $1,539,055 grand totals from that same document for Years 9 and 10 since that work has been completed:

$30,145,851 - [$1,707,603 + $1,539,055] = $26,899,193.